

Proposed Text Amendment

Case #25-12-PLBD-00152

The underlined text is to be added; the ~~strike-through~~ text is to be deleted.

SUBSEC. 9 – ENVIRONMENTAL REGULATIONS

9.3 FLOOD DAMAGE PREVENTION

A. ~~STATUTORY AUTHORIZATION AND LEGAL STATUS PROVISIONS~~

1. Statutory Authorization:

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; ~~Parts 3 and 4 of Article 18 of Chapter 153A; and Part 121, Article 6 of Chapter 153A~~ of the North Carolina General Statutes, delegated to local governmental units the ~~responsibility authority~~ authority to adopt regulations designed to promote the public health, safety, and general welfare ordinances to regulate uses in flood hazard areas and grant permits for the use of flood hazard areas that are consistent with the requirements of Part 6, Article 21 of Chapter 143 of the North Carolina General Statutes.

Therefore, the governing body of Guilford County, North Carolina, does ordain as follows:

~~2. Legal Status Provisions:~~

~~a. Effect on Rights and Liabilities under the Existing Flood Damage Prevention Ordinance:~~

~~This Ordinance in part comes forward by re-enactment of some of the provisions of the Flood Damage Prevention Ordinance enacted on November 19, 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 Ordinance shall not affect any action, suit or proceeding instituted or pending.~~

~~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 Ordinance; provided, however, that when construction is not begun under such outstanding permit within a period of six (6) months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this Ordinance.~~

~~c. Effective Date: These provisions shall become effective upon adoption.~~

B. FINDINGS OF FACT

1. The flood prone areas within the jurisdiction of unincorporated Guilford County are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
2. These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.

C. STATEMENT OF PURPOSE

Proposed Text Amendment

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1. It is the purpose of this Ordinance 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:
 - a. 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;
 - b. Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
 - c. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
 - d. Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and
 - e. Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

D. GENERAL PROVISIONS

1. Lands to Which ~~this Section~~ Subsec. 9.3 – Flood Damage Prevention Applies:

This ~~Section~~ Subsection shall apply to all Special Flood Hazard Areas (SFHA) within unincorporated Guilford County. Bona fide farms are not exempt from the provisions of this ~~Section~~ Subsection regulating development in floodways and floodplains as required for participation in the National Flood Insurance Program.

2. Basis for Establishing the Special Flood Hazard Areas (SFHAs):

The ~~Special Flood Hazard Areas~~ SFHAs are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its FIS dated ~~November 17, 2017~~ June 10, 2026 for Guilford County and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of this Subsection, and all subsequent revisions thereto ~~Future revisions to the FIS and DFIRM panels that do not change flood hazard data~~ within the jurisdictional authority of Guilford County are also adopted by reference and declared a part of this Subsection. ~~Subsequent Letter of Map Revisions (LOMRs) and/or Physical Map Revisions (PMRs) shall be adopted within three (3) months.~~

Proposed Text Amendment Case #25-12-PLBD-00152

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~~Zone AE (Includes Floodway and Fringe)~~

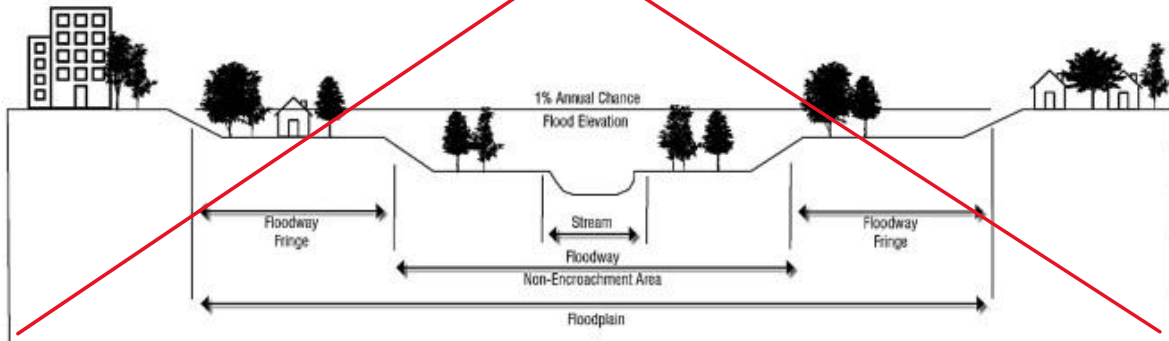
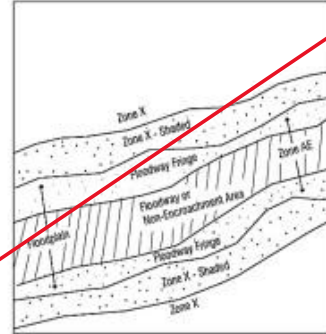
- ~~• 1% Annual Chance Floodplain~~
- ~~• Floodway or Non-Encroachment Area - No structures or filling permitted.~~
- ~~• Floodway Fringe - Finished floor elevation of buildings must be two (2) feet above base flood line elevation.~~
- ~~• Fill material must be placed in the fringe as long as it does not encroach on the FLOODWAY.~~

~~Zone X (Shaded)~~

- ~~• .2% Annual Chance Floodplain~~
- ~~• This area is not regulated by the flood hazard section of this Ordinance.~~

