

ARTICLE 7: FLOOD DAMAGE PREVENTION

Section

7.01 Statutory authorization, findings of fact, purpose and objectives

- (A) Statutory authorization
- (B) Findings of fact
- (C) Statement of purpose
- (D) Objectives

7.02 Definitions

7.03 General provisions

- (A) Lands to which this article applies
- (B) Basis for establishing the special flood hazard areas
- (C) Establishment of floodplain development permit
- (D) Compliance
- (E) Abrogation and greater restrictions
- (F) Interpretation
- (G) Warning and disclaimer of liability
- (H) Penalties for violation

7.04 Administration

- (A) Designation of Floodplain Administrator
- (B) Floodplain development application, permit and certification requirements
- (C) Duties and responsibilities of the Floodplain Administrator
- (D) Corrective procedures
- (E) Variance procedures

7.05 Provisions for flood hazard reduction

- (A) General standards
- (B) Specific standards
- (C) Reserved

(D) Standards for floodplains without established base flood elevations

(E) Standards for riverine floodplains with base flood elevations but without established floodways or non-encroachment areas

(F) Floodways and non-encroachment areas

(G) Coastal high hazard areas (Zones VE and AE)

(H) Standards for Coastal A Zones (Zone CAZ) LIMWA

7.06 Legal status provisions

(A) Effect on rights and liabilities under the existing flood damage prevention ordinance

(B) Effect upon outstanding floodplain development permits

(C) Severability

(D) Effective date

Editor's note:

Ord. passed 4-2-2009 amended Ch. 8 Flood Damage Prevention in its entirety and enacted similar provisions as set out herein. The former Ch. 8 Flood Damage Prevention derived from Ord. passed 11-3-2005.

Staff's note:

Formerly Chapter 8, Flood Damage Prevention

Statutory references:

Floodplains generally, see G.S. §§ 143-215.51 et seq.

§ 7.01 STATUTORY AUTHORIZATION, FINDINGS OF FACTS, PURPOSE AND OBJECTIVES.

(A) Statutory authorization.

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Article 6 of Chapter 153A; Article 8 of Chapter 160A; and Articles 1, 7, 9, and 11 of Chapter 160D of the North Carolina General Statutes, delegated to local governmental units the authority to adopt regulations designed to promote the public health, safety, and general welfare.

~~The legislature of the state has in G.S. Ch. 143, Art. 21, Part 6; G.S. Ch. 153A, Art. 6; G.S. Ch. 160A, Art. 8; and G.S. Ch. 160D, Art. 7, 9 and 11 (Effective January 1, 2021), delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety and general welfare.~~ Therefore, the Board of Aldermen of North Topsail Beach, North Carolina, does ordain as follows.

(B) Findings of fact.

(1) The flood prone areas within the jurisdiction of the ~~town~~-Town 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, both inside and outside the identified Special Flood Hazard Areas ~~in floodplains~~-causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards. These obstructions and occupancy by uses vulnerable to floods may be hazardous to other lands which are inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

(C) Statement of purpose. It is the purpose of this article to promote public health, safety and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:

(1) Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;

(2) Require that uses vulnerable to floods, including facilities 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 floodwaters;

(4) Control filling, grading, dredging and all other development that may increase erosion or flood damage; and

(5) Prevent or regulate the construction of flood barriers that will unnaturally divert floodwaters or which may increase flood hazards to other lands.

(D) Objectives. The objectives of this article are to:

(1) Protect human life, safety and health;

(2) Minimize expenditure of public money for costly flood control projects;

(3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(4) Minimize prolonged business losses and interruptions;

(5) Minimize damage to public facilities and utilities (i.e., water and gas mains, electric, telephone, cable and sewer lines, streets and bridges) that are located in flood prone areas;

(6) Minimize damage to private and public property due to flood;

(7) Make flood insurance available to eligible properties in the community through the National Flood Insurance Program;

(8) Maintain the natural and beneficial functions of the floodplains;

(9) Help maintain a stable tax base by providing for the sound use and development of flood prone areas; and

(10) Ensure that potential buyers are aware that property is in a special flood hazard area.

(Ord. passed 4-2-2009; Ord. passed 11-2-2011; Ord. passed 11-3-2016; Ord. 2020-01, passed 6-4-2020)

§ 7.02 DEFINITIONS.

Unless specifically defined in Article 11, Definitions, words or phrases used in this article shall be interpreted so as to give them the meaning they have in common usage and to give this article its most reasonable application.

(Ord. passed 11-2-2011; Ord. passed 11-3-2016; Ord. 2020-01, passed 6-4-2020)

§ 7.03 GENERAL PROVISIONS.

(A) Lands to which this article applies. This article shall apply to all special flood hazard areas within the jurisdiction of the ~~town~~Town.

(B) Basis for establishing the special flood hazard areas. The special flood hazard areas are those identified under the Cooperating Technical State (CTS) agreement between the state and FEMA in its FIS dated June 19, 2020, for the county and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared to be a part of this article, and all revisions thereto.

(C) Establishment of floodplain development permit. A floodplain development permit shall be required in conformance with the provisions of this article prior to the commencement of any development activities within special flood hazard areas determined in accordance with the provisions of § 7.03(B).

(D) Compliance. No structure or land shall hereafter be located, extended, converted, altered or developed in any way without full compliance with the terms of this article and other applicable regulations.

(E) Abrogation and greater restrictions. This article is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions; however, where this article and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(F) Interpretation. In the interpretation and application of this article, 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 statutes.

(G) Warning and disclaimer of liability. The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by human-made or natural causes. This article does not imply that land outside the special flood hazard areas or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the ~~town~~Town or by any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made hereunder.

(H) Penalties for violation. Violation of the provisions of this article 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 Class 1 misdemeanor pursuant to G.S. § 143-215.58. Any person who violates this article or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$100 ~~or imprisoned for not more than 30 days, or both~~. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the ~~town~~Town from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. passed 11-2-2011; Ord. passed 11-3-2016; Ord. 2020-01, passed 6-4-2020)

§ 7.04 ADMINISTRATION.

(A) Designation of Floodplain Administrator. The Planning Director, hereinafter referred to as the "Floodplain Administrator", is hereby appointed to administer and implement the provisions of this article. The Floodplain Administrator may delegate performance of certain duties to other employees. In instances where the Floodplain Administrator receives assistance from others to complete tasks to administer and implement this article, the Floodplain Administrator shall be responsible for the coordination and community's overall compliance with the National Flood Insurance Program and the provisions of this article.

(B) Floodplain development application, permit and certification requirements.

(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, zoning district, setbacks, percentage impervious surface, building height, area of environmental concern, CAMA setbacks, wetland delineation and 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 § 7.03(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 § 7.03(B);

(iv) The boundary of the floodway(s) or non-encroachment area(s) as determined in § 7.03(B);

(v) The base flood elevation (BFE) where provided as set forth in §§ 7.03(B) and 7.04(C);

(vi) The old and new location of any watercourse that will be altered or relocated as a result of proposed development;

(vii) The boundary and designation date of the coastal barrier resource system (CBRS) area or otherwise protected areas (OPA), if applicable; and

(viii) The 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 NAVD 1988 of the proposed reference level of all structures;

(ii) Elevation in relation to NAVD 1988 to which any non-residential structure in Zones A, AE, AH, AO or A99 will be floodproofed; and

(iii) Elevation in relation to NAVD 1988 to which any proposed utility systems will be elevated or floodproofed.

(c) Floodproofing is prohibited in lieu of elevation. However, if non-residential floodproofing is used, a floodproofing certificate (FEMA Form ~~FF-206-FY-22-153 086-0-34~~) with supporting data, an operational plan, and an inspection and maintenance plan that include, but are 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 article 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/sheer walls);

(ii) Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with § 7.05(B)(4)(~~cd~~) when solid foundation perimeter walls are used in Zones V, A, AE, AH, AO and A99; and

(iii) The following, in coastal high hazard areas and Coastal A Zones, in accordance with the provisions of §§ 7.05(B)(4)(e) and §7.05(G)-(~~§ 7.05(H), if applicable~~):

1) V-Zone certification with accompanying plans and specifications verifying the engineered structure and any breakaway wall designs. Prior to the certificate of compliance/occupancy issuance, the Floodplain Administrator may require that a registered professional engineer or architect certify the finished construction is compliant with the design, specifications and plans for VE Zone construction;

2) Plans for open wood latticework or insect screening, if applicable; and

3) Plans for non-structural fill, if applicable. If non-structural fill is proposed, it must be demonstrated through coastal engineering analysis that the proposed fill would not result in any increase in the BFE or otherwise cause adverse impacts by wave ramping and deflection on to the subject structure or adjacent properties.

(e) Usage details of any enclosed areas below the lowest floor;

(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) Certification that all other local, state and federal permits required prior to floodplain development permit issuance have been received;

(h) Documentation for placement of recreational vehicles and/or temporary structures, when applicable, to ensure that the provisions of §§ 7.05(B)(6) and (7) are met; and

(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 complete description of all the development to be permitted under the floodplain development permit (i.e. house, garage, pool, septic, bulkhead, cabana, pier, bridge, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc.) including a cost estimate;

(b) The special flood hazard area determination for the proposed development in accordance with the available data specified in § 7.03(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 unless the requirements of § 7.05(F) have been met;

(g) The flood openings requirements, ~~if in zones A, AE, AH, AO or A99;~~

(h) Limitations of below BFE enclosure uses (i.e., parking, building access and limited storage only);

(i) A statement that there shall be no alteration of sand dunes which would increase potential flood damage;

(j) A statement, if in Zone VE and Coastal A Zones, that there shall be no fill used for structural support; and

(k) A statement, if in Coastal High Hazard Areas and Coastal A, that all materials below BFE/RFPE must be flood-resistant materials.

(3) Certification requirements.

(a) Plot plans and elevation certificates.

(i) A plot plan and an elevation certificate (FEMA Form FF-206-FY-22-152 ~~086-0-33~~) 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.

(ii) A foundation plan and an elevation certificate (FEMA Form FF-206-FY-22-152 ~~086-0-33~~) is required after the reference level is established. Within seven calendar days of establishment of the reference level elevation, 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. Any work done within the seven-day calendar period and prior to submission of the certification shall be at the permit holder's risk. 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 further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.

(iii) A final as-built survey and a final finished construction elevation certificate (FEMA Form FF-206-FY-22-152 ~~086-0-33~~) 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. The finished construction elevation certificate certifier shall provide at least two photographs showing the front and rear of the building taken within 90 days from the date of certification. The photographs must be taken with views confirming the building description and diagram number. To the extent possible, these photographs should show the entire building including foundation. If the building has split-level or multi-level areas, provide at least two additional photographs showing side views of the building. In addition, when applicable, provide a photograph of the foundation showing a representative example of the flood openings or vents. All photographs must be in color and measure at least three inches by three inches. Digital photographs are acceptable.

(b) Floodproofing certificate. Floodproofing is prohibited in lieu of elevation for residential structures. However, if non-residential floodproofing is used to meet the regulatory flood protection elevation requirements:

(i) If non-residential floodproofing is used to meet the Regulatory Flood Protection Elevation requirements, a floodproofing certificate (FEMA Form FF-206-FY-22-153 ~~086-0-34~~), with supporting data, an operational plan, and an inspection and maintenance plan are 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, the operational plan, and the inspection and maintenance 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.

(ii) A final finished construction floodproofing certificate (FEMA Form FF-206-FY-22-153), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the issuance of a certificate of compliance/occupancy. 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 NAVD 1988. Floodproofing certificate 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, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to certificate of occupancy. 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 deny a certificate of compliance/occupancy.

(c) **Manufactured home.** If a manufactured home is placed within Zones A, AE, AH, AO, and A99 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of § 7.05(B)(3)(b).

(d) **Watercourse.** 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 Zones A, AE, AH, AO, and A99, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) of this subsection:

- (i) Recreational vehicles meeting requirements of § 7.05(B)(6)(c);
- (ii) Temporary structures meeting requirements of § 7.05(B)(7); and
- (iii) Accessory structures that are 150 square feet or less or that is a minimal investment of \$5,000 or less and meeting requirements of § 7.05(B)(8).

(f) **V-Zone certification.** A V-Zone certification with accompanying design plans and specifications is required prior to issuance of a floodplain development permit within coastal high hazard areas and Coastal A zones. It shall be the duty of the permit applicant to submit to the Floodplain Administrator said certification to ensure the design standards of this article are met. A registered professional engineer or architect shall develop or review the structural design, plans, and specifications for construction and certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of this article. This certification is not a substitute for an elevation certificate. Prior to the certificate of compliance/occupancy issuance, the Floodplain Administrator may require that a registered professional engineer or architect certify the finished construction is compliant with the design, specifications and plans for VE Zone construction.

(4) **Substantial Improvement/Damage** determinations for existing buildings and structures. For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any

other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

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

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

(c) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and

(d) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood-resistant construction requirements of the North Carolina Building Code and this article is required.

(C) Duties and responsibilities of the Floodplain Administrator. The Floodplain Administrator shall perform, but not be limited to, the following duties:

(1) Review all floodplain development applications and issue permits for all proposed development within special flood hazard areas to assure that the requirements of this article have been satisfied;

(2) Review all proposed development within special flood hazard areas to assure that all necessary local, state and federal permits have been received, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334;

(3) Notify adjacent communities and the State Department of 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 (FEMA);

(4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained;

(5) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of § 7.05(F) are met;

(6) Obtain actual elevation (in relation to mean sea level) of the reference level and all attendant utilities of all new and substantially improved structures, in accordance with § 7.04(B)(3);

(7) Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of § 7.04(B)(3);

(8) Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with the provisions of § 7.04(B)(3);

(9) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of §§ 7.04(B)(3) and 7.05(B)(2);

(10) Where interpretation is needed as to the exact location of boundaries of the special flood hazard areas, floodways or non-encroachment areas (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) When BFE data has not been provided in accordance with § 7.03(B), obtain, review and reasonably utilize any BFE data, along with floodway data or non-encroachment area data available from a federal, state or other source, including data developed pursuant to § 7.05(D)(2)(c), in order to administer the provisions of this article;

(12) When BFE data is provided but no floodway or non-encroachment area data has been provided in accordance with § 7.03(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 article;

(13~~14~~) Permanently maintain all records that pertain to the administration of this article and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended;

(14~~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 article 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;

(15~~16~~) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered or repaired in violation of this article, 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 or in charge of 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;

(16~~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 and 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;

(17~~18~~) Make periodic inspections throughout the 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;

(18~~19~~) Follow through with corrective procedures of § 7.04(D);

(19~~20~~) Review, provide input and make recommendations for variance requests;

(20~~21~~) Maintain a current map repository to include, but not limited to, historical and effective FIS report, historical and effective FIRM and other official flood maps and studies adopted in accordance with § 7.03(B), including any revisions thereto including letters of map change, issued by FEMA. Notify state and FEMA of mapping needs; and

(21~~22~~) Coordinate revisions to FIS reports and FIRMs, including letters of map revision based on fill (LOMR-Fs) and letters of map revision (LOMRs).

