



Town of North Topsail Beach
Board of Aldermen

PUBLIC HEARING

Date: 06/04/2020

Issue: **Proposed Amendments to the Unified Development Ordinance**
Article 7 Flood Damage Prevention and § 11.02 Definitions

Department: Planning

Presented Deborah J. Hill, MPA AICP CZO CFM - Planning Director

Presentation: Yes

BACKGROUND

Each time FEMA provides the Town with additional flood hazard data, the Town must adopt new floodplain management regulations or amend existing regulations to incorporate the new data and meet any additional requirements that result from any changes in the data. The floodplain management regulations must also meet any additional State of North Carolina requirements and be adopted through a process that complies with the procedural requirements established by NCGS § 160A-364 for the adoption of ordinances or regulations.

A Letter of Final Determination (LFD) is sent by FEMA to the Chief Executive Officer and Floodplain Administrator of a local jurisdiction stating that a new or updated Digital Flood Insurance Rate Map (DFIRM) will become effective in six (6) months. The LFD also notifies each affected flood prone jurisdiction participating in the National Flood Insurance Program (NFIP) that it is required to adopt a compliant Flood Damage Prevention Ordinance by the map's effective data in order to remain a participant in good standing in the NFIP. Due to the LFD Date being December 19th, the Map Effective Date will be June 19, 2020.

North Carolina General Statutes require public hearings for adoption and amendment. All ordinances must be adopted prior to June 19th (preferably well in advance of that date).

The Planning Director will track codification to verify that all mandatory revisions have been address, as we are merging the document into the UDO, which is a different format from the Model Ordinance. The final product will reflect the mandatory language required by the State and higher standards adopted by the Town. Reasons for higher standards:

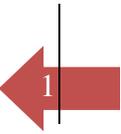
- Lower Flood Insurance Rates
- Community Rating System (CRS) Activity Points ability for community wide insurance discounts
- More Resilient Development
- Reduced Loss of Property & Displaced Households
- Reduced Impact to the Community
- Reduced Stress on Emergency Services
- Protect natural and beneficial function of the floodplain

RECOMMENDATION

On, March 12, 2020, Mr. Matthews made a motion that the Planning Board recommends that the Board of Aldermen conducts a public hearing on or before June 19, 2020 and adopts the amendments as indicated in the draft Unified Development Ordinance Article 7 Flood Damage Prevention and §11.02 Definitions (attachment 1) to be effective June 19, 2020. Mrs. Green seconded the motion; motion passed unanimously, 5-0.

ATTACHMENTS

1. Unified Development Ordinance Article 7 Flood Damage Prevention and § 11.02 Definitions (amended, draft).



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~~ 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 CAS) LIMWA

1 ~~(I) Standards for areas of shallow flooding (Zone AO)~~

2 7.06 Legal status provisions

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

4 (B) Effect upon outstanding floodplain development permits

5 (C) Severability

6 (D) Effective date

7 (E) Adoption Certification

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9 **Editor's note:**

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

13 **Staff's note:**

14 *Formerly Chapter 8, Flood Damage Prevention*

15 **Statutory references:**

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

17 **§ 7.01 STATUTORY AUTHORIZATION, FINDINGS OF FACTS, PURPOSE**
18 **AND OBJECTIVES.**

19 (A) *Statutory authorization.*

20 *The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Article 6 of*
21 *Chapter 153A; Article 8 of Chapter 160A; and Article 7, 9, and 11 of Chapter 160D (Effective January*
22 *1, 2021) of the North Carolina General Statutes, ~~The legislature of the state has in G.S. Ch. 143,~~*
23 *~~Art. 21, Part 6; G.S. Ch. 160A, Art. 19, Parts 3, 5 and 8; and G.S. Ch. 160A, Art. 8,~~*
24 *delegated to local governmental units the responsibility to adopt regulations designed to*
25 *promote the public health, safety and general welfare.*

26 Therefore, the Board of Aldermen of the town, does ordain as follows.

27 (B) *Findings of fact.*

28 (1) The flood prone areas within the jurisdiction of **the** town are subject to periodic
29 inundation which results in loss of life, property, health and safety hazards, disruption of
30 commerce and governmental services, extraordinary public expenditures of flood protection
31 and relief, and impairment of the tax base, all of which adversely affect the public health,
32 safety and general welfare.