~~Zone X~~

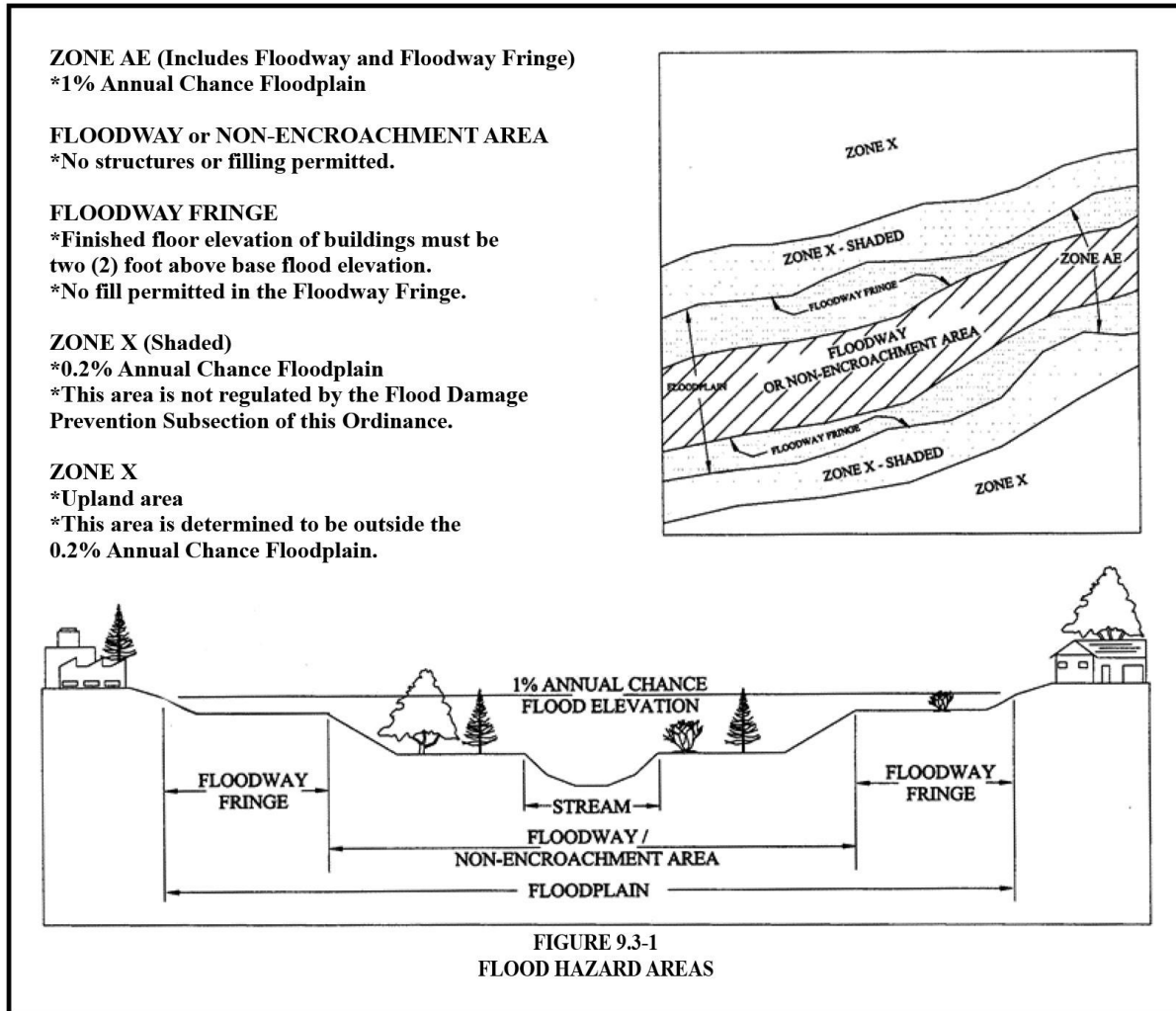
- ~~• Upland area~~
- ~~• This area is determined to be outside the .2% Annual Chance Floodplain~~



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Proposed Text Amendment Case #25-12-PLBD-00152

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E. OBJECTIVES

1. The objectives of this ~~Section~~Subsection are to:
 - a. ~~(a)~~ — Protect human life, safety, and health.
 - b. ~~(b)~~ — Minimize expenditure of public money for costly flood control projects.
 - c. ~~(c)~~ — Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
 - d. ~~(d)~~ — Minimize prolonged business losses and interruptions.

Proposed Text Amendment

Case #25-12-PLBD-00152

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- e. ~~(e)~~ — 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.
- f. ~~(f)~~ — Minimize damage to private and public property due to flooding.
- g. ~~(g)~~ — Make flood insurance available to the community through the National Flood Insurance Program.
- h. ~~(h)~~ — Maintain the natural and beneficial functions of floodplains.
- i. ~~(i)~~ — Help maintain a stable tax base by providing for the sound use and development of flood prone areas.
- j. ~~(j)~~ — Ensure that potential buyers are aware that property is in a Special Flood Hazard Area (SFHA).

F. ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT

- 1. A ~~floodplain development permit (Subsec. 3, — Permits and Procedures), Floodplain Development Permit (See Subsec. 9.3.L)~~ shall be required in conformance with the provisions of this Subsection Subsec. 9.3 Flood Damage Prevention prior to the commencement of any development activities within Special Flood Hazard Areas (SFHA) determined in accordance with this Subsection Subsec. 9.3.D.2 Basis for Establishing the SFHA.

G. COMPLIANCE

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

H. ABROGATION AND GREATER RESTRICTIONS

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

I. INTERPRETATION

- 1. In the interpretation and application of this Subsection, all provisions shall be:
 - a. Considered as ~~the~~ minimum requirements.
 - b. Liberally construed in favor of the governing body.
 - c. Deemed neither to limit nor repeal any other powers granted under State ~~statutes~~ statutes.

J. WARNING AND DISCLAIMER OF LIABILITY

- 1. The degree of flood protection required by this Subsection 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 man-made or natural causes. This Subsection does not imply that land outside the Special Flood Hazard Areas (SFHA) or uses permitted within such areas will be free from flooding or flood damages. This Subsection shall not create liability on the part of Guilford County or by any officer or employee thereof for any flood damages that result from reliance on this Subsection or any ~~administrative~~ decision lawfully made hereunder.