(22~~23~~) Make substantial improvement and post event damage assessments and determinations:

(a) Conduct damage assessments for damaged structures located within the

(b) Complete substantial improvement/damage determinations in accordance with the provisions of 7.05 (B)(4).

—(23~~13~~) When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a special flood hazard area is above the BFE, advise the property owner of the option to apply for a letter of map amendment (LOMA) from FEMA. However, if the property is to be removed from the V Zone it must not be located seaward of the landward toe of the primary frontal dune. Maintain a copy of the LOMA issued by FEMA in the floodplain development permit file;

(D) Corrective procedures.

(1) Stop Work Order: The community may issue a stop work order, which shall be served on the applicant or other responsible person. The stop work order shall remain in effect until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise remedied the violation or violations described therein, provided the stop work order may be withdrawn or modified to enable the applicant or other

responsible person to take the necessary remedial measures to remedy such violation or violations.

(2) Notice of Violation. If the community determines that an owner, occupant, applicant or other responsible person has failed to comply with the terms and conditions of a permit, or the provisions of this ordinance, it shall issue a written notice of violation, by certified return receipt mail, to such applicant or other responsible person. Where the person is engaged in activity covered by this ordinance without having first secured a permit, the notice shall be served on the owner or the responsible person in charge of the activity being conducted on the site. The notice of violation shall contain:

- (a) The name and address of the owner or the applicant or the responsible person;
- (b) The address or other description of the site upon which the violation is occurring;
- (c) A statement specifying the nature of the violation;
- (d) A description of the remedial measures necessary to bring the action or inaction into compliance with the permit or this ordinance and the date for the completion of such remedial action;
- (e) A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed, and;
- (f) A statement that the determination of violation may be appealed to the community by filing a written notice of appeal within thirty days after the notice of violation (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24-hour notice shall be sufficient).

(3) Additional Enforcement Actions. If the remedial measures described in the Notice of Violation have not been completed by the date set forth for such completion in the Notice of Violation, any one or more of the following enforcement actions may be enacted against the person to whom the Notice of Violation was directed. Before taking any of the following actions or imposing any of the following penalties, the Town shall first notify the owner, applicant or other responsible person in writing of its intended action. The Town shall provide reasonable opportunity, of not less than ten days (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24-hour notice shall be sufficient) to remedy such violation. In the event the applicant or other responsible person fails to remedy such violation after such notice and remedial period, the Town may take or impose any one or more of the following enforcement actions or penalties:

- (a) Termination of utility service and/or withhold or revoke Certificate of Occupancy: The community may terminate utilities and/or refuse to issue and/or revoke a certificate of occupancy for the building or other improvements and/or repairs conducted or being conducted on the site until the applicant or other responsible person has taken the

remedial measures set forth in the notice of violation or has otherwise remedy the violation or violations described therein.

(b) Suspension, revocation, or modifications of permit: The community may suspend, revoke, or modify the permit authorizing the development project. A suspended, revoked, or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise remedy the violations described therein, provided such permit may be reinstated (upon such conditions as the community may deem necessary) to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.

(c) Civil penalties: 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 Class 1 misdemeanor pursuant to North Carolina General Statute § 143-215.58.

(i) Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$100. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town from taking such other lawful actions, pursuant to North Carolina General Statute § 153A, 160A, and 160D, as is necessary to prevent or remedy any violation.

(ii) Enforcement by an appropriate equitable remedy issuing from a court of competent jurisdiction may be pursued if the offender fails to remedy the violation, pays assessed fines, and/or fails to file an appeal within the prescribed period of time. In such cases, the general court of justice shall have jurisdiction to issue such orders as may be appropriate.

(4) Administrative appeal; judicial review. Any person receiving a Notice of Violation may appeal the determination of the community, including but not limited to the issuance of a stop work order, the assessment of an administratively-imposed monetary penalty, the suspension, revocation, modification, or grant with condition of a permit by the community upon finding that the holder is in violation of permit conditions, or that the holder is in violation of any applicable ordinance or any of the community's rules and regulations, or the issuance of a notice of bond forfeiture.

(a) Any person receiving a Notice of Violation may appeal the determination of the floodplain administrator to the local elected governing body. The Notice of Appeal must be in writing and be received by the floodplain administrator and the clerk within thirty (30) days of the date of the Notice of Violation. In the absence of an appeal, the determination of the floodplain administrator shall be final.

(b) All appeals shall be heard and decided by the community's designated Appeal Board, which shall be the Board of Adjustments. The Appeal Board shall hear an appeal within a reasonable time and shall have the power to affirm, modify, or reject the original penalty, including the right to increase or decrease the amount of any monetary penalty and the right to add or delete remedial actions required for correction of the violation and compliance with the

community's flood damage prevention ordinance, and any other applicable local, state, or federal requirements. In the absence of a petition for review of a quasi-judicial decision, the decision of the Appeal Board shall be final.

(c) A petition for review of a quasi-judicial decision can be requested by any person with standing aggrieved by a decision or order of the community, after exhausting his/her administrative remedies. The petition shall be received by the clerk of superior court within 30 days of the date of the local governing body decision.

(5) Section 1316 Declaration: Section 1316 of the National Flood Insurance Act authorizes FEMA to deny flood insurance to a property declared by the State, County, or Municipal government to be in violation of the local floodplain management ordinance. A Section 1316 declaration shall be used when all other legal means to remedy a violation have been exhausted and the structure remains noncompliant. The community must coordinate a request for Section 1316 declaration to the FEMA Regional Office through the State NFIP Coordinator.

Once invoked, the property's flood insurance coverage will be terminated and no new or renewal policy can be issued; no flood insurance claim can be paid on any policy on the property, and disaster assistance will be denied. If a structure that has received a Section 1316 declaration is made compliant with the community's floodplain management ordinance, then the Section 1316 declaration can be rescinded by FEMA and flood insurance eligibility restored.

~~(1) Violations to be corrected. When the Floodplain Administrator finds violations of applicable state and local laws, it shall be his or her 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 cited in such notification.~~

~~—(2) 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 the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:~~

~~—(a) That the building or property is in violation of the floodplain management regulations;~~

~~—(b) That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten 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 Floodplain Administrator may issue an order to alter, vacate or demolish the building, or to remove fill as applicable.~~

~~—(3) 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 article, they shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than 60 calendar days, nor more than 180 calendar days. Where the Floodplain Administrator finds~~

~~that there is imminent danger to life or other property, they may order that corrective action be taken in such lesser period as may be feasible.~~

~~—(4) Appeal. Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the Clerk within ten days following issuance of the final order. In the absence of an appeal, the order of the Floodplain 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.~~

~~—(5) Failure to comply with order. If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a Class 1 misdemeanor pursuant to G.S. § 143-215.58 and shall be punished at the discretion of the court.~~

(E) Variance procedures.

(1) The Board of Adjustment as established by the ~~town~~Town, hereinafter referred to as the "Appeal Board", shall hear and decide requests for variances from the requirements of this article.

(2) Any person aggrieved by the decision of the Appeal Board may appeal such decision to the Court, as provided in G.S. Ch. 7A.

(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 dependent facilities if determined to meet the definition as stated in Article 11, Definitions, provided provisions of § 7.04(E)(9)(b),(c) and (e) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; and

(c) Any other type of development provided it meets the requirements of this section.

(4) In passing upon variances, the Appeal Board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this article, 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 11 as a functionally dependent 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 floodwaters 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.
- (6) Upon consideration of the factors listed above and the purposes of this article, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this article.
- (7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the BFE and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE may 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.
- (8) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the FEMA and the state upon request.
- (9) Conditions for variances:
- (a) Variances 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;
 - (c) 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; and

(e) 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, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or this article.

(10) A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards and chemical storage facilities that are in special flood hazard areas if all of the following conditions are met.

(a) The use serves a critical need in the community;

(b) No feasible location exists for the use outside the special flood hazard area;

(c) The reference level of any structure is elevated or floodproofed to at least the regulatory flood protection elevation;

(d) The use complies with all other applicable federal, state and local laws; and

(e) The ~~town~~-Town has notified the Secretary of the State Department of Public Safety of its intention to grant a variance at least 30 calendar days prior to granting the variance.

(Ord. passed 4-2-2009; Ord. passed 11-2-2011; Ord. passed 11-3-2016; Ord. 2020-01, passed 6-4-2020; Ord. passed 10-1-2020)

§ 7.05 PROVISIONS FOR FLOOD HAZARD REDUCTION.

(A) General standards. In all special flood hazard areas, the following provisions are required.

(1) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse and lateral movement of the structure.

(2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage in accordance with the FEMA Technical Bulletin 2, flood damage-resistant materials requirements.

(3) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.

(4) All new electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall be located at or above the RFPE or designed and installed to prevent water from entering or accumulating within the components during the occurrence of the base

flood. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, hot water heaters and electric outlets/switches.

(a) Replacements part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.

(b) Replacements that are for maintenance and not part of a substantial improvement, may be installed at the original location provided the addition and/or improvements only comply with the standards for new construction consistent with the code and requirements for the original structure.

(5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.

(7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

(8) Nothing in this article shall prevent the repair, reconstruction or replacement of a building or structure existing on the effective date of this article 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 article.

(9) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards and chemical storage facilities shall not be permitted, except by variance as specified in § 7.04(E)(10). 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 in accordance with the provisions of § 7.04(B)(3).

(10) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.

(11) 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.

(12) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(13) 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 § 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1334.

(14) When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.

(15) When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest BFE shall apply.

(16) Fill used to elevate or support a structure is prohibited in the SFHA. This includes prohibiting Conditional Letters or Letters of Map Revision - Based on Fill (CLOMR-F or LOMR-F). Fill supporting transportation (bridges, culverts, roadways, greenways, etc.), stream restoration, repair of existing levees or berms, and similar projects can be permitted within the SFHA. ~~Fill shall not be used for structural support. This includes not approving conditional letters or letters of map revision - based on fill (CLOMR-F or LOMR-F).~~

(B) Specific standards. In all special flood hazard areas where BFE data has been provided, as set forth in §§ 7.03(B) or 7.05(D), the following provisions, in addition to the provisions of § 7.05(A), are required:

(1) Residential construction. New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Article 11.

(2) Non-residential construction. New construction and substantial improvement of any commercial, industrial or other non-residential structure shall have the reference level elevated no lower than the regulatory flood protection elevation, as defined in Article 11. Structures located in Zones V, VE, A, AE, AH, AO and A99 may not be floodproofed to the regulatory flood protection elevation in lieu of elevation.

(3) Manufactured homes.

(a) New and replacement manufactured homes 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 11.

(b) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the state regulations for manufactured homes adopted by the Commissioner of Insurance pursuant to G.S. § 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis 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 36 inches in height, an engineering certification is required.

(c) All enclosures or skirting below the lowest floor shall meet the requirements of § 7.05(B)(4).

(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 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 reference level as defined in Article 11. Definitions: ~~lowest horizontal structural member in VE zones:~~

(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) ~~May be temperature controlled or conditioned;~~

(~~b~~) Shall be constructed entirely of flood-resistant materials at least to the regulatory flood protection elevation;

(~~c~~) Shall include, ~~in Zones A, AE, AH, AO and A99,~~ 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 square inch for each square foot of enclosed area subject to flooding;

(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 foot above the higher of the interior or exterior 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.

(d) Shall not be temperature-controlled or conditioned.

(e) Shall, in coastal high hazard areas (Zones VE and AE) and Coastal A zones, meet the requirements of § 7.05(G).

(f) Property owners shall be required to execute and record a non-conversion agreement prior to issuance of a building permit declaring that the area below the lowest floor shall not be improved, finished or otherwise converted to habitable space; the Town will have the right to inspect the enclosed area. The Town will conduct annual inspections. This agreement shall be recorded with the Onslow County Register of Deeds and shall transfer with the property in perpetuity.

(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 nonconforming than the existing structure; or

(ii) A substantial improvement, with modifications/rehabilitations/improvements to the existing structure or the common wall is structurally modified more than installing a doorway, both the existing structure and the addition must comply with the standards for new construction.

(b) Additions to pre-FIRM and post-FIRM structures, except in VE and Coastal A zones, that are a substantial improvement with no modifications/rehabilitations/improvements 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 consistent with the code and requirements for the original structure; and

(ii) A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

(d) Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a one-year period, the cumulative cost of which

equals or exceeds 50% of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the one-year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this article. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25% of the market value of the structure before the damage occurred. ~~(The repetitive loss portion is optional, but will be required for flood insurance policy holders to be eligible for increased cost of compliance (ICC) benefits for repetitive losses.)~~ If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:

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

(ii) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

(6) Recreational vehicles. Recreational vehicles shall either:

(a) Placement of a Recreational Vehicle in the VE Flood Zone is prohibited. This includes both temporary and permanent placement.

(b) Temporary placement.

(i) Be on site for fewer than 180 consecutive days; or

(ii) 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.)

~~(b)~~ (c) Permanent placement. Recreational vehicles that do not meet the limitations of temporary placement shall meet all the requirements for new construction.

(7) Temporary non-residential structures. Prior to the issuance of a floodplain 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:

(a) A specified time period for which the temporary use will be permitted. Time specified should not exceed three months, renewable up to one year;

(b) The name, address and phone number of the individual responsible for the removal of the temporary structure;

(c) 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);

(d) A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and

(e) Designation, accompanied by documentation, of a location outside the special flood hazard area, to which the temporary structure will be moved.

(8) Accessory structures.

(a) When accessory structures (sheds, detached garages, etc.) with a footprint of no more than 600 square feet are placed within A, AO, AH, AE and A99 flood zones, and no more than 100 square feet in VE and Coastal A zones, wet floodproofing may be permitted when the following criteria are 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;

(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 the provisions of § 7.05(A)(1);

(f) Accessory structures, regardless of the size or cost, shall not be placed below elevated buildings in Coastal A and VE zones;

(g) All service facilities such as electrical shall be installed in accordance with the provisions of § 7.05(A)(4); and

(h) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with the provisions of § 7.05(B)(4)(d).

(b) All other accessory structures exceeding the size restrictions in 7.05(B)(8)(a) above must comply with the elevation or floodproofing standards and certification requirements in accordance with 7.04, (B)(3) and 7.05(B)(2).

(c) An accessory structure with a footprint ~~less than~~ of 150 square feet or less in A, AO, AH, AE and A99 zones ~~that is a minimal investment of \$5,000 or less and satisfies~~ satisfying the criteria outlined above in § 7.05(B)(8)(a) is not required to meet the elevation or floodproofing certification requirements of § 7.04(B)(3). All other accessory structures must comply with the elevation or floodproofing certifications ~~are required~~ requirements for all other accessory structures in accordance with § 7.04(B)(3).

(9) Tanks. When gas and liquid storage tanks are to be placed within a special flood hazard area, the following criteria shall be met:

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

(b) Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be elevated to or above the regulatory flood protection elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;

(c) Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements shall be not be permitted in V, VE, A, AE, and Coastal A Zones. Tanks may be permitted in other flood hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions.