33 (2) These flood losses are caused by the cumulative effect of obstructions in floodplains
34 causing increases in flood heights and velocities and by the occupancy in flood prone areas
35 of uses vulnerable to floods or other hazards.

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

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

7 (2) Require that uses vulnerable to floods, including facilities that serve such uses, be
8 protected against flood damage at the time of initial construction;

9 (3) Control the alteration of natural floodplains, stream channels and natural protective
10 barriers, which are involved in the accommodation of flood waters;

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

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

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

16 (1) Protect human life, safety and health;

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

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

20 (4) Minimize prolonged business losses and interruptions;

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

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

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

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

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

29 (10) Ensure that potential buyers are aware that property is in a ~~special flood hazard~~
30 ~~area~~Special Flood Hazard Area.

31 (Ord. passed 4-2-2009; Ord. passed 11-2-2011; Ord. passed 11-3-2016)

32 **§ 7.02 DEFINITIONS.**

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

36 (Ord. passed 11-2-2011; Ord. passed 11-3-2016)

1 **§ 7.03 GENERAL PROVISIONS.**

2 (A) *Lands to which this article applies.* This article shall apply to all ~~special flood hazard~~
3 ~~area~~Special Flood Hazard Areas within the jurisdiction of the town.

4 (B) *Basis for establishing the ~~special flood hazard areas~~Special Flood Hazard*
5 *Areas.* The ~~special flood hazard areas~~Special Flood Hazard Areas are those identified under
6 the ~~cooperating~~Cooperating ~~technical~~Technical ~~state~~State (CTS) agreement between the
7 state and FEMA in FIS dated ~~November 3, 2005~~June 19, 2020, the county and associated
8 DFIRM panels, including any digital data developed as part of the FIS, which are adopted by
9 reference and declared to be a part of this ~~article~~ordinance, and all revisions thereto after
10 January 1, 2021. Future revisions to the FIS and DFIRM panels that do not change flood
11 hazard data within the jurisdictional authority of the town are also adopted by reference and
12 declared a part of this ~~article~~ordinance. Subsequent ~~letter of map revisions~~Letter of Map
13 Revisions (LOMRs) and/or ~~physical~~Physical ~~map~~Map ~~revisions~~Revisions (PMRs) shall be
14 adopted within three months.

15 (C) *Establishment of floodplain development permit.* A floodplain development permit
16 shall be required in conformance with the provisions of this ~~article~~ordinance prior to the
17 commencement of any development activities within ~~special flood hazard areas~~Special Flood
18 Hazard Areas determined in accordance with the provisions of § 7.03(B).

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

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

26 (F) *Interpretation.* In the interpretation and application of this ~~article~~ordinance, all
27 provisions shall be:

- 28 (1) Considered as minimum requirements;
- 29 (2) Liberally construed in favor of the governing body; and
- 30 (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

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

40 (H) *Penalties for violation.* Violation of the provisions of this ~~article~~ordinance or failure
41 to comply with any of its requirements, including violation of conditions and safeguards

1 established in connection with grants of variance or special exceptions, shall constitute a
2 Class 1 misdemeanor pursuant to G.S. § 143-215.58. Any person who violates this
3 ~~article~~ ordinance or fails to comply with any of its requirements shall, upon conviction
4 thereof, be fined not more than \$100 or imprisoned for not more than 30 days, or both. Each
5 day such violation continues shall be considered a separate offense. Nothing herein
6 contained shall prevent the town from taking such other lawful action as is necessary to
7 prevent or remedy any violation.