Proposed Text Amendment Case #25-12-PLBD-00152

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K. PENALTIES FOR VIOLATION

1. Violation of the provisions of this Subsection 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 NCGS § 143-215.58. Any person who violates this Subsection or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than one hundred dollars (\$100.00) or imprisoned for not more than thirty (30) days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent Guilford County from taking such other lawful action as is necessary to prevent or remedy any violation.

L. 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 (SFHA). See Subsec. 3.1 Table 3.1 for Development Review Procedures and Subsec. 3.3 for Common Review Procedures (Note: Floodplain Development Permits are reviewed and approved by the Floodplain Administrator. Accordingly, for purposes of Floodplain Development Permits, references to the Planning Director in Subsec. 3.3 Common Review Procedures shall be taken to refer to the Floodplain Administrator.). The following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit:

- a. A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
 - (1) 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;
 - (2) The boundary of the SFHA as delineated on the FIRM or other flood map as determined in Subsec. 9.3.D.2, or a statement that the entire lot is within the SFHA;
 - (3) Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Subsec. 9.3.D.2;
 - (4) The boundary of the floodway(s) or Non-Encroachment Area(s) (NEA) as determined in Subsec. 9.3.D.2;
 - (5) The Base Flood Elevation (BFE) where provided as set forth in Subsec. 9.3.D.2; Subsec. 2.8; or Subsec. 9.3.Q;
 - (6) The old and new location of any watercourse that will be altered or relocated as a result of proposed development; and
 - (7) 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 SFHA including, but not limited to:

Proposed Text Amendment

Case #25-12-PLBD-00152

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- (1) Elevation in relation to Mean Sea Level of the proposed reference level (including basement) of all structures;
 - (2) Elevation in relation to Mean Sea Level to which any non-residential structure in Zones A, AE, AH, AO, A99 will be floodproofed; and
 - (3) Elevation in relation to Mean Sea Level to which any proposed utility systems will be elevated or floodproofed.
- c. If floodproofing, a Floodproofing Certificate (FEMA Form FF-206-FY-22-153, as it may be revised/updated) 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 ordinance are met. These details include but are not limited to:
- (1) The proposed method of elevation, if applicable (i.e., solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls); and
 - (2) Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Subsec. 9.3.P.2.d – Elevated Buildings when solid foundation perimeter walls are used in Zones A, AE, AH, AO, A99.
- 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. Copies of all other Local, State and Federal permits required prior to Floodplain Development Permit issuance (Wetlands, Endangered Species, Erosion and Sedimentation Control, Riparian Buffers, Mining, etc.).
- h. Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of Subsec. 9.3.P.2.f & g – Recreational Vehicles & Temporary Non-Residential Structures of this ordinance are met.
- i. A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

2. Permit Requirements

The Floodplain Development Permit shall include, but not be limited to:

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

Proposed Text Amendment Case #25-12-PLBD-00152

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- b. The SFHA determination for the proposed development in accordance with available data specified in Subsec. 9.3.D.2 – Basis for Establishing the SFHA.
- c. The Regulatory Flood Protection Elevation (RFPE) required for the reference level and all attendant utilities.
- d. The RFPE required for the protection of all public utilities.
- e. All certification submittal requirements with timelines.
- f. A statement that no development shall encroach into the floodway or NEA of any watercourse unless the requirements of Subsec. 9.3.S – Floodways and NEAs have been met.
- g. The flood openings requirements.
- h. Limitations of below RFPE enclosure uses (if applicable) (i.e., parking, building access and limited storage only).
- i. A statement, that all materials below RFPE must be Flood-Resistant Materials.

3. Certification Requirements

- a. Elevation Certificates
 - (1) An Elevation Certificate for Construction Drawings (FEMA Form FF-206-FY-22-152 ~~formerly 086-0-33, as it may be revised/updated~~) 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 ~~NAVD 1988~~ 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~~ Floodplain Development Permit.
 - (2) An Elevation Certificate for Building Under Construction (FEMA Form FF-206-FY-22-152 ~~formerly 086-0-33, as it may be revised/updated~~) is required after the reference level is established. Within seven (7) 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 ~~NAVD 1988~~ Mean Sea Level. Any work done within the seven (7) 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~~ stop-work order for the project.
 - (3) A final Finished Construction Elevation Certificate (FEMA Form FF-206-FY-22-152 ~~formerly 086-0-33, as it may be revised/updated~~) 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

Proposed Text Amendment Case #25-12-PLBD-00152

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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 (2) photographs showing the front and rear of the building taken within ninety (90) days from the date of certification. The photographs must be taken with views confirming the building description and diagram number provided in this Section A of the form. 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 2 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 3" x 3". Digital photographs are acceptable.

b. Floodproofing Certificates

~~(1) A final Finished Construction Floodproofing Certificate (FEMA Form 086-0-34), 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.~~

~~(2) If a manufactured home is placed within Zones A, AE, AH, AO, 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 this ordinance.~~

(1) If non-residential floodproofing is used to meet the RFPE requirements, a Floodproofing Certificate (FEMA Form FF-206-FY-22-153 formerly 086-0-34, as it may be revised/updated), 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

Proposed Text Amendment Case #25-12-PLBD-00152

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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.

- (2) A final Finished Construction Floodproofing Certificate (FEMA Form FF-206-FY-22-153 formerly 086-0-34, as it may be revised/updated), 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 Mean Sea Level. 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. If a manufactured home is placed within Zones A, AE, AH, AO, or 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 Subsec. 9.3.P.2.c – Manufactured Homes.