(d) Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:

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

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

(10) Other development.

(a) Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of § 7.05(F).

(b) Retaining walls, sidewalks and driveways in regulated floodways and NEAs. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of § 7.05(F).

(c) Roads and watercourse crossings in regulated floodways and NEAs. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of § 7.05(F).

(d) Commercial storage facilities are not considered “limited storage” as noted in this article, and shall be protected to the Regulatory Flood Protection Elevation as required for commercial structures.

(C) Reserved.

(D) Standards for floodplains without established base flood elevations. Within the special flood hazard areas designated as Approximate Zone A and established in § 7.03(B), where no BFE data has been provided by FEMA, the following provisions, in addition to the provisions of § 7.05 (A), shall apply:

(1) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of 20 feet each side from top of bank or five times the width of the stream, whichever is greater, 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 the following criteria.

(a) When 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 article and shall be elevated or floodproofed in accordance with standards in § 7.05(A) and (B).

(b) When floodway or non-encroachment data is available from a federal, state or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of § 7.05(B) and (F).

(c) All subdivision, manufactured home park and other development proposals shall provide BFE data if development is greater than five acres or has more than 50 lots/manufactured home sites. Such BFE data shall be adopted by reference in accordance with § 7.03(B) and utilized in implementing this article.

(d) When BFE data is not available from a federal, state or other source as outlined above, the reference level shall be elevated or floodproofed (non-residential) to or above the regulatory flood protection elevation, as defined in Article 11. All other applicable provisions of § 7.05(B) shall also apply.

(E) Standards for riverine floodplains with base flood elevations but without established floodways or non-encroachment areas. Along rivers and streams where BFE data is provided by FEMA or is available from another source 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 of § 7.05(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.

(F) Floodways and non-encroachment areas. Areas designated as floodways or non-encroachment areas are located within the special flood hazard areas established in § 7.03(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 § 7.05(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:

(a) It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood discharge, 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

(b) A Conditional Letter of Map Revision (CLOMR) has been issued by FEMA for proposed encroachments resulting in increases in the flood levels during the occurrence of the base flood discharge. A Letter of Map Revision (LOMR) must be obtained within six months of completion of the proposed encroachment. ~~A conditional letter of map revision (CLOMR) has been approved by FEMA. A letter of map revision (LOMR) must also be obtained within six months of completion of the proposed encroachment.~~

(c) A Letter of Map Revision (LOMR) must be obtained within six months of completion of the proposed encroachment, permitted in accordance with 7.05(F)(1)(a), if the encroachment results in changes to the floodway/non-encroachment area widths, and/or changes to the stream location.

(2) If § 7.05(F)(1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this article.

(3) Manufactured homes may be permitted provided the following provisions are met:

(a) The anchoring and the elevation standards of § 7.05(B)(3); and

(b) The encroachment standards of § 7.05(F)(1).

(4) Placement of recreational vehicles in the regulatory floodway is prohibited.

(G) Coastal high hazard area (Zones VE and AE) ~~and Coastal A zones~~ ~~Coastal high hazard areas~~ are special flood hazard areas established in § 7.03(B) and designated as Zones VE and AE. These areas have special flood hazards associated with high velocity waters from storm surges or seismic activity and, therefore, all new construction and substantial improvements shall meet the following provisions, in addition to the provisions of § 7.05 (A) and (B):

(1) All new development, ~~substantial improvement~~, and accessories shall:

(a) Be located landward of the ocean hazard setback for development as determined by the Division of Coastal Management in 15A NCAC 07H.0306, and any amendments thereto;

(b) ~~Comply with all applicable ocean hazard setbacks for development in 15A NCAC 07H.0309 except for 15A NCAC 07H.0309(a)(5) (unenclosed, uninhabitable gazebos with a footprint of 200 square feet or less), (6) uninhabitable, single-story storage sheds with a foundation or floor consisting of wood, clay, packed sand or gravel, and a footprint of 200 square feet or less), and (9) (swimming pools) which are hereby prohibited within the ocean hazard setback.~~ ~~Comply with all applicable CAMA setback requirements.~~

(2) All new construction and substantial improvements shall be elevated so that the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings or columns) is no lower than the regulatory flood protection elevation. Floodproofing shall not be utilized on any structures in ~~coastal~~ ~~Coastal high~~ ~~High hazard~~ ~~Hazard areas~~ ~~Areas~~ or ~~Coastal A zones~~ to satisfy the regulatory flood protection elevation requirements.

(3) All new construction and substantial improvements shall have the space below the bottom of the lowest horizontal structural member of the lowest floor ~~either be~~ free of obstruction or constructed with breakaway walls, open wood latticework or insect screening, provided they are not part of the structural support of the building and are designed so as to break away, under abnormally high tides or wave action without causing damage to the elevated portion of the building or supporting foundation system or otherwise jeopardizing the structural integrity of the building. The following design specifications shall be met:

(a) Material shall consist of open wood or plastic lattice having at least 40% of its area open; ~~or~~

(b) Insect screening; or

(c) Breakaway walls shall meet the following design specifications:

(1) Breakaway walls shall have flood openings that allow for the automatic entry and exit of floodwaters to minimize damage caused by hydrostatic loads, per § 7.05 (B)(4) ~~(d) (i)~~ ~~(vi)(c)~~; and

(2) Design safe loading resistance shall be not less than ten nor more than 20 pounds per square foot; or

(3) Breakaway walls that exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by state or local codes) shall be certified by a

registered professional engineer or architect that the breakaway wall will collapse from a water load less than that which would occur during the base flood event, and the elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and non-structural). The water loading values used shall be those associated with the base flood. The wind loading values used shall be those required by the North Carolina State Building Code.

(4) All new construction and substantial improvements shall be securely anchored to pile or column foundations. All pilings and columns and the structure attached thereto shall be anchored to resist flotation, collapse and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.

(a) Water loading values used shall be those associated with the base flood.

(b) Wind loading values used shall be those required by the current edition of the State Building Code.

(5) For concrete pads, including patios, decks, parking pads, walkways, driveways, pool decks etc., the following is required:

(a) Pad thickness shall not exceed four inches;

(b) Shall be structurally independent of the primary structural foundation system of the structure and shall not adversely affect structures through redirection of floodwaters or debris; and

(c) Shall be constructed to break away cleanly during design flood conditions, shall be frangible and shall not produce debris capable of causing damage to any structure. (The installation of concrete in small segments (approximately four feet by four feet) that will easily break up during the base flood event, or score concrete in four feet by four feet maximum segments is acceptable to meet this standard); and

(d) Reinforced, including welded wire fabric, shall not be used in order to minimize the potential for concrete pads being a source of debris; or

(e) Provide a design professional's certification stating the design and method of construction to be used meet the applicable criteria of this section.

(6) For swimming pools and spas, the following is required:

(a) Be designed to withstand all flood-related loads and load combinations. Flotation calculations should assume the pools/spas are empty.

(b) Be elevated so that the lowest horizontal structural member is elevated above the RFPE, or

(c) Be located and installed in-ground in compliance with either of the following ~~designed and constructed to break away during design flood conditions without producing debris capable of causing damage to any structure;~~

1. Designed and constructed to break away during design flood conditions without producing debris capable of causing damage to any structure; or
2. Designed and constructed to remain in the ground during design flood conditions without obstructing flow that results in damage to any structure.

~~— (d) Be sited to remain in the ground during design flood conditions without obstructing flow that results in damage to any structure;~~

(ed) Registered design professionals must certify to local officials that a pool or spa beneath or near a ~~VE Zone~~ building will not be subject to flotation or displacement that will damage building foundations or elevated portions of the building or any nearby buildings during a coastal flood; ~~or~~.

(fe) Pool equipment shall be located above the RFPE whenever practicable. Pool equipment shall not be located beneath an elevated structure.

(7) All elevators, vertical platform lifts, chair lifts and the like, the following is required:

(a) Elevator enclosures must be designed to resist hydrodynamic and hydrostatic forces as well as erosion, scour and waves.

(b) Utility equipment in coastal high hazard areas (VE and AE Zones) must not be mounted on, pass through or be located along breakaway walls.

(c) The cab, machine/equipment room, hydraulic pump, hydraulic reservoir, counterweight and roller guides, hoist cable, limit switches, electric hoist motor, electrical junction box, circuit panel, and electrical control panel are all required to be above RFPE. When this equipment cannot be located above the RFPE, it must be constructed using flood damage-resistant components.

~~— (d) Drainage must be provided for the elevator pit.~~

~~— (e) Flood damage resistant materials can also be used inside and outside the elevator cab to reduce flood damage. Use only stainless steel doors and door frames below the BFE. Grouting in of door frames and sills is recommended.~~

(fd) If an elevator is designed to provide access to areas below the BFE, it shall be equipped with a float switch system that will activate during a flood and send the elevator cab to a floor above the RFPE.

(8) Accessory structures, regardless of size or cost, shall not be permitted below elevated structures.

~~— (9) A registered professional engineer or architect shall certify that the design, specifications and plans for construction are in compliance with the provisions of §§ 7.04(B) and 7.05(G)(3) and (4), on the current version of the North Carolina V-Zone Certification form or equivalent local version. Prior to the certificate of compliance/occupancy issuance, the Floodplain Administrator may require that a registered professional engineer or architect certify the finished construction is compliant with the design, specifications and plans for VE Zone construction.~~

(109) Fill/grading:

(a) Minor grading and the placement of minor quantities of non-structural fill may be permitted for landscaping and for drainage purposes under and around buildings and for support of parking slabs, pool decks, patios and walkways.

(b) The fill material must be similar and consistent with the natural soils in the area.

(c) The placement of site-compatible, non-structural fill under or around an elevated building is limited to two feet. Fill greater than two feet must include an analysis prepared by a qualified registered design professional demonstrating no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent elevated buildings and structures.

(d) Non-structural fill with finished slopes that are steeper than five units horizontal to one unit vertical shall be permitted only if an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent elevated buildings and structures.

(e) Fill for structural support is prohibited in the SFHA which should be consistent with § 7.05(A)(17).

~~(110)~~ There shall be no alteration of sand dunes or mangrove stands which would increase potential flood damage.

(11) For decks and patios, the following is required:

~~(14)~~ (a) A deck that is structurally attached to a building or structure shall have the bottom of the lowest horizontal structural member at or above the regulatory flood protection elevation and any supporting members that extend below the regulatory flood protection elevation shall comply with the foundation requirements that apply to the building or structure, which shall be designed to accommodate any increased loads resulting from the attached deck. The increased loads must be considered in the design of the primary structure and included in the V-Zone Certification required under § 7.04(B)(3)(f).

~~(15)~~ (b) A deck or patio that is located below the regulatory flood protection elevation shall be structurally independent from buildings or structures and their foundation systems, and shall be designed and constructed either to remain intact and in place during design flood conditions or to break apart into small pieces to minimize debris during flooding that is capable

of causing structural damage to the building or structure or to adjacent buildings and structures.

(1612) Development activities other than buildings and structures shall be permitted only if also authorized by the appropriate state or local authority; if located outside the footprint of, and not structurally attached to, buildings and structures; and if analyses prepared by qualified registered design professionals demonstrate no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent buildings and structures. Such other development activities include but are not limited to:

(a) Bulkheads, seawalls, retaining walls, revetments and similar erosion control structures; and

(b) Solid fences and privacy walls, and fences prone to trapping debris, unless designed and constructed to fail under flood conditions less than the design flood or otherwise function to avoid obstruction of floodwaters.

~~—(c) Docks, piers, and similar structures.~~

(13) Placement of recreational vehicles in VE zones are prohibited. ~~Recreational vehicles may be permitted in coastal high hazard areas provided that they meet the recreational vehicle criteria of § 7.05(B)(6)(a).~~

~~—(14) A deck that is structurally attached to a building or structure shall have the bottom of the lowest horizontal structural member at or above the regulatory flood protection elevation and any supporting members that extend below the regulatory flood protection elevation shall comply with the foundation requirements that apply to the building or structure, which shall be designed to accommodate any increased loads resulting from the attached deck. The increased loads must be considered in the design of the primary structure and included in the V-Zone Certification required under § 7.04(B)(3)(f).~~

~~—(15) A deck or patio that is located below the regulatory flood protection elevation shall be structurally independent from buildings or structures and their foundation systems, and shall be designed and constructed either to remain intact and in place during design flood conditions or to break apart into small pieces to minimize debris during flooding that is capable of causing structural damage to the building or structure or to adjacent buildings and structures.~~

(14) No more than four (4) electrical outlets and no more than four (4) electrical switches may be permitted below RFPE unless required by building code.

(1215) No manufactured homes shall be permitted except in an existing manufactured home park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring and elevation standards of this Section have been satisfied.

(16) Property owners shall be required to execute and record a non-conversion agreement prior to issuance of a building permit declaring that the area below the lowest floor, or the

detached accessory building shall not be improved, or otherwise converted; the Town will have the right to inspect the enclosed area. This agreement shall be recorded with the Onslow County Register of Deeds and shall transfer with the property in perpetuity.

(917) A registered professional engineer or architect shall certify that the design, specifications, plans and construction are compliant with the provisions of 7.04(B) and 7.05 (G) (2), (3), and (4), on the current version of the North Carolina V-Zone Certification form or equivalent local version pursuant to 7.04(B)(3)(f). Prior to the certificate of compliance/occupancy issuance, the Floodplain Administrator may require that a registered professional engineer or architect certify the finished construction is compliant with the design, specifications and plans for VE Zone construction.

~~(H) Standards for Coastal A Zones (Zone CAZ) LIMWA. Structures in CAZs shall be designed and constructed to meet V Zone requirements, including requirements for breakaway walls. However, the NFIP regulations also require flood openings in walls surrounding enclosures below elevated buildings in CAZs (see Technical Bulletin 1, openings in foundation walls and walls of enclosures). Breakaway walls used in CAZs must have flood openings that allow for the automatic entry and exit of floodwaters to minimize damage caused by hydrostatic loads. Openings also function during smaller storms or if anticipated wave loading does not occur with the base flood.~~

~~—(1) All new construction and substantial improvements shall be elevated so that the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings or columns) is no lower than the regulatory flood protection elevation. Floodproofing shall not be utilized on any structures in Coastal A Zones to satisfy the regulatory flood protection elevation requirements.~~

~~—(2) All new construction and substantial improvements shall have the space below the lowest horizontal structural member free of obstruction or constructed with breakaway walls, open wood latticework or insect screening, provided they are not part of the structural support of the building and are designed so as to break away, under abnormally high tides or wave action without causing damage to the elevated portion of the building or supporting foundation system or otherwise jeopardizing the structural integrity of the building. The following design specifications shall be met:~~

~~—(a) Material shall consist of open wood or plastic lattice having at least 40% of its area open;~~

~~—(b) Insect screening; or~~

~~—(c) Breakaway walls shall meet the following design specifications:~~

~~—(1) Breakaway walls shall have 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 design criteria in § 7.05(B)(4)(d);~~

~~— (2) Design safe loading resistance shall be not less than 10 nor more than 20 pounds per square foot; or~~

~~— (3) Breakaway walls that exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by state or local codes) shall be certified by a registered professional engineer or architect that the breakaway wall will collapse from a water load less than that which would occur during the base flood event, and the elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and non-structural). The water loading values used shall be those associated with the base flood. The wind loading values used shall be those required by the North Carolina State Building Code.~~

~~— (3) Concrete pads, including patios, decks, parking pads, walkways, driveways and the like must meet the provisions of § 7.05(G)(5).~~

~~— (4) All new construction and substantial improvements shall meet the provisions of § 7.05(G)(3).~~

~~— (5) A registered professional engineer or architect shall certify that the design, specifications and plans for construction are in compliance with the provisions of §§ 7.04(B) and 7.05(G)(3) and (4), on the current version of the North Carolina V-Zone certification form or a locally developed V-Zone certification form.~~

~~— (6) Recreational vehicles may be permitted in Coastal A Zones provided that they meet the recreational vehicle criteria of § 7.05(B)(6)(a).~~

~~— (7) Fill/grading must meet the provisions of § 7.05(G)(11).~~

~~— (8) Fill for structural support is prohibited in the SFHA which should be consistent with § 7.05(A)(17).~~

~~— (9) Decks and patios must meet the provisions of § 7.05(G)(15) and (16).~~

~~— (10) In coastal high hazard areas, development activities other than buildings and structures must meet the provisions of § 7.05(G)(17).~~

~~(Ord. passed 11-2-2011; Ord. passed 11-3-2016; Ord. 2020-01, passed 6-4-2020; Ord. passed 10-1-2020; Ord. passed 1-8-2025)~~Reserved.

I. Reserved.

J. Reserved.

§ 7.06 LEGAL STATUS PROVISIONS.

(A) Effect on rights and liabilities under the existing flood damage prevention ordinance.

(1) This article in part comes forward by re-enactment of some of the provisions of the flood damage prevention ordinance enacted May 2, 1990, 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 article shall not affect any action, suit or proceeding instituted or pending. All provisions of the flood damage prevention ordinance of the ~~town~~Town enacted on May 2, 1990, as amended, which are not reenacted herein are repealed.

(2) The date of the initial flood damage prevention ordinance for the county is July 2, 1987.

(B) Effect upon outstanding floodplain development permits. Nothing herein contained shall require any change in the plans, construction, size or designated use of any development or any part thereof for which a floodplain development permit has been granted by the Floodplain Administrator or his or her authorized agents before the time of passage of this article; provided, however, that when construction is not begun under such outstanding permit within a period of six months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this article.

(C) Severability. If any section, clause, sentence, or phrase of the article is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this article.

(D) Effective date. This article shall become effective **July 1, 2026**.

(Ord. passed 11-2-2011; Ord. passed 11-3-2016; Ord. 2020-01, passed 6-4-2020)

SECTION E. ADOPTION CERTIFICATION.

I hereby certify that this is a true and correct copy of the Flood Damage Prevention Ordinance as adopted by the Board of Aldermen of the Town of North Topsail Beach, North Carolina, on the 1st day of July, 2026.

WITNESS my hand and the official seal of Alexis "Lexi" Stanfield NCCCC, Town Clerk, this the 1st day of July, 2026.

(signature)

§ 11.02 DEFINITIONS.

Unless specifically defined below, words or phrases used in this development 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.

A ZONE. The Special Flood Hazard Area subject to inundation by the 1% annual chance flood where base flood elevations have NOT been determined.

AE ZONE. The Special Flood Hazard Area subject to inundation by the 1% annual chance flood where base flood elevations have been determined by detailed or limited detailed methods.

ABANDONMENT. A property, use or structure that has been physically and objectively discontinued, ceased, relinquished, vacated or not maintained for a consecutive period of 180 days or more days and regardless of any condition or circumstance beyond the control of such parties that prevent a continuation of the use or occupancy of the structure or property.

ABUTTING. See ADJACENT, ADJOINING LOT OR LAND.

ACCESS. A way of approaching or entering a property, access also includes ingress, the right to enter, and egress, and the right to leave.

ACCESSORY DWELLING UNIT. A residential dwelling unit, located on the same lot as a single-family dwelling unit, either within the same building as the single-family dwelling unit or in a detached building. Secondary dwelling units shall be developed in accordance with the standards set forth in this ordinance and only in those zoning districts where the use is listed as a special use.

ACCESSORY STRUCTURE (APPURTENANT STRUCTURE). A structure that is 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 ACCESSORY STRUCTURES. Poles, 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.

ACCESSORY USE. A use on the same lot or in the same building with the principal use of the lot or building, the nature and extent of which is clearly incidental or subordinate to that of the principal use.

ACCRETED LAND. Accretion is defined as the natural addition of land by the slow action of wind or water. Heavy rain, river or ocean action would have this effect by either washing up sand or soil or by a permanent retreat of the high water mark. In general, ACCRETED LAND will be considered to maintain the same zoning designation as the adjacent land. In

any case, the landowner would have the right to attempt to have the accreted land rezoned, following the usual rezoning process.

ADDITION (TO AN EXISTING BUILDING). An extension or increase in the floor area or height of a building or structure.

ADJACENT, ADJOINING LOT OR LAND. A lot or parcel of land that shares all or part of a common lot line or boundary with another lot or parcel of land or that is directly across a public street or right-of-way.

ADMINISTRATIVE HEARING. A proceeding to gather facts needed to make an administrative decision.

ADULT BUSINESS AND RELATED DEFINITIONS. See definitions in North Topsail Beach Town Code Chapter 4, Art. III, Adult and Sexually Oriented Businesses.

ADULT DAY CARE CENTER. See DAY CARE CENTER.

AH ZONE. The Special Flood Hazard Area with a 1% annual chance of shallow flooding (usually areas of ponding), where average depths are between one (1) and three (3) feet. Base flood elevations derived from detailed hydraulic analyses are shown in this zone.

ALLEY. A public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on a street and is not intended for general traffic.

ALTERATION. Any change or expansion in the size, configuration or location of a structure; or any change or expansion in the use of a structure or lot, from a previously approved or legally existing size, configuration, location or use.

ALTERATION OF A WATERCOURSE. A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

ALTERNATIVE ANTENNA SUPPORT STRUCTURES (AASS). Structures which are functionally and legally capable of supporting wireless communication antennae, including, but not limited to, buildings, water towers and utility poles as an ancillary use of the primary structure.

AMENDMENT. Any change by the Board of Aldermen to the unified development ordinance such as text amendments or changes to the official zoning map.

AMERICAN MOBILE TELECOMMUNICATIONS ASSOCIATION (AMTA). A Washington, D.C. based industry trade group which serves to support its specialized mobile radio (SMR) operator members through lobbying and networking efforts.

ANTENNA. Any apparatus or group of apparatus, designed for the transmitting and/or receiving of electromagnetic waves that includes, but is not limited to: telephonic, radio or

television communications. ANTENNAS include omni-directional (whip) antennas, sectorized (panel) antennas, microwave dish antennas, multi or single bay (FM and amp; TV), or parabolic (dish) antennas, but do not include satellite earth stations.

ANTENNA, DISH. A parabolic, spherical or elliptical antenna intended to receive wireless communications.

ANTENNA, FLUSH MOUNTED. An antenna that is attached flush to an antenna-supporting structure, without the use of sidearms or other extension devices.

ANTENNA, PANEL. A directional antenna designed to transmit and/or receive signals in a directional pattern that is less than 360 degrees and is not flush-mounted or dish antenna.

ANTENNA, SURFACE MOUNTED. An antenna that is attached flush to the surface or facade of a building or structure other than an antenna-supporting structure.

ANTENNA, WHIP. A cylindrical, omni-directional antenna designed to transmit and/or receive signals in a 360-degree pattern.

AO ZONE. The Special Flood Hazard Area with a 1% annual chance of shallow flooding (usually sheet flow on sloping terrain) where average depths are between one (1) and three (3) feet. Average flood depths derived from detailed hydraulic analyses are shown in this zone.

APPEAL. A request for a review of the Zoning or Floodplain Administrator's interpretation of any provision of this ordinance.

APPROVAL AUTHORITY. The Board of Aldermen, Board of Adjustment, Planning Board, Planning Director or official designated by this development ordinance or by the town as being authorized to grant the specific zoning or land use permit or approval that constitutes a site-specific development plan.

ARCHITECTURAL FEATURE. A prominent or significant part or element of a building, structure or site.

AREA OF ENVIRONMENTAL CONCERN (AEC). The foundation of the CRC's permitting program for coastal development. An AEC is an area of natural importance: The CRC classifies areas as AECs to protect them from uncontrolled development, which may cause irreversible damage to property, public health or the environment. The CRC has established four categories of AECs:

- (1) The estuarine and ocean system;
- (2) The ocean hazard system;
- (3) Public water supplies; and
- (4) Natural and cultural resource areas.

AREA OF SHALLOW FLOODING. A designated Zone AO or AH on a community's flood insurance rate map (FIRM) with base flood depths determined to be from one to three feet.

These areas are located 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. See SPECIAL FLOOD HAZARD AREA (SFHA).

AS-BUILT PLANS. Plans showing location of all existing and constructed features, certifying that a project was built in accordance with the permit.

ATTIC. The unfinished space between the ceiling joists of the top story and the roof rafters.

BALCONY, EXTERIOR. An exterior floor projecting from and supported by a structure without additional independent supports.

BANNER. A sign intended to be hung either with or without a frame, possessing characters, letters, illustrations or ornamentation's applied to plastic or fabric of any kind excluding flags.

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION (BFE). 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, state or other source using FEMA-approved engineering methodologies. This elevation, when combined with the two-foot "freeboard", establishes the "regulatory flood protection elevation".

BASEMENT. Any area of the building having its floor subgrade (below ground level) on all sides.

BED AND BREAKFAST. A building other than a hotel or motel where, a resident family, for compensation, provides temporary lodging and meals.

BEDROOM. Sleeping room. A room designated as sleeping or bedroom on the plans and permit application.

BILLBOARD. A sign that identifies, advertises and/or directs the public to a business, merchandise, service, entertainment or product that is located at a place other than the property on which such sign is located. See also SIGN, OFF-PREMISES.

BLOCK. A tract of land or a lot or group of lots bounded by streets, public parks, golf courses, railroad rights-of-way, watercourses, lakes, unsubdivided land or a boundary line or lines of the town or any combination of the above.

BLOCK FRONTAGE. The portion of a block which abuts a single street.

BOARD OF ADJUSTMENT. A local body, created by ordinance, whose responsibility is to hear appeals from decisions of the Zoning Administrator and to consider requests for variances from the terms of the unified development ordinance.

BOARD OF ALDERMEN. The governing body of the Town of North Topsail Beach.

BOAT LAUNCH/RAMP. Facility to launch and retrieve recreational boats from a trailer.

BOAT SLIP. A berthing place for one or two watercraft where the watercraft can be securely moored to cleats, piling, or other devices while the boats are in the water. **BOAT SLIPS** are commonly configured as “side-ties” or as single or double loaded “U” shaped berths.

BONA FIDE FARM PURPOSES. Agricultural activities as set forth in G.S. § 160D-903.

BREAKAWAY WALL. 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.

BUFFER. A fence, wall, hedge or other planted area or device used to enclose, screen or separate one use or lot from another.

BUILDING. See **STRUCTURE**.

BUILDING, EXISTING. A building erected prior to the adoption of this code, or one for which a legal building permit has been issued.

BUILDING, HEIGHT OF. The vertical distance of the highest point of the roof or any rooftop deck, fence, railing, widow’s walk or other rooftop structure as measured from the top of the lowest slab and if no slab measured from lowest adjacent grade as specified on the elevation certificate.

BUILDING LINE/SETBACK. The line established by this ordinance, beyond which a building shall not extend, except as specifically provided.

BUILDING PERMIT. A permit obtained from the town for the construction, repair, alteration or addition to a structure, which sets the inspection schedule and construction techniques for a particular project and specified use in accordance with this ordinance and adopted building ordinances and other prevailing standards for construction, and includes the town’s necessary zoning approval.

BUILDING, PRINCIPAL (MAIN). A building in which is conducted the principal use of the plot on which it is situated.

BULKHEAD. A vertical wall structure designed to retain shoreline material and prevent erosion due to wave activity.

CALIPER. The size of tree’s trunk diameter as measured 36 inches above the ground.

CAMOUFLAGED TOWER. A tower which is designed to blend into the surrounding environment, such as a tower designed to resemble a tree or, if erected on an existing structure, an integral part of the building.

CAMPER. A structure manufactured of metal, wood, canvas, plastic or other materials, or any combination thereof, mounted on wheels and designed for travel, recreation or vacation use. A CAMPER is not designed or intended to be used as a permanent dwelling. CAMPERS include the following:

(1) **TRAVEL TRAILER.** A vehicular, portable structure built on chassis, designed to be towed by a self-propelled vehicle for use for travel, recreation or vacation purposes. A travel trailer is not designed or meant to be used as a permanent dwelling.

(2) **RECREATIONAL VEHICLE.** A self-propelled vehicle or portable structure mounted on such a vehicle designed as temporary dwelling for travel, recreation and vacation.

(3) **TENT.** A portable shelter of canvas, plastic or skins stretched over a supporting framework of poles with skins stretched over a supporting framework of poles with ropes and pegs.

CAMPER SPACE. A plot of land within a campground designed for the accommodation of one camper.

CAMPGROUND. Any lot upon which multiple campers or tent spaces are provided for temporary occupancy according to requirements as set forth in this ordinance. A CAMPGROUND shall also be known as a RECREATIONAL VEHICLE PARK or TRAVEL TRAILER PARK.

CARPORT. A covered parking area opened on at least two sides.

CELLULAR TELECOMMUNICATIONS INDUSTRY ASSOCIATION (CTIA). A family of representative companies that support the cellular, PCS and enhanced SMR carriers industry through lobbying, research and policy efforts.

CERTIFICATE OF OCCUPANCY. A document issued by the Building Inspector allowing the occupancy or use of a building and certifying that the structure or use has been constructed or will be used in compliance with this ordinance and all other applicable regulations.

CERTIFICATE OF ZONING COMPLIANCE. Official certification that a premises conforms to provisions of the unified development ordinance (and building code) and may be used or occupied, subject to issuance of a certificate of occupancy by the Building Inspector. Such a certificate is granted for new construction or for alterations or additions to existing structures or a change in use. Unless such a certificate is issued, a structure cannot be occupied.

CHANGE OF USE. See USE, CHANGE OF.

CHEMICAL STORAGE FACILITY. A building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

CHILD CARE HOME. A home occupation providing for day care of no more than seven children See also HOME OCCUPATION and DAY CARE FACILITY.