- d. ~~c.~~ 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. ~~d.~~ Certification Exemptions.

The following structures, if located within Zones A, AE, AH, AO, A99, are exempt from the elevation/floodproofing certification requirements of this subsection:

- (1) Recreational Vehicles meeting requirements of this Ordinance Subsec. 9.3.P.2.f.(1) – Recreational Vehicles – Temporary Placement;
- (2) Temporary Structures meeting requirements of this Ordinance Subsec. 9.3.P.2.g – Temporary Non-Residential Structures; and
- (3) Accessory Structures that are less than 150 square feet or less or \$3,000 or less and meeting requirements of this Ordinance Subsec. 9.3.P.2.h – Accessory Structures.

Proposed Text Amendment Case #25-12-PLBD-00152

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4. ~~e. Determinations for Existing Buildings And Structures.~~ Determinations for Existing Building and Structures.

~~(1)~~ 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. ~~(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. ~~(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. ~~(c)~~ Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
- d. ~~(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 NC Building Code and this ordinance is required.

M. ~~FLOOD PLAN ADMINISTRATION~~ FLOODPLAIN ADMINISTRATOR DESIGNATION, POWERS AND DUTIES

See Subsec. 2.8 – Floodplain Administrator for designation and specific duties.

N. ~~ORDER OF CORRECTIVE ACTION~~ CORRECTIVE PROCEDURES

If upon a hearing held pursuant to an appeal as prescribed above, the Board of Adjustment shall find that the owner or occupant is in violation of this Ordinance, the Board of Adjustment shall make an order in writing to the owner or occupant affirming the violation and ordering compliance.

1. ~~Corrective Procedures.~~ a) Violations to be Corrected:

When the Floodplain Administrator finds violations of applicable state ~~and or~~ local laws; related to flood damage prevention, including but not limited to Subsec. 9.3 and N.C.G.S. Chapter 143, Article 21, Part 6, it shall be his or her duty to enforce those laws regardless of whether a complaint has been received. The Floodplain Administrator may proceed, without limitation of any other lawful procedure or remedy, in accordance with the procedures and remedies contained in or made available by this Subsec. 9.3, Subsec. 10 – Enforcement, N.C.G.S. 143-215.58, N.C.G.S. Chapter 160K, Article 4, and/or N.C.G.S. 153A-123, including but not limited to ordering corrective action. ~~notify the owner or occupant of the building of the violation.~~ The owner or occupant shall immediately remedy each of the such violations of law cited in such notification.

~~b) 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

Proposed Text Amendment

Case #25-12-PLBD-00152

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

~~i. — That the building or property is in violation of the floodplain management regulations;~~

~~ii. — That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and~~

~~iii. — That following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.~~

~~2. — Order to Take Corrective Action: If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, he or she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than least one hundred and eighty (180) calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.~~

2. ~~3. Appeal:~~ Appeal:

Appeals from final administrative decisions of the Floodplain Administrator (including but not limited to notices of violation and orders to take corrective action) may be made by any party with standing and are governed by Subsec. 3.5.C. – Procedures for Specific Applications – Appeals, N.C.G.S. 160D-405, N.C.G.S. 160D-406, and N.C.G.S. 160D-1402, as they may be amended. For purposes of Subsec. 3.5.C., decisions of the Floodplain Administrator are treated as decisions of the Planning Director. Such appeals are deemed filed when received, with the required fee, by the Planning Director in his or her role as Clerk to the Board of Adjustment. 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 (10) 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.

3. ~~4. Failure to Comply with Order:~~ Failure to Comply with Order:

Without limitation of Subsec. 9.3.K – Penalties for Violation or any other available remedy or penalty, 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 Board of Adjustment following an appeal, the owner shall be guilty of a Class 1 misdemeanor pursuant to NC G.S. § 143-215.58 and shall be punished at the discretion of the court.

O. FLOOD HAZARD VARIANCES TO FLOOD DAMAGE PREVENTION

Authority: The Board of Adjustment, as established by Guilford County, hereinafter referred to as the "appeal board", shall hear and decide requests for variances from the requirements of this Ordinance Subsec. 9.3 – Flood Damage Prevention.

Proposed Text Amendment Case #25-12-PLBD-00152

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1. Any person aggrieved by the decision of the appeal board who has standing may appeal such decision to the Court, as provided in N.C.G.S. 160D-406(k) and N.C.G.S. 160D-1402, as they may be amended. Chapter 7A of the North Carolina General Statutes.
2. Variances may be issued for:
 - a. ~~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. ~~b)~~——Functionally dependent facilities if determined to meet the definition in ~~this ordinance~~ Subsec. 12 – Definitions, provided the Conditions for Variances (b), (c), and (e) of Subsec. 9.3.O.8 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; or
 - c. ~~c)~~——Any other type of development provided it meets the requirements of this ~~Section~~ Subsection.
3. In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other subsections of this ordinance Subsec. 9.3, 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 Subsec. 12 – Definitions of this ordinance 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.