CITATION. A notice by a governmental authority indicating a violation or possible violation of this ordinance or other applicable government regulations applicable to the property.

CLEARING. The removal of trees and brush from the land, but shall not include the ordinary mowing of grass.

CLUB OR LODGE (PRIVATE NONPROFIT, CIVIC OR FRATERNAL). Buildings and facilities, owned or operated by a corporation, association, person or persons, for a social, educational or recreational purpose, to which membership is required for participation.

COASTAL AREA MANAGEMENT ACT (CAMA). North Carolina's Coastal Area Management Act, along with the Dredge and Fill Law and the Federal Coastal Zone Management Act, is managed through North Carolina Department of Environment and Natural Resources' (NCDENR's) North Carolina Department of Environmental Quality (NCDEQ) Division of Coastal Management (DCM).

COASTAL A ZONE (CAZ). An area within a special flood hazard area, landward of a V zone or landward of an open coast without mapped V zones; in a Coastal A Zone, the principal source of flooding must be astronomical tides, storm surges, seiches or tsunamis, not riverine flooding. During the base flood conditions, the potential for wave heights shall be greater than or equal to one and one-half feet. COASTAL A ZONES are not normally designated on FIRMs (see LIMIT OF MODERATE WAVE ACTION (LiMWA)).

COASTAL BARRIER RESOURCES SYSTEM (CBRS). Consists of undeveloped portions of coastal and adjoining areas established by the Coastal Barrier Resources Act (CoBRA) of 1982, the Coastal Barrier Improvement Act (CBIA) of 1990, and subsequent revisions, and includes areas owned by federal or state governments or private conservation organizations identified as otherwise protected areas (OPA).

COASTAL HIGH HAZARD AREA. A special flood hazard area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM or other adopted flood map as determined in § 7.03(B), as zones VE and AE.

CO-LOCATION. The siting of two or more wireless telecommunication antennae on the same wireless telecommunication support structure.

COMMERCIAL USE. Any use permitted by this ordinance in one or more of the B-1 or B-2 zoning district, or as otherwise permitted by this ordinance. Unless otherwise indicated, the meaning and use of the term "commercial" or "business" are similar and the terms are interchangeable.

COMMUNITY. Any State or area or political subdivision thereof, or any Indian tribe or authorized tribal organization, which has authority to adopt and enforce flood plain management regulations for the areas within its jurisdiction.

COMMUNITY BOATING FACILITY. A private, nonprofit boating facility including a dock, pier and/or launching ramp on property having water frontage, the use of which is intended to serve more than one residential lot. The right to use such facility must be conferred by an easement appurtenant to the residential lot it is intended to serve. No commercial activities of any kind shall be allowed within the confines of the facility. The facility shall be limited to one slip per one residential dwelling unit, not to exceed ten slips.

COMMUNITY RATING SYSTEM (CRS). A program developed by the Federal Insurance Administration to provide incentives for those communities in the Regular Program that have gone beyond the minimum floodplain management requirements to develop extra measures to provide protection from flooding.

COMPREHENSIVE PLAN. The comprehensive plan, land-use plan, small area plans, neighborhood plans, transportation plan, capital improvement plan, and any other plans regarding land use and development that have been officially adopted by the Board of Aldermen pursuant to G.S. § 160D-501.

CONDITIONAL ZONING. A legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment.

CONDOMINIUM. Ownership of single units in a multi-unit structure with common areas and facilities in accordance with G.S. Ch. 47A.

CONDOMINIUM HOTEL or CONDOTEL. See HOTELMINIUM.

CONTIGUOUS. Abutting directly or immediately adjacent to a boundary or separated only by a street or public utility right-of-way.

CONVALESCENT HOME (NURSING HOME). An institution, which is advertised, announced or maintained for the express or implied purpose of providing nursing or convalescent care for persons unrelated to the licensee. A CONVALESCENT HOME is a home for chronic or nursing patients who, on admission, are not as a rule acutely ill or who do not usually require special facilities, such as an operating room, X-ray facilities, laboratory facilities and obstetrical facilities.

CONVENIENCE STORE. A small store or shop used as a convenient supplement to main shopping that stocks a range of everyday items such as groceries, toiletries, alcoholic and soft drinks.

COUNTY. Any one of the counties listed in G.S. § 153A-10.

CRITICAL FACILITY (ALSO CALLED CRITICAL ACTION). The facilities for which the effects of even a slight chance of flooding would be too great. The minimum floodplain of concern for critical facilities is the 0.2 percent chance flood level. Critical facilities include, but are not limited to facilities critical to the health and safety of the public such as: emergency operations centers, designated public shelters, schools, nursing homes, hospitals, police, fire and emergency response installations, vital data storage centers, power generation and water and other utilities (including related infrastructure such as principal points of utility

systems) and installations which produce, use or store hazardous materials or hazardous waste.

CROSSOVER (DUNE). Wooden walkway and steps providing access to the beach, which protect dunes by eliminating foot traffic.

CUL-DE-SAC. See STREET, CUL-DE-SAC.

DAY CARE CENTER. A day care facility as defined in G.S. § 110-86(3) as well as a center providing day care on a regular basis for more than two hours per day for more than five adults or children.

DECISION MAKING BOARD. The Board of Aldermen, Planning Board, Board of Adjustment or other board assigned to make quasi-judicial decisions under this ordinance.

DECK. An accessory structure, with or without a roof, directly adjacent to a principal building, which may be constructed of any materials and may either be freestanding or attached to a building and supported by pillars or posts.

DEDICATION. A gift, by the owner, or a right to use of land for a specified purpose or purposes. Because a transfer of property rights is entailed, dedication must be made by written instrument, and is completed with an acceptance.

DENSITY. A ratio expressed as the number of dwelling units per acre (DUA). The ratio is derived by dividing the total number of dwelling units by the total land area (in acres).

DESIGN FLOOD. See REGULATORY FLOOD PROTECTION ELEVATION.

DETERMINATION. A written, final, and binding order, requirement, or determination regarding an administrative decision.

DEVELOPER. Any person who engages in development either as the owner or as the agent of an owner of property.

DEVELOPMENT.

(1) Any of the following:

(a) The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.

(b) The excavation, grading, filling, clearing, or alteration of land.

(c) The subdivision of land as defined in G.S. § 160D-802.

(d) The initiation or substantial change in the use of land or the intensity of use of land.

(e) 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.

(2) This definition does not alter the scope of regulatory authority granted by this ordinance.

DEVELOPMENT ACTIVITY. Any activity defined as DEVELOPMENT which will necessitate a floodplain development permit. This includes buildings, structures and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps and erosion control/stabilization measures.

DEVELOPMENT APPROVAL. An administrative or quasi-judicial approval made pursuant to this article that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal. DEVELOPMENT APPROVALS include, but are not limited to, zoning permits, site plan approvals, special use permits, variances, and certificates of appropriateness. The term also includes all other regulatory approvals required by regulations adopted pursuant to this article, including plat approvals, permits issued, development agreements entered into, and building permits issued.

DEVELOPMENT REGULATION. A unified development ordinance, zoning regulation, subdivision regulation, erosion and sedimentation control regulation, floodplain or flood damage prevention regulation, mountain ridge protection regulation, stormwater control regulation, wireless telecommunication facility regulatio

DIAMETER AT BREAST HEIGHT (DBH). The diameter of a tree measured four and one-half feet above the ground.

DIGITAL FLOOD INSURANCE RATE MAP (DFIRM). The digital official map of a community, issued by the Federal Emergency Management Agency (FEMA), on which both the special flood hazard areas and the risk premium zones applicable to the community are delineated.

DIRECT LIGHT. Light emitted directly from the lamp, off of the reflector or reflector diffuser, or through the refractor or diffuser lens, of a luminaire.

DISPOSAL. As defined in G.S. § 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.

DISTRICT. An area delineated on the official zoning district map for which this ordinance sets forth standards and guidelines for development.

DISTURBED AREA. The portion of the lot that is allocated for land disturbing activities and construction of structures and associated improvements.

DOCK. A pier, wharf or platform for the unloading of materials or living beings.

DOUBLE FRONTAGE LOT or THROUGH LOT. See LOT, DOUBLE FRONTAGE.

DRAINAGE SYSTEM. The system through which water flows from the land. It includes all watercourses, water bodies and wetlands.

DRIVEWAY, PRIVATE. A roadway serving two or fewer lots, building sites or other division of land and not intended to be public ingress or egress. That portion of the property area that consists of a travel lane bounded on either side by an area that is not part of the vehicle accommodation area. A driveway includes the driveway ramp or entrance at the road, throat, travel lane and parking stall connected to either a private, public or state road.

DRY FLOODPROOFING. A combination of measures that make a building and attendant utilities and equipment watertight and substantially impermeable to floodwater, with structural components having the capacity to resist flood loads. Please refer to *Technical Bulletin 3, Requirements for the Design and Certification of Dry Floodproofed Non-Residential and Mixed-Use Buildings*, and available from the FEMA.

DUNE. A naturally placed mound of earth or sand, vegetated or un-vegetated, that can be independent or part of an incorporated system. The word DUNE shall include:

(1) Estuarine frontal dunes: the first mounds of sand located landward of the estuarine waters of the intercoastal and having a minimum elevation equal to mean flood level plus six feet;

(2) Frontal dunes: the first mound of sand located landward of the ocean beach having sufficient vegetation, height, continuity and configuration to offer protective value;

(3) Interior dunes: all dunes located in the town that are not considered frontal dunes; and

(4) Primary dunes: the first mounds of sand located landward of the ocean beaches having an elevation equal to mean flood level for the area plus six feet. Primary dunes extend landward to the lowest elevation in the depression behind the same mound of sand.

DUPLEX. A building containing two dwelling units: where the building is designed to be occupied by two families living independently from each other. The DUPLEX must have a continuous common wall and/or floor assemblies having less than a one-hour fire-resistance rating. A breezeway or porch connection will not be considered a common or party wall.

DWELLING. Any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. For the purposes of this ordinance, the term does not include any recreational vehicle.

DWELLING UNIT. A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

EASEMENT. A grant by the property owner of a strip of land for a specified purpose and use by the public, a corporation or persons.

EDUCATIONAL SERVICES. Comprises uses that provide instruction and training in a wide variety of subjects. This instruction and training is provided by specialized establishments, such as schools, colleges, universities and training centers. These establishments may be privately owned and operated for profit or not for profit, or they may be publicly owned and operated. They may also offer food and accommodation services to their students. EDUCATIONAL SERVICES are usually delivered by teachers or instructors that explain, tell, demonstrate, supervise and direct learning. Instruction is imparted in diverse settings, such as educational institutions, the workplace, or the home through correspondence, television or other means. It can be adapted to the particular needs of the students, for example sign language can replace verbal language for teaching students with hearing impairments. All industries in the sector share this commonality of process, namely, labor inputs of instructors with the requisite subject matter expertise and teaching ability.

ELEVATED BUILDING. A non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings or columns.

ENCROACHMENT. The advance or infringement of uses, fill, excavation, buildings, structures or development into a special flood area, which may impede or alter the flow capacity of a floodplain.

ENVIRONMENTAL ASSESSMENT (EA). An assessment of a project's environmental impact as defined in the National Environmental Policy Act of 1969.

EROSION. The wearing away of the land surface by wind, water, ice or other geologic agents. Erosion occurs naturally from weather or runoff, but is often intensified by human land use practices.

EVIDENTIARY HEARING. A hearing to gather competent, material and substantial evidence in order to make findings for a quasi-judicial decision required by a development regulation adopted under this ordinance.

EVCS LEVEL 1. May be allowed in residential as accessory to the primary permitted use. Such stations located at single-family, two-family, and multi-family land uses shall be designated as private restricted use only. Must meet requirements of Article 7 and building, electrical and accessibility codes.

EVCS LEVEL 2. May be allowed in residential or commercial districts. Such stations located at single family, two-family, and multi-family land uses shall be designated as private restricted use only. Must meet requirements of Article 7 and building, electrical and accessibility codes.

EVCS LEVEL 3. May be allowed in commercial districts. Must meet requirements of Article 7 and building, electrical and accessibility codes.

EXISTING BUILDING and EXISTING STRUCTURE. Any building and/or structure for which the START OF CONSTRUCTION commenced before the community entered the NFIP, dated June 2, 1987.

EXISTING MANUFACTURED HOME PARK or MANUFACTURED HOME SUBDIVISION. 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 the community entered the NFIP, dated June 2, 1987.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FALL RADIUS. A physical radius prescribed by the total effective height of any tower which includes an area which theoretically could be penetrated by the collapse of that tower.

FAMILY. One or more persons living together as a single housekeeping unit.

FAMILY CARE HOME. A dwelling that provides room and board for not more than six persons who because of age, illness, handicap or specialized program, require personalized services or a supervised living arrangement in order to assure their safety and comfort that is regulated by the state. (For purposes of FAMILY CARE HOMES, a "handicapped person" as defined in G.S. § 168-21(2) means a person with a temporary or permanent physical, emotional or mental disability including but not limited to mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances and orthopedic impairments but not including mentally ill persons who are dangerous to others as defined in G.S. § 122C-3(11)b. If the home is not licensed under G.S. Ch. 31D, Article 1 or is exempt from state licensing, the home shall be considered a group home and shall be subject to all applicable requirements of this ordinance.

FARMERS MARKET. A specialty market with or without a structure principally for the sale of produce, plants and flowers. Value-added agricultural products such as honey or jam, along with handmade craft items, may be sold, provided their sale is ancillary to the sale of produce, plants and flowers.

FEDERAL AVIATION ADMINISTRATION (FAA). The Federal Agency responsible for regulating aviation in the United States.

FEDERAL COMMUNICATIONS COMMISSION (FCC). The Federal Agency responsible for regulating telecommunications in the United States.

FLEA MARKET. A specialty market, where the use involves the setting up of two or more booths, tables, platforms, racks or similar display areas for the purpose of selling, buying or trading merchandise, goods, materials, products or other items offered for sale outside an enclosed building. FLEA MARKETS shall not include any of the following activities which occur at the same location four or fewer days in any calendar year: garage sales, produce stands or fundraising activities done by a nonprofit organization.

FLOOD OR FLOODING.

- (a) A general and temporary condition of partial or complete inundation of normally dry land areas from:
- (1) The overflow of inland or tidal waters.
 - (2) The unusual and rapid accumulation or runoff of surface waters from any source.
 - (3) Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (a)(2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- (b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(1) of this definition.

FLOOD BOUNDARY and FLOODWAY MAP (FBFM). An official map of a community, issued by the FEMA, 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). An official map of a community, issued by the FEMA, where the boundaries of the special flood hazard areas have been defined as Zone A.

FLOOD INSURANCE. The insurance coverage provided under the national flood insurance program.

FLOOD INSURANCE RATE MAP (FIRM). An official map of a community, issued by the FEMA, on which both the special flood hazard areas and the risk premium zones applicable to the community are delineated (see also DFIRM).

FLOOD INSURANCE STUDY (FIS). 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 FEMA. The flood insurance study report includes flood insurance rate maps (FIRMs) and flood boundary and floodway maps (FBFMs), if published.

~~—FLOOD OR FLOODING. A general and temporary condition of partial or complete inundation of normally dry land areas from:~~

~~—(a) The overflow of inland or tidal waters; and/or~~

~~—(b) The unusual and rapid accumulation of runoff of surface waters from any source.~~

FLOOD OR SPOT LIGHT. Any light fixture or lamp that incorporates a reflector or a refractor to concentrate the light output into a directed beam in a particular direction.

FLOOD PRONE AREA. See FLOODPLAIN.

FLOOD ZONE. 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.

FLOODPLAIN. Any land area susceptible to being inundated by water from any source.

FLOODPLAIN ADMINISTRATOR. The individual appointed to administer and enforce the floodplain management regulations.

FLOODPLAIN DEVELOPMENT PERMIT. 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. 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. This unified development ordinance and other zoning, flood damage prevention ordinances, subdivision regulations, building codes, health regulations, special purpose flood damage prevention ordinances and other applications of police power. This term describes federal, state or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

FLOODPROOFING. Any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures and their contents.

FLOOD-RESISTANT MATERIAL. Any building product (material, component or system) capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbers are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Please refer to Technical Bulletin 2, Flood Damage-Resistant Materials Requirements, and available from the FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

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

FLOODWAY ENCROACHMENT ANALYSIS. An engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The evaluation shall be prepared by a qualified state licensed engineer using standard engineering methods and hydraulic models meeting the minimum requirement of the National Flood Insurance Program.

FLOOR AREA. For determining off-street parking and loading requirements: the sum of the gross horizontal areas of each floor of the principal building, and any accessory buildings or structures, measured from the exterior walls or from the center line of party walls. The term does not include any area used exclusively for the surface parking of motor vehicles or for building or equipment access, such as stairs, elevator shafts and maintenance crawl space.

FLOOR AREA, GROSS. The total square footage on all floors within a building.

FREEBOARD. The height added to the 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, blockage of bridge openings, and the hydrological effect of urbanization of the watershed. The BFE plus the FREEBOARD establishes the “regulatory flood protection elevation”.

FRONTAGE. The lot boundary that coincides with a public thoroughfare or space; the facade of a structure facing the street.

FULL CUT-OFF TYPE FIXTURE. A luminaire or light fixture that by design of the fixture housing does not allow any light dispersion or direct glare to shine above a 90-degree horizontal plane from the base of the fixture.

FUNCTIONALLY DEPENDENT FACILITY. A facility which cannot be used for its intended purpose unless it is located in close proximity to water, limited to a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales or service facilities.

FUTURE CONNECTION. The extension of a street to an external property line to facilitate future roadway connection and reduce traffic impacts on the road network.

GARAGE APARTMENT. A structure above a private garage in which provision is made for one dwelling unit. See also ACCESSORY DWELLING UNIT.

GARAGE (PRIVATE). A building used as an accessory to or a part of the main building permitted in any residential district, and providing for the storage of motor vehicles and in which no business, or service for profit is in any way conducted.

GAZEBO. A freestanding roofed, open-sided structure providing a shady resting place.

GEOGRAPHIC SEARCH AREA. An area designated by a wireless provider or operator for a new base station facility, produced in accordance with generally accepted principles of wireless engineering.

GOLF COURSE. A tract of land designed and laid out for the game of golf having at least nine holes, each with a tee, fairway, green and one or more hazards. A clubhouse, pool and other facilities associated with a country club built around a golf course are considered part of the GOLF COURSE. This definition does not include miniature golf.

GOVERNING BOARD. The City Council or Board of County Commissioners. The term is interchangeable with the terms “Board of Aldermen” and “Boards of Commissioners” and means any Board of Aldermen without regard to the terminology employed in charters, local acts, other portions of the General Statutes, or local customary usage. The Board of Aldermen for North Topsail Beach is the Board of Aldermen.

GRADE. The finished ground level adjoining the building at all exterior walls.

GROUP HOME. A dwelling operated under state regulations that provides room and board for more than six, but less than 13 individuals who as a result of age, illness, handicap or some specialized program, require personalized services or a supervised living arrangement in order to assure their safety and comfort. Additional requirements may be imposed by the International Building Code with North Carolina Amendments.

GUESTHOUSE. A separate residence for guests.

HALF-STREET. A street whose center line coincides with a subdivision plat boundary, with one-half the street right-of-way width being contained within the subdivision plat. Also, any existing street to which the parcel of land to be subdivided abuts on only one side.

HANDICAPPED PERSON. A person with a temporary or permanent physical, emotional or mental disability including, but not limited to, mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances and orthopedic impairments but not including mentally ill persons who are dangerous to others as defined in G.S. § 122C-3(11)b.

HAZARDOUS WASTE MANAGEMENT FACILITY. As defined in G.S. Ch. 130A, Art. 9, a facility for the collection, storage, processing, treatment, recycling, recovery or disposal of hazardous waste.

HIGHEST ADJACENT GRADE (HAG). The highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

HISTORIC STRUCTURE. Any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;

(2) 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;

(3) Individually listed on a local inventory of historic landmarks in communities with a “certified local government (CLG) program”; or

(4) (a) Certified as contributing to the historical significance of a historic district designated by a community with a “certified local government (CLG) program”.

(b) Certified local government (CLG) programs are approved by the U.S. 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.

HOME OCCUPATION. A commercial activity conducted within a residential structure.

HOTEL or MOTEL. A building or other structure kept, used, maintained, advertised as or held out to the public to be a place where sleeping accommodations are supplied for pay to transient or permanent guests or tenants, where rooms are furnished for the accommodation of such guests; and may have one or more dining rooms, restaurants or cafes where meals are served.

HOTELMINIUM. A structure containing individually owned hotel or efficiency units, and operated in the manner of a hotel or motel.

ICE VENDING MACHINE. A freestanding building or modular unit (not to exceed 200 square feet and heights limited to 15 feet) that produces, stores, bags and/or vends ice to the consumer in an automated fashion.

IMPERVIOUS SURFACE. Any surface which in whole or in part, restricts or prevents the natural absorption of water into the ground. Such surfaces may include, but not be limited to compacted earth (such as marl and coquina), concrete, asphalt or other paving material, and all area covered by the footprint of buildings or structures. Porous pavement, gravel, uncovered wooden slatted decks and the water area of a swimming pool are considered pervious.

INCOMPATIBLE USE. A use or service which is unsuitable for direct association and/or contiguity with certain other uses because it is contradictory, incongruous or discordant.

INOPERATIVE VEHICLE. Any vehicle, designed to be self-propelled, which by virtue of broken or missing component parts, is no longer capable of self-propulsion. For the purpose of this ordinance, any vehicle which is registered with the North Carolina Department of Motor Vehicles and has a current North Carolina motor vehicle registration license affixed to it shall not be considered INOPERATIVE.

INTERESTED PARTY. Any person that has an interest in any proceeding or action being proposed or taken.

JUNK. Old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste or junked, dismantled or wrecked automobiles, or parts thereof, iron, steel and other old or scrap ferrous or nonferrous material.

(G.S. § 136-143)

JUNKYARD. An establishment or place of business which is maintained, operated or used for storing, keeping, buying or selling junk, or for maintenance or operation of an

automobile graveyard, and the term shall include garbage dumps and sanitary fills. An establishment or place of business which stores or keeps for a period of 15 days or more materials within the meaning of JUNK as defined above which had been derived or created as a result of industrial activity shall be deemed to be a JUNKYARD. (G.S. § 136-143)

KENNEL. A commercial non-incidentual or nonprofit establishment used as housing, leasing, sealing, training, rehabilitating, breeding, grooming or fostering of any species, excluding domesticated livestock.

LAND AREA. The total square footage within a development project property boundary.

LANDOWNER OR OWNER. The holder of the title in fee simple. Absent evidence to the contrary, the town may rely on the county tax records to determine who is a LANDOWNER. The LANDOWNER may authorize a person holding a valid option, lease, or contract to purchase to act as his or her agent or representative for the purpose of making applications for development approvals.

LANDSCAPE LIGHTING. Luminaries mounted in or at grade (but not more than three feet above grade) and used solely for landscape rather than any area lighting.

LANDSCAPING. The installation and maintenance, usually of a combination of trees, shrubs, plant materials or other ground cover, including grass, mulch, decorative stone and similar materials, but excluding bare soil, uncultivated vegetation, impervious pavement materials and gravel. Any live plant material such as trees, shrubs, ground cover and grass areas left in their natural state.

LATTICE-TYPE STRUCTURE. A self-supporting, three- or four-sided open steel frame structure used to support telecommunications equipment.

LEGISLATIVE DECISION. The adoption, amendment, or repeal of a regulation under this article or an applicable local act. The term also includes the decision to approve, amend, or rescind a development agreement consistent with the provisions of G.S. Ch. 160D, Art. 10.

LEGISLATIVE HEARING. A hearing to solicit public comment on a proposed legislative decision.

LETTER OF MAP CHANGE (LOMC). An official determination issued by FEMA that amends or revises an effective flood insurance rate map or flood insurance study. LETTERS OF MAP CHANGE include:

(1) **LETTER OF MAP AMENDMENT (LOMA).** An official amendment, by letter, to an effective National Flood Insurance Program map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the base flood elevation. A LOMA amends the current effective flood insurance rate map and establishes that a specific property, portion of a property or structure is not located in a special flood hazard area.

(2) **LETTER OF MAP REVISION (LOMR).** A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.

(3) LETTER OF MAP REVISION BASED ON FILL (LOMR-F). A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.

(4) CONDITIONAL LETTER OF MAP REVISION (CLOMR). A formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective flood insurance rate map or flood insurance study; upon submission and approval of certified as-built documentation, a letter of map revision may be issued by FEMA to revise the effective FIRM.

LIGHT DUTY TRUCK. Any motor vehicle rated at 8,500 pounds gross vehicular weight rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 CFR 86.082-2 and is:

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

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

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

LIGHTING, OUTDOOR. The night-time illumination of an outside area or object by any manmade device located outdoors that produces light by any means.

LIMIT OF MODERATE WAVE ACTION (LiMWA). The boundary line given by FEMA on coastal map studies marking the extents of Coastal A Zones (CAZ).

LOADING SPACE, OFF-STREET. Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles. Required OFF-STREET LOADING SPACE is not to be included as off-street parking space in computation of required OFF-STREET PARKING SPACE.

LOCAL ACT. As defined in G.S. § 160A-1(5).

LOCAL AND STATE GOVERNMENT ADVISORY COMMITTEE (LSGAC). An FCC-established group which works with both carriers and communities on antenna siting solutions.

LOCAL GOVERNMENT. A city or county.

LOT. A parcel of land in single ownership occupied or intended for occupancy by a principal building, together with its accessory buildings; including the open space required under this ordinance. For the purpose of this ordinance, the word LOT shall be taken to mean any number of contiguous lots of record for location of one principal building and its accessory buildings.

LOT, CORNER. A lot abutting the intersection of two or more streets or a lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot at the apex meet at any angle of less than 135 degrees. In such a case the apex of the curve forming the CORNER LOT shall be considered as the intersection of street lines for the purpose of this ordinance, such as in corner visibility requirements.

LOT COVERAGE. The built-upon area that is covered by impervious or partially impervious cover including buildings, pavement, recreation facilities, but not including decking.

LOT DEPTH. The depth of a lot is the average distance between the front and back lot lines measured at right angles to its frontage and from corner to corner.

LOT, FLAG. A large lot not meeting minimum lot frontage requirements and where access to a public or private street is provided by means of a long, narrow driveway between abutting lots.

LOT, INTERIOR. A lot other than a corner lot.

LOT LINE. The line bounding a lot.

LOT OF RECORD. A lot that is shown on a subdivision recorded in the office of Register of Deeds, or a lot described by metes and bounds, the description of which has been recorded in the office of the Register of Deeds prior to the incorporation of the town.

LOT, REVERSE FRONTAGE. A key lot or the first lot to the rear of a corner lot, the front lot line of which is a continuation of the side lot line of the corner lot, and fronting on the street that intersects the street upon which the corner lot fronts and/or that faces the street upon which the side of a corner lot abuts.

LOT, THROUGH (ALSO LOT, DOUBLE FRONTAGE). An interior lot having frontage on two streets.

LOT WIDTH. The straight line distance between the points where the building setback line intersects the two side lot lines.

LOWEST ADJACENT GRADE (LAG). The lowest elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

LOWEST FLOOR. The lowest floor of the lowest enclosed area. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or limited 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.

LUMINAIRE, FULLY SHIELDED (FULL CUTOFF). A luminaire emitting no light above the horizontal plane.

LUMINAIRE (LIGHT FIXTURE). A complete lighting unit consisting of one or more electric lamps, the lamp holder, any reflector or lens, ballast (if any), and any other components and accessories.

MANUFACTURED HOME. 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. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MAP REPOSITORY. The location of the official flood hazard data to be applied for floodplain management. It is a central location in which flood data is stored and managed; in North Carolina, FEMA has recognized that the application of digital flood hazard data products carries the same authority as hard copy products. Therefore, the NCEM's Floodplain Mapping Program websites house current and historical flood hazard data. For effective flood hazard data, the NC FRIS website (<https://fris.nc.gov/http://FRIS.NC.GOV/FRIS>) is the map repository, ~~and for historical flood hazard data the FloodNC website (<http://FLOODNC.GOV/NCFLOOD>) is the map repository.~~ Repositories of historical flood hazard data are available on the Flood.NC website (<https://flood.nc.gov/ncflood/>) and the FEMA Flood Map Service Center website (<https://msc.fema.gov/portal/home>).

MARINA. Any publicly or privately owned dock, basin or wet boat storage facility constructed to accommodate more than ten boats and providing any of the following services: permanent or transient docking spaces, dry storage, fueling facilities, haulout facilities and repair service. Excluded from this definition are boat ramp facilities allowing access only, temporary docking and none of the preceding services. Boat ramp facilities providing access only are excluded.

(NCAC 10B.1401(9))

MARKET VALUE. The building value, not including the land value and that of any accessory structures or other improvements on the lot. MARKET VALUE can 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.

MOBILE OFFICE. A structure identical to a manufactured home except that it has been converted, or originally designed and constructed, for commercial or office use.

MODULAR HOME. A dwelling unit constructed in accordance with the standards set forth in the North Carolina State Building Code and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. Among other possibilities, a MODULAR HOME may consist of two or more sections transported to the site in a manner similar to a manufactured home (except that the modular home meets the North Carolina State Building Code), or a series of panels or room sections transported on a truck and erected or joined together on the site.

MONOPOLE TOWERS. A slender, open-telescoping, self-supporting tower used to support telecommunications equipment.

NATURAL AREA. The portion of the lot that is required to remain undisturbed in its natural state and retain its natural vegetation. Disturbance of the NATURAL AREA and the removal of natural vegetation shall be permitted only as specifically authorized in this ordinance.