Granting of Variances:

- 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~~

Proposed Text Amendment Case #25-12-PLBD-00152

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~~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 Section 2-1.6 of this Ordinance, provided provisions of this ordinance have been satisfied, and such facilities are protected by methods that minimize flood damages.~~
- ~~c.~~ ~~Any other type of development, provided it meets the requirements stated in this Section.~~
4. A written report addressing each of the above factors shall be submitted with the application for a variance.
5. Upon consideration of the factors listed above and the purposes of ~~this Ordinance~~ Subsec. 9.3, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes of ~~this Ordinance~~ Subsec. 9.3.
6. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Base Flood Elevation (BFE) and the elevation to which the structure is to be built and that such construction below the ~~Base Flood Elevation~~ BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the ~~Base Flood Elevation~~ BFE will BFE may result in increased premium rates for flood insurance up to twenty-five dollars (\$25.00) per one hundred dollars (\$100.00) of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.
7. The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.
8. Conditions for Variances:
 - ~~a.~~ ~~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.~~ ~~b)~~ ~~—~~ Variances shall not be issued within any designated floodway or ~~non-encroachment area~~ Non-Encroachment Area (NEA) if the variance would result in any increase in flood levels during the base flood discharge.
 - ~~c.~~ ~~c)~~ ~~—~~ Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - ~~d.~~ ~~d)~~ ~~—~~ Variances shall only be issued prior to development permit approval.
 - ~~e.~~ ~~e)~~ ~~—~~ Variances shall only be issued upon:
 - (1) i. ~~i.~~ ~~—~~ A showing of good and sufficient cause;
 - (2) ii. ~~ii.~~ ~~—~~ A determination that failure to grant the variance would result in exceptional hardship; and
 - (3) iii. ~~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 ordinances.

Proposed Text Amendment Case #25-12-PLBD-00152

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9. A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas (SFHA) provided that all of the following conditions are met.
 - a. ~~a)~~ — The use serves a critical need in the community.
 - b. ~~b)~~ — No feasible location exists for the use outside the Special Flood Hazard Area.
 - c. ~~c)~~ — The reference level of any structure is elevated or ~~flood proofed~~ floodproofed to at least the Regulatory Flood Protection Elevation (RFPE).
 - d. ~~d)~~ — The use complies with all other applicable Federal, State and local laws.
 - e. ~~e)~~ — The County of Guilford has notified the Secretary of the North Carolina Department of ~~Crime Control and~~ Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.
10. The procedural provisions of Subsec. 3.5.W. – Procedures for Specific Applications – Variances (but not its substantive standards governing the grant or denial of a variance) shall apply to variances from the requirements of Subsec. 9.3 – Flood Damage Prevention to the extent that those procedural provisions are consistent with Subsec. 9.3.O.1 through 9.3.O.9.

P. PROVISIONS FOR FLOOD HAZARD REDUCTION

1. General Standards:

In all Special Flood Hazard Areas (SFHA), the following provisions are required:

- a. All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.
- b. 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, as it may be revised/updated ~~FEMA Technical Bulletin 2, Flood Damage-Resistant Materials Requirements.~~
- c. All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.
- d. All new electrical, heating, ventilation, plumbing, air conditioning ~~equipment~~, duct systems, and other building utility systems, equipment, and other service facilities shall must be located at or above the RFPE Regulatory Flood Protection Elevation (RFPE) and/or designed and installed to prevent water from entering or accumulating within the components and resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of the base flood flooding to the RFPE. These Utility systems, equipment, and service facilities include, but are not limited to, HVAC equipment, water softener units, bath/kitchen plumbing fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, appliances (washers, dryers, refrigerators, freezers, etc.), hot water heaters, fuel tanks, and electric outlets/switches.
 - (1) Replacements part of a substantial improvement ~~, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall must~~ also meet the above provisions.

Proposed Text Amendment Case #25-12-PLBD-00152

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- (2) 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.
- e. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
 - f. 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 flood waters.
 - g. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
 - h. Nothing in the Flood Damage Prevention provisions of this Ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the original effective date of the Flood Damage Prevention provisions of this Ordinance and located totally or partially within the floodway, ~~non-encroachment area~~ Non-Encroachment Area (NEA), or stream setback, provided there is no additional encroachment below the Regulatory Flood Protection Elevation RFPE in the floodway, ~~non-encroachment area~~ NEA, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this Ordinance.
 - i. 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 ~~this Ordinance Subsec. 9.3.O – Variances to Flood Damage Prevention~~. 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 SFHA~~ only if the structure or tank is either elevated or floodproofed to at least the Regulatory Flood Protection Elevation RFPE and certified according to ~~Subsec. 3 – Permits and Procedures of this Ordinance~~ Subsec. 9.3.L.3 – Certification Requirements.
 - j. All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.
 - k. 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.
 - l. All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
 - m. All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
 - n. When a structure is partially located in a ~~Special Flood Hazard Area SFHA~~, the entire structure shall meet the requirements for new construction and substantial improvements.

Proposed Text Amendment Case #25-12-PLBD-00152

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- o. 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.
- p. Fill is prohibited in the SFHA, including construction of buildings on fill.
 - (1) This includes not approving Conditional Letters or Letters of Map Revision - Based on Fill (CLOMR-F or LOMR-F).
 - (2) Exclusions:
 - (a) Minor filling where needed to protect or restore natural floodplain functions, such as part of a stream channel restoration project. To meet this exclusion, the project must utilize only the minimum amount of fill necessary to ensure that the targeted area is restored to full ecological functionality. The applicant/requester must obtain all required state and local permits, provide documentation demonstrating compliance with the Endangered Species Act, and when required, obtain a CLOMR and LOMR with FEMA's concurrence on the impacts of the project to flood risk and endangered species.

2. Specific Standards:

In all Special Flood Hazard Areas (SFHA) where Base Flood Elevation (BFE) data has been provided, as set forth in ~~this Ordinance~~ Subsec. 9.3 – Flood Damage Prevention, the following additional provisions are required also apply:

a. *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 (RFPE), as defined in Subsec. 12 – Definitions of this Ordinance.

b. *Non-Residential Construction*:-

New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the ~~Regulatory Flood Protection Elevation~~ RFPE, as defined in Subsec. 12 – Definitions of this Ordinance. Structures located in A, AE₁, AH, AO, A99 Zones may be floodproofed to the ~~Regulatory Flood Protection Elevation~~ RFPE in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the ~~Regulatory Flood Protection Elevation~~ RFPE are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance with ~~this Section~~ Subsec. 9.3.T – Standards for Areas of Shallow Flooding (Zone AO). A registered professional engineer or architect must certify that the floodproofing standards of the subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Subsec. 9.3.L.3 – Certification Requirements, along with the operational plan and the inspection and maintenance plan.