NEW CONSTRUCTION. Structures for which the “start of construction” commenced on or after the effective date of the initial floodplain management regulations and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME PARK OR SUBDIVISION. 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) is completed on or after the effective date of floodplain management regulations adopted by a community.

NONCONFORMING BUILDING OR STRUCTURE. A structure that does not conform or comply with the dimensional regulations of this ordinance for the district in which it is located, either at the effective date of this ordinance or the regulation from which it derives, or as a result of one or more subsequent amendments to them.

NONCONFORMING LOT. A lot existing at the effective date of this ordinance (May 2, 1990) or any amendment to it (and not created for the purpose of evading the restrictions of this ordinance) that cannot meet the minimum dimensional requirements of the district in which the lot is located.

NONCONFORMING SIGN. Any sign lawfully existing on the effective date of this ordinance or of the regulations from which it arises, or amendment to them, that renders such sign nonconforming because it does not conform to all the standards and regulations of the adopted or amended ordinance or regulation.

NONCONFORMING USE. The use of a building, manufactured home or land which does not conform to the use regulations of this ordinance for the district in which it is located, either at the effective date of this ordinance (May 2, 1990) or as a result of subsequent amendments which may be incorporated into this ordinance.

NON-CONVERSION AGREEMENT. A document stating that the owner will not convert or alter what has been constructed and approved. Violation of the agreement is considered a violation of the ordinance and, therefore, subject to the same enforcement procedures and penalties. The agreement must be filed with the recorded deed for the property. The agreement must show the clerk’s or recorder’s stamps and/or notations that the filing has been completed.

NON-ENCROACHMENT AREA (NEA). The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without

cumulatively increasing the water surface elevation more than one foot as designated in the flood insurance study report.

NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88). The official vertical datum in the National Spatial Reference System (NSRS) for the Conterminous United States and Alaska. A vertical datum is a surface of zero ground elevation to which heights of various points are referenced. Mean sea level was not a good reference due to differences at various locations.

NUISANCE. Anything that interferes with the use or enjoyment of property.

NURSING HOME. See CONVALESCENT HOME.

OBTRUSIVE LIGHT. Spill light that causes glare, annoyance, discomfort or loss of visual ability. Light pollution.

OFFICIAL MAPS OR PLANS. Any maps or plans officially adopted by the North Topsail Beach Board of Aldermen.

OPEN SPACE.

(1) Any land or area, the preservation of which in its present use would:

(a) Conserve and enhance natural or scenic resources;

(b) Protect streams or water supply;

(c) Promote conservation of soils, wetlands, beaches or tidal marshes;

(d) Enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries; or

(e) Enhance recreation opportunities.

(2) **OPEN SPACE.** Shall not include lands below mean high water.

ORDINANCE. This unified development ordinance, text and map including any amendments. Whenever the effective date of the **ORDINANCE** is referred to, the reference includes the effective date of any amendment to it.

OTHERWISE PROTECTED AREA (OPA). See **COASTAL BARRIER RESOURCES SYSTEM (CBRS)**.

OVERLAY ZONING. Zoning which crosses other zoning lines which may add additional requirements to each line crossed or "overlaid". Note: does not include areas established by the state or federal government such as the inlet hazard area or the coastal resource barrier system.

OWNER. Any person, agent, firm or corporation having a legal or equitable interest in the property.

PARK. Land consisting of open space, in grasses, trees and possibly with shrubbery, sometimes providing paths for walking and bicycling, maintained as a public or semi-public use. PARKS are usually either a formal landscape, or maintained in basically a natural state.

PARKING LOT. Any public or private area, providing ten or more parking spaces designed and used for parking or storing motor vehicles.

PARKING SPACE. A storage space of not less than 160 square feet for one automobile.

PERSON. An individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, the State of North Carolina and its agencies and political subdivisions, or other legal entity.

PERVIOUS SURFACE. Any material that permits full or partial absorption of stormwater into previously unimproved land.

PIER. A water-related structure extending into the water from the shore, whether floating or fixed to the bottom, for use as a boat landing place or promenade, constructed of pylons and decking for mooring and access to a boat or watercraft. May also include structures designed and constructed to serve as a means of recreational access (fishing and the like) to the ocean and sound waters.

PLANNED UNIT DEVELOPMENT (PUD).

- (1) A zoning overlay;
- (2) A special use designed to provide for developments incorporating a single type or a variety of residential and related uses which are planned and developed as a unit. Such development may consist of individual lots and common building sites. Common open space must be an element of the plan related to affecting the long-term value of the entire development; or
- (3) A subdivision designed to permit flexibility and allow creative approaches to residential development not usually associated with conventional subdivisions. Flexible setbacks and lot sizes are considered.

PLANNING AND DEVELOPMENT REGULATION JURISDICTION. The geographic area defined in § 1.05 of this ordinance within which the town may undertake planning and apply the development regulations authorized by G.S. Ch. 160D.

PLANNING BOARD. The town's committee empowered to prepare a comprehensive plan and to evaluate proposed changes in land use, either by public or private developers, for conformance with the plan.

PLAT. A document, prepared by a registered surveyor or engineer, that delineates property lines and shows monuments and other landmarks for the purpose of identifying property.

POST-FIRM. Construction or other development for which the “start of construction” occurred on or after July 2, 1987, the effective date of the initial flood insurance rate map.

POSTAL SERVICE. Comprises establishments primarily engaged in operating the national postal service. Establishments primarily engaged in performing one or more **POSTAL SERVICES**, such as sorting, routing and/or delivery, on a contract basis (except the bulk transportation of mail) are included in this industry.

PRE-FIRM. Construction or other development for which the “start of construction” occurred before July 2, 1987, the effective date of the initial flood insurance rate map.

PREMISES. A single piece of property as conveyed in a deed or a lot or a number of adjacent lots on which is situated a land use, a building, or group of buildings designed as a unit or on which a building or group of buildings are to be constructed.

PRIMARY FRONTAL DUNE (PFD). A continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

PRINCIPAL BUILDING. See **BUILDING, PRINCIPAL**.

PRINCIPALLY ABOVE GROUND. That at least 51% of the actual cash value of the structure is above ground.

PRIVATE CLUBS. See **CLUB OR LODGE**.

PROPERTY. All real property subject to land-use regulation by the town. The term includes any improvements or structures customarily regarded as a part of real property.

PUBLIC ADMINISTRATION. Consists of establishments of federal, state and local government agencies that administer, oversee and manage public programs and have executive, legislative or judicial authority over other institutions within a given area.

PUBLIC ROAD OR STREET. A road or street that has been dedicated for use and maintenance by the town or the state and serves as the principal means of access to abutting properties.

PUBLIC SAFETY and/or NUISANCE. 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.

PUBLIC SEWAGE DISPOSAL SYSTEM. An approved sewage disposal system serving two or more connections including private, municipal and sanitary district sewage systems located and constructed according to specifications of the County Health Department in consultation with the division of health services and/or the division of environmental management of the department of environment, health and natural resources. This

definition is not to be inferred as limited to publicly owned or operated systems, as such systems may be owned and operated by either public or private enterprise.

PUBLIC WATER SUPPLY SYSTEM. An approved water supply system serving 15 or more connections including county, municipal and sanitary district water systems designated to serve particular subdivisions at full development and constructed to specifications of the county health office in consultation with the division of health services and/or the division of environmental management of the department of environment, health and natural resources. This definition is not to be inferred as limited to publicly owned or operated systems, as such systems may be owned and operated by either public or private enterprise.

QUASI-JUDICIAL DECISION. A decision involving the finding of facts regarding a specific application of a development regulation and that requires the exercise of discretion when applying the standards of the regulation. The term includes, but is not limited to, decisions involving variances, special use permits, certificates of appropriateness, and appeals of administrative determinations. Decisions on the approval of subdivision plats and site plans are QUASI-JUDICIAL in nature if the regulation authorizes a decision-making board to approve or deny the application based not only upon whether the application complies with the specific requirements set forth in the regulation, but also on whether the application complies with one or more generally stated standards requiring a discretionary decision on the findings to be made by the decision-making board.

RECREATIONAL VEHICLE (RV).

- (1) A vehicle which is:
 - (a) Built on a single chassis;
 - (b) Four hundred 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;
 - (d) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use; and
 - (e) Is fully licensed and ready for highway use.
 - (f) Has no attached deck, porch, or shed, and
 - (g) Has quick-disconnect sewage, water, and electrical connectors.

(2) For the purpose of this ordinance, “tiny homes/houses” and park models that do not meet these items listed above are not considered RECREATIONAL VEHICLES and should meet the standards of and be permitted as residential structures.

REFERENCE LEVEL. The bottom of the lowest horizontal structural member of the lowest floor for structures within all special flood hazard areas.

REGULATORY FLOOD PROTECTION ELEVATION. 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 two feet of freeboard. In special flood hazard areas where no BFE has been established, this elevation shall be at least two feet above the highest adjacent grade.

REMEDY A VIOLATION. To bring the structure or other development into compliance with state and 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 flood damage prevention ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

RENTAL, SHORT-TERM. See SEASONAL RENTAL.

REPETITIVE LOSS. Flood-related damage sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25% of the market value of the structure before the damage occurred.

REPETITIVE LOSS PROPERTY. Any insurable building for which two or more claims of more than \$1,000 were paid by the National Flood Insurance Program (NFIP) within any rolling 10-year period, since 1978. At least two of the claims must be more than ten days apart but, within ten years of each other. A RL property may or may not be currently insured by the NFIP.

RESERVATION. A reservation of land does not involve any transfer of property rights, it simply constitutes an obligation to keep property free from development for a stated period of time.

RESERVE STRIP. A narrow strip of land overlying a dedicated street reserved to the town or NCDOT for control of access until such time as additional right-of-way is accepted by the town or NCDOT for the continuation or widening of the street.

RESTAURANT. A commercial establishment where food and drink are prepared, served and consumed primarily within the principal building.

RETAINING WALL. A human-made barrier constructed for the purpose of stabilizing soil, retarding erosion or terracing a parcel or site.

RETREAT CENTER. A new or existing facility operated by a corporation or association of persons or churches for social and recreational purposes. A RETREAT CENTER may be owned by a profit or not-for-profit organization.

RIVERINE. Relating to, formed by or resembling a river (including tributaries), stream, brook and the like.

SALVAGE YARD. 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.

SAND DUNES. Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

SATELLITE DISH ANTENNA(S) (SATELLITE EARTH STATIONS). A single or group of satellite parabolic (or dish) antennas. These dishes are mounted to a supporting device that may be a pole or truss assembly attached to a foundation in the ground, or in some other configuration. A SATELLITE EARTH STATION may include the associated separate equipment enclosures necessary for the transmission or reception of wireless communications signals with satellites.

SCREENING. A fence, wall, hedge, landscaping, earth berm, buffer area or any combination of these provided to create a visual and/or physical separation between certain land uses. SCREENING may be located on the property line or elsewhere on the site.

SEASONAL RENTAL. The rental of residential property for vacation, leisure or recreation purposes for fewer than 90 days by a person who has a place of permanent residence to which he or she intends to return, as defined by the NC Vacation Act 42A-4, as amended.

SECTION 1316. The section of the National Flood Insurance Act of 1968, as amended, which states that no new flood insurance coverage shall be provided for any property that FEMA finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that are intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

SETBACK. The required distance between every structure and the lot lines of the lot on which it is located.

SEVERE REPETITIVE LOSS STRUCTURE. Any insured property that has met at least one of the following paid flood loss criteria since 1978, regardless of ownership. In either case, two of the claim payments must have occurred within ten years of each other. Multiple losses at the same location within ten days of each other are counted as one loss, with the payment amounts added together.

1. Four or more separate claim payments of more than \$5,000 each (including building and contents payments); or
2. Two or more separate claim payments (building payments only) where the total of the payments exceeds the current market value of the property.

SEWAGE SYSTEM, PUBLIC OR COMMUNITY. See PUBLIC SEWAGE DISPOSAL SYSTEM.

SHALL. The term, when used in this ordinance, is construed as mandatory.

SHEAR WALL. Walls used for structural support but not structurally joined or enclosed at the end (except by breakaway walls). SHEAR WALLS are parallel or nearly parallel to the flow of the water.

SHOPPING CENTER. A group of commercial establishments planned and constructed as a single unit with off-street parking and loading facilities provided on the property and related in location size and type of shops to the trade area which the unit serves.

SIGN. A communication device, structure or fixture used to attract attention or convey a message, when the same is placed in view of the general public and includes every billboard, freestanding ground sign, wall sign, roof sign, illuminated sign, projecting sign and temporary sign.

SIGN, ABANDONED. A sign pertaining to or associated with an event, business or purpose which is no longer ongoing and which has been inactive or out of business for a period of 90 consecutive days or longer; or a sign which contains structural components but no display for a period of 90 consecutive days or longer.

SIGN, ADVERTISING. A sign that has as its purpose to promote, advertise or sell a product or service obtainable on the premises upon which the sign is located, and not to identify the premises.

SIGN AREA. Shall be measured by the smallest square, rectangle, triangle, circle or combination thereof, which will encompass the entire advertising copy area including architectural trim and structural members. In computing AREA, only one side of a double-faced sign shall be considered.

SIGN, COMBINATION. A sign incorporating any combination of the features of the pole, projecting and roof signs.

SIGN, DIRECTIONAL. Any on-premises sign that includes information assisting in the flow of pedestrian or vehicular traffic such as enter, exit and one-way.

SIGN, DISPLAY. The area made available by the sign structure for the purpose of displaying the advertising message.

SIGN, ELECTRIC. A sign containing electrical wiring, but not including signs illuminated by an exterior light source.

SIGN, FREESTANDING. Any sign supported wholly or in part by some structure other than the building or buildings housing the business to which the sign pertains, or any sign which projects more than five feet from the side of the building to which it is attached.

SIGN, GROUND. A billboard or similar type of sign which is supported by one or more uprights, poles or braces in or upon the ground other than a combination sign or pole sign, as defined by the ordinance.

SIGN, IDENTIFICATION. A sign used to display only the name, address, crest or trademark of the business, individual, family, organization or enterprise occupying the premises, the profession of the occupant or the name of the building on which the sign is displayed; or a permanent sign announcing the name of a subdivision, shopping center, tourist home, group housing project, church, school, park or public or quasi-public structure, facility or development and the name of the owners or developers.

SIGN, OFF-PREMISES. A sign which directs attention to a business, commodity, service or entertainment not exclusively related to the premises where such sign is located or to which it is affixed.

SIGN, POLE. A sign wholly supported by a sign structure in the ground.

SIGN, PORTABLE DISPLAY SURFACE. A display surface temporarily fixed to a standardized advertising structure which is regularly moved from structure to structure at periodic intervals.

SIGN, PRINCIPAL USE OR ON-PREMISES. Any sign advertising an establishment, a service commodity, or activity conducted upon the premises where the sign is located.

SIGN, PROJECTING. A sign other than a wall sign, which projects from and is supported by a wall of a building or structure.