Proposed Text Amendment Case #25-12-PLBD-00152

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- ~~e.~~ A registered professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Subsec. 2 – Permits and Procedures, Section 2.8 along with the operational plan and the inspection and maintenance plan. A registered professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Subsec. 3, along with the operational and maintenance plans.
- c. ~~d.~~ Manufactured Homes *Manufactured Homes*:
- (1) New ~~or~~ 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~~ RFPE, as defined in Subsec. 12 – Definitions of this Ordinance.
 - (2) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by ~~engineer certification~~ certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.
 - (3) All enclosures or skirting below the lowest floor shall meet the requirements of ~~this Section~~ Subsec. 9.3.P.2.d – Elevated Buildings.
 - (4) 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.
- d. ~~e.~~ Elevated Buildings *Elevated Buildings*:
- (1) Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:
 - (a) Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;
 - (b) Shall not be temperature-controlled or conditioned;
 - (c) Shall be constructed entirely of ~~flood resistant materials~~ Flood-Resistant Materials at least to the ~~Regulatory Flood Protection Elevation~~ RFPE; and

Proposed Text Amendment Case #25-12-PLBD-00152

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- (d) Shall include, ~~in Zones A, AE, AH, AO, 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 (2) flood openings on different sides of each enclosed area subject to flooding.
 - (ii) The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding.
 - (iii) If a building has more than one (1) enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit.
 - (iv) The bottom of all required flood openings shall be no higher than one (1) foot above the 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.
- (e) Fill/Grading
 - (i) Fill is prohibited in the SFHA. See ~~Section~~ Subsec. 9.3.P.1.p.
- (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; Guilford County will have the right to inspect the enclosed area. Guilford County will conduct annual inspections. This agreement shall be recorded with the Guilford County Register of Deeds and shall transfer with the property in perpetuity.
- (g) Release of restrictive covenant. If a property which is bound by a non-conversion agreement is modified to remove enclosed areas below BFE, then the owner may request release of restrictive covenant after staff inspection and submittal of confirming documentation.
- ~~f. [SECTION RESERVED]~~
- e. ~~g. Additions/Improvements~~ Additions/Improvements:
 - (1) 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:

Proposed Text Amendment Case #25-12-PLBD-00152

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- (a) Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more ~~non-~~conforming-non-conforming than the existing structure.
 - (b) 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.
- (2) ~~(i)~~ Additions to pre-FIRM or post-FIRM structures 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.
- (3) ~~(ii)~~ 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:
- (a) ~~(c)~~ —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.
 - (b) ~~(d)~~ —A substantial improvement: ~~both~~ Both the existing structure and the addition and/or improvements must comply with the standards for new construction.
 - (i) Where an independent perimeter load-bearing wall is provided between the addition and the existing building, the addition(s) shall be considered a separate building and only the addition must comply with the standards for new construction.
- (4) ~~h.~~ Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a one-year (1-year) period, the cumulative cost of which equals or exceeds fifty percent (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 (1-year) period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of the Flood Damage Prevention provisions of this Ordinance. Substantial damage also means flood-related damage sustained by a structure on two (2) separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds twenty-five percent (25%) of the market value of the structure before the damage occurred. 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:
- (a) ~~(1)~~ —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.

Proposed Text Amendment Case #25-12-PLBD-00152

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(b) ~~(2)~~—Any alteration of a historic structure provided that the alteration will not preclude the structure’s continued designation as a historic structure.

~~f. i. Recreational Vehicles.~~ Recreational Vehicles:

Recreational vehicles shall either:

(1) Temporary Placement.

(a) Be on site for fewer than one hundred and eighty (180) consecutive days; or

(b) ~~and be~~ Be fully licensed and ready for highway use. ~~(a) A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions.)~~ ~~or~~

(2) Permanent Placement. Recreational vehicles that do not meet the limitations of Temporary Placement shall meet all the requirements for new construction.

~~g. j. Temporary Non-Residential Structures.~~ 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~~ an Emergency Action 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 included in the plan and submitted in writing to the Floodplain Administrator for review and written approval;

(1) A specified time period for which the temporary use will be permitted. Time specified may not exceed three (3) months, renewable up to one (1) year;

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

(3) 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);

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

(5) Designation, accompanied by documentation, of a location outside the ~~Special Flood Hazard Area~~ SFHA, to which the temporary structure will be moved.

~~h. k. Accessory Structures.~~ Accessory Structures:

When accessory structures (sheds, detached garages, etc.) are to be placed within a ~~Special Flood Hazard Area~~ SFHA, the following criteria shall be met:

(1) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);

(2) Accessory structures shall not be temperature-controlled;

(3) Accessory structures shall be designed to have low flood damage potential;

(4) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;

Proposed Text Amendment Case #25-12-PLBD-00152

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- (5) Accessory structures shall be firmly anchored in accordance with Section 9.3.P.1.a.
- (6) All service facilities such as electrical shall be installed in accordance with Section ~~9.3.P.1.a~~ 9.3.P.1.d; and
- (7) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below ~~Regulatory Flood Protection Elevation~~ RFPE in conformance with ~~Section 9.3.L.2.d~~ Subsec. 9.3.P.2.d(1)(d); and
- (8) An accessory structure with a footprint less than one hundred and fifty (150) square feet ~~or that~~ and satisfies the criteria outlined above ~~does not require an elevation or that is a minimal investment of Structure \$3,000 or less and satisfies the criteria outlined above~~ is not required to meet the elevation or floodproofing standards of ~~Section of this Ordinance~~ Subsec. 9.3.P.2.b – Non-Residential Construction. Elevation or floodproofing certifications are required for all other accessory structures in accordance with Subsec. 9.3.L.3 – Certification Requirements.
- ~~(9) Elevation or floodproofing certifications are required for all other accessory structures in accordance with Section 9.3.Q.2,~~

i. ~~Tanks.~~ Tanks:

When gas and liquid storage tanks are to be placed within a ~~Special Flood Hazard Area SFHA~~, the following criteria shall be met:

- (1) ~~Underground tanks.~~ 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;
- (2) ~~Above-ground tanks, elevated.~~ Above-Ground Tanks, Elevated: Above-ground tanks in flood hazard areas shall be elevated to or above the ~~Regulatory Flood Protection Elevation~~ RFPE 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;
- (3) ~~Above-ground tanks, not elevated.~~ Above-Ground Tanks, Not Elevated: Above-ground tanks that do not meet the elevation requirements of ~~Section 9.3.Q-Subsec. 9.3.P.2.b – Non-Residential Construction~~ this Subsection shall be permitted in 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.
- (4) ~~Tank inlets and vents.~~ Tank Inlets and Vents: Tank inlets, fill openings, outlets and vents shall be:

Proposed Text Amendment Case #25-12-PLBD-00152

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- (i) At or above the ~~Regulatory Flood Protection Elevation~~ RFPE 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.

j. ~~m. Other Development~~ Other Development:

- (1) Fences in regulated floodways ~~and or non-encroachment areas~~ Non-Encroachment Areas (NEA) that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of ~~Section 9.3.Q.10 and Table 9.3.6 of this Subsection~~ Subsec 9.3.S – Floodways and NEAs.
- (2) Retaining walls, sidewalks and driveways in regulated floodways ~~and or~~ NEAs shall meet the limitations of ~~Section 9.3.S of this Subsection~~ Subsec 9.3.S – Floodways and NEAs.
- (3) Roads and watercourse crossings in regulated floodways ~~and or~~ 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 or NEAs shall meet the limitations of ~~Section 9.3.S of this Subsection~~ Subsec 9.3.S – Floodways and NEAs.
- (4) Commercial storage facilities are not considered “limited storage” as noted in the Flood Damage Prevention provisions of this Ordinance, and shall be protected to the RFPE as required for commercial structures.

Q. STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS

~~1.~~ Within the Special Flood Hazard Areas (SFHA) designated as Approximate Zone A and established in ~~Section 9.3~~ Subsec. 9.3.D.2 – Basis for Establishing the SFHA, where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of Subsec. 9.3.P.1 – General Standards, Section 9.3.S.(1) and (2), shall apply:

- 1. ~~a.~~ No encroachments, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five (5) 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 (RFPE) shall be determined based on ~~one (1) of the following criteria set in priority order:~~
 - a. When ~~Base Flood Elevation (BFE)~~ BFE data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this Ordinance and shall be elevated or floodproofed in accordance with standards in ~~this Subsection~~ Subsec. 9.3.P.1 & 2 – General & Specific Standards.
 - b. When floodway or Non-Encroachment Area (NEA) data is available from a Federal, State, or other source, all new construction and substantial improvements within floodways or

Proposed Text Amendment Case #25-12-PLBD-00152

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NEAs shall also comply with the requirements of Subsec. 9.3.P.2 – Specific Standards and Subsec. 9.3.S – Floodways and NEAs.

- c. All subdivision, manufactured home park and other development proposals shall provide BFE data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such BFE data shall be adopted by reference in accordance with Subsec. 9.3.D.2 – Basis for Establishing the SFHA and utilized in implementing the Flood Damage Prevention provisions of this Ordinance.
- 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 RFPE, as defined in Subsec. 12 – Definitions. All other applicable provisions of Subsec. 9.3.P.2 – Specific Standards shall also apply.
- ~~b. All subdivision, manufactured home park and other development proposals shall provide Base Flood Elevation (BFE) BFE data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such Base Flood Elevation (BFE) BFE data shall be adopted by reference per Section 9.3.P.2 to be utilized in implementing this Subsection.~~
- ~~c. When Base Flood Elevation (BFE) BFE data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the Regulatory Flood Protection Elevation RFPE, as defined in Section 12 – Definitions.~~
- ~~d. 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 Section 9.3.S.~~

R. STANDARDS FOR RIVERINE FLOODPLAINS WITH BFE BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS

- 1. Along rivers and streams where BFE data is provided by FEMA or is available from another source but neither floodway nor ~~non-encroachment areas~~ Non-Encroachment Areas (NEA) are identified for a Special Flood Hazard Area (SFHA) on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:
 - a. Standards outlined in Section 9.3.P.1 Subsec. 9.3.P.1 & 2 – General & Specific Standards; and
 - b. Until a regulatory floodway or ~~non-encroachment area~~ NEA is designated, no encroachments, 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 (1) foot at any point ~~within the community.~~

S. FLOODWAYS AND NON-ENCROACHMENT AREAS

Proposed Text Amendment Case #25-12-PLBD-00152

The underlined text is to be added; the ~~strike-through~~ text is to be deleted.