SIGN, REAL ESTATE (OFF-SITE). A readily removable sign announcing the proposed sale or rental of property other than the property upon which the sign is located and providing directions to the subject property.

SIGN, REAL ESTATE (ON-SITE). A sign announcing the sale or rental of the property upon which the sign is located.

SIGN, ROOF. A sign erected upon or above a roof or parapet of a building or structure.

SIGN, SNIPE. A sign which is attached to trees, poles or to other objects, with a message appearing on it that does not apply to the present use of the premises or structure upon which the sign is located. Any sign in the state or town right-of-way is a SNIPE SIGN, unless a minor easement and permit has been issued by the town.

SIGN STRUCTURE. Any structure which supports or is capable of supporting a sign as defined in the ordinance.

SIGN, WALL. Any sign attached to or erected against the wall of a building or structure, with the exposed face of the sign in a plane parallel to the plane of said wall.

SINGLE-FAMILY DWELLING. A building containing one dwelling unit only, where the building is designed to be occupied by one family.

SITE PLAN. A scaled drawing and supporting text showing the relationship between lot lines and the existing or proposed uses, buildings, or structures on the lot. The SITE PLAN may include site-specific details such as building areas, building height and floor area, setbacks from lot lines and street rights-of-way, intensities, densities, utility lines and locations, parking, access points, roads, and stormwater control facilities that are depicted to show compliance with all legally required development regulations that are applicable to the project and the site plan review. A SITE PLAN approval based solely upon application of objective standards is an administrative decision and a site plan approval based in whole or in part upon the application of standards involving judgment and discretion is a quasi-judicial decision. A SITE PLAN may also be approved as part of a conditional zoning decision.

SITE-SPECIFIC DEVELOPMENT PLAN.

(1) A plan of land development submitted to the town for purposes of obtaining one of the following zoning or land use permits:

(a) Subdivision plans as referenced in the subdivision ordinance in effect at the time a vested right is requested; or

(b) Conditional use district and/or permit and planned unit development (PUD) as referenced in the zoning ordinance in effect at the time a vested right is requested.

(2) All SITE-SPECIFIC DEVELOPMENT PLANS shall conform to the referenced ordinances as well as the following:

(a) The approximate boundaries of the site;

(b) Significant topographical and other natural features affecting development of the site;

(c) The approximate location on the site of the proposed buildings, structures and other improvements;

(d) The approximate dimensions, including height, of the proposed buildings and other structures; and

(e) The approximate locations of all existing and proposed infrastructure on the site, including water, sewer, roads and pedestrian walkways.

(3) Notwithstanding the foregoing, neither a variance, a sketch plan nor any other document that fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property shall constitute a SITE-SPECIFIC DEVELOPMENT PLAN.

SOLID WASTE DISPOSAL FACILITY. Any facility involved in the disposal of solid waste, as defined in G.S. § 130A-290(a)(35).

SOLID WASTE DISPOSAL SITE. As defined in G.S. § 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). The land in the floodplain subject to a 1% or greater chance of being flooded in any given year, as determined in § 7.03(B).

SPECIALTY MARKET. Rented spaces at a location other than a permanent retail store, to others for the purpose of selling goods at retail or offering goods for sale at retail (i.e., flea market, farmers market).

SPELL LIGHT. Light from a lighting installation that falls outside of the boundaries of the property on which it is located. Usually results in obtrusive light.

START OF CONSTRUCTION. Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair,

reconstruction, rehabilitation, addition placement or other improvement was within 180 days of the permit date. The actual START means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual START OF CONSTRUCTION means the first alteration of any wall, ceiling, floor or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

STEALTH WIRELESS TRANSMISSION FACILITY. A wireless transmission facility that is screened, disguised, concealed or otherwise camouflaged as a natural structure, structure or part of a structure such that the wireless transmission facility is indistinguishable from other natural structures, structures or the structure that it is attached to or within.

STREET. A thoroughfare which affords the principal means of access to abutting property.

STREET, CUL-DE-SAC. A street designed with a closed end, terminated by a vehicular turnaround and does not intersect with another street.

STREET, PRIVATE. Any road or street which:

(1) Is not publicly owned and maintained and is used for access by the occupants of the development, their guests, and the general public; and

(2) Requires a subdivision streets disclosure statement pursuant to G.S. § 136-102.6, as amended.

STRUCTURAL ALTERATIONS. Any change in the supporting members of a building, such as bearing walls, columns, beams or girders except for repair or replacement.

STRUCTURE. A walled or roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.

SUBDIVIDER. Any person, firm or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.

SUBDIVISION. The division of land for the purpose of sale or development as specified in G.S. § 160D-802.

SUBDIVISION REGULATION. The subdivision regulation contained in Article 5 of this ordinance and authorized by G.S. Ch. 160D, Art. 8.

SUBSTANTIAL DAMAGE. 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% of the market value of the structure before the damage

occurred. See definition of SUBSTANTIAL IMPROVEMENT. SUBSTANTIAL DAMAGE also means flood-related damage sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25% of the market value of the structure before the damage occurred. (Note: The last sentence is required for eligibility for increased cost of compliance (ICC) benefits for repetitive losses.)

SUBSTANTIAL IMPROVEMENT. Any combination of repairs, reconstruction, rehabilitation, addition or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50% 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 correction of existing violations of state or community health, sanitary or safety code specifications which have been identified by the community 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 and the alteration is approved by variance issued pursuant to § 7.04(E).

SWIMMING POOL. Any permanent outdoor structure intended for swimming or recreational bathing that contains water over 24 inches deep including in-ground, above-ground and on-ground swimming pools, hot tubs and spas, but not including temporary or inflatable pools having a depth of 24 inches or less. A structure is considered "outdoor" if it is not totally contained within a roofed structure and surrounded on all four sides by the walls of the enclosing structure.

TAXI SERVICE. Comprises establishments primarily engaged in providing passenger transportation by automobile or van, not operated over regular routes and on regular schedules. Establishments of taxicab owner/operators, taxicab fleet operators or taxicab organizations are included in this industry.

TECHNICAL BULLETIN and TECHNICAL FACT SHEET.

(1) A FEMA publication that provides guidance concerning the building performance standards of the NFIP, which are contained in 44 CFR 60.3. The bulletins and fact sheets are intended for use primarily by state and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations, rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations.

(2) It should be noted that technical bulletins and technical fact sheets provide guidance on the minimum requirements of the NFIP regulations. State or community requirements that exceed those of the NFIP take precedence. Design professionals should

contact the community officials to determine whether more restrictive state or local regulations apply to the building or site in question. All applicable standards of the state or local building code must also be met for any building in a flood hazard area.

TEMPERATURE CONTROLLED. Having the temperature regulated by a heating and/or cooling system, built-in or appliance.

TOWAIR. Landing facility slope calculations designed to avoid obstruction by towers to aircraft.

TOWNHOUSE. A single-family dwelling unit constructed in a group of three or more attached units in which each unit extends from the foundation to roof and with open space on at least two sides.

USE, CHANGE OF. The replacement of an existing use by a new use, or a change in the nature of an existing use, but not including, a change of ownership, tenancy or management where the previous nature of the use, line of business or other function is substantially unchanged.

USE, PERMITTED. A use which is permitted in a district for which a zoning permit may be issued by the Zoning Administrator.

USE, SPECIAL. A use which is permitted under certain conditions in a district only after review by the Planning Board and final approval by the Board of Aldermen after review by the Planning Board.

UTILITIES. Comprises uses engaged in the provision of the following utility services: electric power, natural gas, steam supply, water supply and sewage removal. Within this sector, the specific activities associated with the utility services provided vary by utility: electric power includes generation, transmission and distribution; natural gas includes distribution; steam supply includes provision and/or distribution; water supply includes treatment and distribution; and sewage removal includes collection, treatment and disposal of waste through sewer systems and sewage treatment facilities. Excluded from this sector are establishments primarily engaged in waste management services classified in Subsector 562, Waste Management and Remediation Services. These establishments also collect, treat and dispose of waste materials; however, they do not use sewer systems or sewage treatment facilities.

VARIANCE. A grant of relief from the requirements of this ordinance.

VE ZONE. The Special Flood Hazard Areas subject to inundation by the 1% annual chance of flooding and high velocity wave action from storm surges and seismic activity. Base flood elevations have been derived from detailed hydraulic analyses.

VIOLATION. The failure of a structure or other development to be fully compliant with this ordinance. Also, a structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in §§ 7.04 and 7.05 is presumed to be in violation until such time as that documentation is provided.

WALKWAY or BOARDWALK. A wooden walkway for pedestrians providing a common path through wetlands or to crossovers of coastal dunes and other sensitive environments.

WATER DEPENDENT STRUCTURES. Those structures that require access or proximity to or sitting within surface waters to fulfill its purpose, such as boat ramps, boat houses, docks, and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots, and commercial boat storage areas are not water dependent structures. Reference 15A NCAC 02B.0202.

WATER SURFACE ELEVATION (WSE). The height, in relation to NAVD 1988, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

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

WETLANDS. Waters defined to be wetlands as determined by the North Carolina Department of Environmental Quality and/or the United States Army Corps of Engineers. WETLANDS shall also include all waters defined as wetlands by NC Session Law 2023-63/NC Senate Bill 582, as may be amended from time to time.

WIRELESS TELECOMMUNICATIONS ATTACHMENTS (WTA). Devices mounted onto a support structure, principally intended to radiate or receive a source of non-ionizing electromagnetic radiation (NIER), and accessory equipment related to broadcast services, including, but not limited to, private radio services, cellular or digital telephone services, pagers, beepers, wireless data repeaters and common carriers (as regulated by the FCC), including AM, FM, two-way radio, fixed point microwave dishes, commercial satellite, HDTV, cellular and PCS communication systems. The term WTA does not include electrical or telephone transmission lines or supporting distribution structures, antennas of amateur radio (ham) operators, and amateur club services licensed by the FCC.

WIRELESS TELECOMMUNICATIONS SUPPORT STRUCTURE (WTSS). All freestanding monopole, self-supported, guyed or similar structures whose primary design is to provide for support and placement of wireless telecommunications antennas.

X ZONES. Areas determined to be low to moderate risk flood zones and are located outside the community's delineated Special Flood Hazard Area (SFHA) and include the following:

- (a) Shaded - is the area of moderate flood hazard and can represent:
 - (1) 0.2% annual chance flood hazard area (500-year flood zone),
 - (2) Areas of 1% annual chance flood with average depth less than one (1) foot, or
 - (3) Areas of 1% annual chance flood with drainage areas of less than one (1) square mile
- (b) Unshaded - is the area of minimal flood hazard determined to be outside of the 0.2% annual chance flood (500-year flood zone).

YARD. An open space on the same lot with a building (including the area of steps, eaves and uncovered porches, but not including the areas of covered porches) unoccupied and

unobstructed from the ground upward, except by trees or shrubbery or as otherwise provided herein.

YARD, FRONT. A yard across the full width of the lot, extending from the front line of the building to the front line of the lot.

YARD, REAR. A yard extending across the full width of the lot and measured between the rear line of the lot and the rear line of the main building.

YARD, SIDE. An open unoccupied space on the same lot with a building between the building and the side line of the lot extending through from the front building line to the rear yard or, where no rear yard is required, to the rear line of the lot.

ZERO LOT LINE. A concept commonly used in planned developments where individual commercial buildings or dwellings, such as townhouses (row houses), duplex town homes and patio homes, are sold along with a small yard or patio area. Such commercial or residential units are grouped in buildings with two or more units per building, usually including common walls or married walls. With ZERO LOT LINE development styles, the minimum interior side yard requirements are relaxed. Construction takes place right up to the lot line.

ZONING. A police-power measure, enacted primarily by general-purpose units of local government, in which the community is divided into districts or zones within which permitted and conditional uses are established as are regulations governing lot size, building bulk, placement and other development standards. Requirements vary from district to district, but they must be uniform within districts. The unified development ordinance consists of two parts: a text and a map.

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ZONING MAP AMENDMENT or REZONING. An amendment to a zoning regulation for the purpose of changing the zoning district that is applied to a specified property or properties. The term also includes (i) the initial application of zoning when land is added to the territorial jurisdiction of the town that has previously adopted zoning regulations and (ii) the application of an overlay zoning district or a conditional zoning district. The term does not include (i) the initial adoption of a zoning map by the town, (ii) the repeal of a zoning map and readoption of a new zoning map for the entire planning and development regulation jurisdiction, or (iii) updating the zoning map to incorporate amendments to the names of zoning districts made by zoning text amendments where there are no changes in the boundaries of the zoning district or land uses permitted in the district.

ZONING REGULATION. The zoning regulation contained in Article 4 of this ordinance and authorized by G.S. Ch. 160D, Art. 7.

ZONING VESTED RIGHT. A right pursuant to G.S. § 153A-344.1 to undertake and complete the development and use of land under the terms and conditions of an approved site development plan even if the zoning or zoning district requirements are changed prior to development.

(Ord. passed 12-2-2004; Ord. passed 3-3-2005; Ord. passed 6-1-2006; Ord. passed 5-6-2010; Ord. passed 11-2-2011; Ord. 2015-4, passed 5-7-2015; Ord. passed 11-3-2016; Ord. passed - -; Ord. passed 7-1-2021; Ord. passed 7-1-2023; Ord. passed 4-5-2023; Ord. passed 10-4-2023)

TABLE 11-1 ABBREVIATIONS

Below is a list of abbreviations and their meanings found throughout the ordinance.

AASS	Alternative antenna support structures
AEC	Area of environmental concern
AMTA	American Mobile Telecommunications Association
BFE	Base flood elevation
BOA	Board of Aldermen
CAMA	Coastal Area Management Act
CBRS	Coastal barrier resources system
CLOMR	Conditional letter of map revision
dbh	Diameter at breast height
DENR	North Carolina Department of Environment and Natural Resources
DWQ	Division of Water Quality
FAR	Floor area ratio
Fc	Foot-candles
FEMA	Federal Emergency Management Agency
FIRM	Flood insurance rate map
FIS	Flood insurance study
GIS	Geographic information system
G.S.	North Carolina General Statutes
HAG	Highest adjacent grade
HQW	High quality water
LAG	Lowest adjacent grade
LOMR	Letter of map revision
LSGAC	Local and State Government Advisory Committee
NCDOT	North Carolina Department of Transportation
NFIP	National flood insurance program
NGVD	National geodetic vertical datum

OPA	Otherwise protected area
P	Permitted use
PB	Planning Board
ROW	Right-of-way
RV	Recreational vehicle
SFHA	Special flood hazard area
S	Special use
TDM	Transportation demand management
TIA	Traffic impact analysis
TRC	Technical Review Committee
UDO	Unified development ordinance
USDA	United States Department of Agriculture
USGS	United States Geologic Survey
WSE	Water surface elevation
WTSS	Wireless telecommunication support structures
ZBA	Board of Adjustment

(Ord. passed 11-2-2011)