1. Areas designated as floodways or ~~non-encroachment areas~~ Non-Encroachment Areas (NEA) are located within the Special Flood Hazard Areas (SFHA) established in ~~Section 9.3.D.2 Subsec. 9.3.D.2 – Basis for Establishing the SFHA.~~ Section 9.3.D.2 – Basis for Establishing the SFHA. The floodways and ~~non-encroachment areas~~ NEAs 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 ~~Section 9.3.P.1 Subsec. 9.3.P.1 & 2 – General & Specific Standards,~~ and shall apply to all development within such areas:
 - a. No encroachments, new construction, substantial improvements and other developments shall be permitted ~~unless it has been demonstrated that:~~
 - (1) ~~The~~ It has been 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
 - (2) A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained within six (6) months of completion ~~upon completion~~ of the proposed encroachment.
 - b. If ~~Section Subsec. 9.3.S.1.a~~ is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ~~Subsection~~ Ordinance.
 - c. No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:
 - (1) The anchoring and the elevation standards of ~~Section 9.3.P.2.d(2)~~ Subsec. 9.3.P.2.c – Manufactured Homes; and
 - (2) The ~~no-encroachment standard~~ standards of ~~Section Subsec. 9.3.S.1.a.~~
 - d. ~~Permitted Uses:~~ Permitted Uses: The following uses shall be permitted within the floodway zone or NEA to the extent that they are otherwise permitted by this Ordinance and provided that they do not employ structures or fill except as specified herein:
 - (1) General farming, pasture, outdoor plant nurseries, horticulture, forestry, wildlife sanctuary, game farm, and other similar agricultural, quarrying, wildlife and related uses.
 - (2) Ground level loading areas, ground level automobile parking areas, rotary aircraft ports and other similar industrial and commercial uses.
 - (3) Tractor-trailer parking, provided that no trailers shall be detached from tractors;₂
 - (4) Lawns, gardens, play areas, and other similar uses.
 - (5) Golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, parks, swimming pools, hiking or horseback riding trails, open space and other similar private and public recreational uses.
 - (6) Streets, bridges, utility lines, storm drainage facilities, sewage or waste treatment facilities, water supply facilities, and other similar public or private utility uses, but

Proposed Text Amendment Case #25-12-PLBD-00152

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only if the proposed activity combined with the allowable encroachment of the floodway fringe and with any previously placed or previously approved encroachment in the floodway zone or NEA complies with the provisions of ~~Section Subsec. 9.3.S.1.a.~~

- (7) Temporary facilities such as displays, circuses, carnivals, or similar transient amusement enterprises.
 - (8) Boat docks, ramps, piers, or similar water-dependent structures.
 - (9) Grading, but no fill, as it complies with the provisions of ~~Section Subsec. 9.3.S.1.a;~~ and
 - (10) Cantilevered portions of structures, provided that foundation and supports are located outside the floodway zone and NEA, and the underside of the cantilevered portion is at least two (2) feet above Base Flood Elevation.
- e. ~~Prohibited Uses:~~ Prohibited Uses: Storage or processing of materials that are flammable, corrosive, toxic, or explosive, or which could otherwise be injurious to human, animal or plant life in time of flood is prohibited in the floodway zone and NEA.

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

1. Located within the Special Flood Hazard Areas (SFHA) established in ~~Section 9.3.D Subsec. 9.3.D.2 – Basis for Establishing the SFHA~~ are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to ~~Section 9.3 Subsec. 9.3.P.1 & 2 – General & Specific Standards~~, all new construction and substantial improvements in these areas shall meet the following requirements:
 - a. The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of two (2) feet, above the highest adjacent grade; or at least two (2) feet above the highest adjacent grade if no depth number is specified.
 - b. Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in ~~Section 9.3.L Subsec. 9.3.L.1.a~~ so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with ~~Section 9.3.L.2.c Subsec. 9.3.L.3 – Certification Requirements~~ and Subsec. 9.3.P.2.b – Non-Residential Construction.
 - c. Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

U. STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AH)

1. Located within the Special Flood Hazard Areas (SFHA) established in ~~Section 9.3.D Subsec. 9.3.D.2 – Basis for Establishing the SFHA~~, are areas designated as shallow flooding areas. These areas are subject to inundation by 1-percent-annual-chance shallow flooding (usually areas of ponding) where average depths are one (1) to three (3) feet. Base Flood Elevations ~~are~~ derived

Proposed Text Amendment

Case #25-12-PLBD-00152

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from detailed hydraulic analyses are shown in this zone. In addition to ~~Section 9.3-Subsec. 9.3.P.1 & 2 – General & Specific Standards~~, all new construction and substantial improvements shall meet the following requirements:

- a. Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

V. LEGAL STATUS PROVISIONS

1. Effect on Rights and Liabilities Under the Existing Flood Damage Prevention Ordinance-;

- a. This Ordinance in part comes forward by re-enactment of some of the provisions of the Flood Damage Prevention Ordinances enacted ~~insert adoption date of the community's initial Flood Damage Prevention Ordinance~~ on May 19, 1980 and November 19, 1990, respectively, as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this Ordinance shall not affect any action, suit or proceeding already instituted or pending. All provisions of the Flood Damage Prevention Ordinance of Guilford County enacted on May 19, 1980 and November 19, 1990, respectively, as amended, which are not reenacted herein are repealed.

2. Effect Upon Outstanding Floodplain Development Permits-;

- a. 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~~ Floodplain Development Permit has been granted by the Floodplain Administrator or his or her authorized agents before the time of passage of this Ordinance; provided, however, that when construction is not begun under such outstanding permit within a period of ~~six (6) months~~ one (1) year subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this Ordinance.

3. Effective Date:

- a. These provisions shall become effective upon adoption.

4. Severability:

- a. If any section, clause, sentence, or phrase of the Subsection is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Subsection.

~~W. SEVERABILITY~~

- ~~1. If any section, clause, sentence, or phrase in this Subsection is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Subsection.~~

W. DEFINITIONS AND ACRONYMS

1. See Subsec. 12 – Definitions.

(File No. 21-08-GCPL-07440, 11/04/2021; File No. 21-10-GCPL-09184, 01/20/2022)

Effective on: 1/20/2022

**Proposed Text Amendment
Case #25-12-PLBD-00152**

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