8 (Ord. passed 11-2-2011; Ord. passed 11-3-2016)

9 **§ 7.04 ADMINISTRATION.**

10 (A) *Designation of Floodplain Administrator.* The Planning Director, hereinafter referred
11 to as the “Floodplain Administrator”, is hereby appointed to administer and implement the
12 provisions of this ordinance. The Floodplain Administrator may delegate performance of
13 certain duties to other employees. ~~In instances where the Floodplain Administrator receives~~
14 ~~assistance from others to complete tasks to administer and implement this ordinance, the~~
15 ~~Floodplain Administrator shall be responsible for the coordination and community’s overall~~
16 ~~compliance with the National Flood Insurance Program and the provisions of this ordinance.~~

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

18 (1) *Application requirements.* Application for a floodplain development permit shall be
19 made to the Floodplain Administrator prior to any development activities located within
20 ~~special flood hazard areas~~ Special Flood Hazard Areas. The following items shall be
21 presented to the Floodplain Administrator to apply for a floodplain development permit:

22 (a) A plot plan drawn to scale which shall include, but shall not be limited to, zoning
23 district, setbacks, percentage impervious surface, building height, area of environmental
24 concern, CAMA setbacks, wetland delineation and the following specific details of the
25 proposed floodplain development:

26 (i) The nature, location, dimensions and elevations of the area of
27 development/disturbance; existing and proposed structures, utility systems,
28 grading/pavement areas, fill materials, storage areas, drainage facilities and other
29 development;

30 (ii) The boundary of the ~~Special Flood Hazard Areas~~ special flood hazard area as
31 delineated on the FIRM or other flood map as determined in § 7.03(B), or a statement that
32 the entire lot is within the ~~Special Flood Hazard Area~~ special flood hazard area;

33 (iii) Flood zone(s) designation of the proposed development area as determined on
34 the FIRM or other flood map as determined in § 7.03(B);

35 (iv) The boundary of the floodway(s) or non-encroachment area(s) as determined in
36 § 7.03(B);

37 (v) The base flood elevation (BFE) where provided as set forth in §§ 7.03(B) and
38 7.04(C);

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

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

3 (viii) The certification of the plot plan by a registered land surveyor or professional
4 engineer.

5 (b) Proposed elevation, and method thereof, of all development within a **Special**
6 **Flood Hazard Area** ~~special flood hazard area~~ including, but not limited to:

7 (i) Elevation in relation to ~~mean sea level~~ **NAVD 1988** of the proposed reference
8 level of all structures;

9 (ii) Elevation in relation to **NAVD 1988** ~~mean sea level~~ to which any nonresidential
10 structure in Zones A, AE, AH, AO or A99 will be floodproofed; and

11 (iii) Elevation in relation to **NAVD 1988** ~~mean sea level~~ to which any proposed
12 utility systems will be elevated or floodproofed.

13 (c) Floodproofing is prohibited in lieu of elevation. However, if non-residential
14 floodproofing is used, a floodproofing certificate (FEMA Form 086-0-34) with supporting
15 data, an operational plan, and an inspection and maintenance plan that include, but are not
16 limited to, installation, exercise, and maintenance of floodproofing measures;

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

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

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

26 (iii) The following, in coastal high hazard areas, in accordance with the provisions
27 of §§ 7.05(B)(4)(e) and 7.05(G) (§ 7.05(H), if applicable):

28 1) V-Zone certification with accompanying plans and specifications verifying the
29 engineered structure and any breakaway wall designs. **In addition, prior to the Certificate of**
30 **Compliance/Occupancy issuance, a registered professional engineer or architect shall certify**
31 **the finished construction is compliant with the design, specifications and plans for VE Zone**
32 **construction.** ~~Prior to the certificate of compliance/occupancy issuance, the Floodplain~~
33 ~~Administrator may require that a registered professional engineer or architect certify the~~
34 ~~finished construction is compliant with the design, specifications and plans for VE Zone~~
35 ~~construction;~~

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

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

- 1 (e) Usage details of any enclosed areas below the lowest floor;
 - 2 (f) Plans and/or details for the protection of public utilities and facilities such as
3 sewer, gas, electrical and water systems to be located and constructed to minimize flood
4 damage;
 - 5 (g) Certification that all other local, state and federal permits required prior to
6 floodplain development permit issuance have been received;
 - 7 (h) Documentation for placement of recreational vehicles and/or temporary structures,
8 when applicable, to ensure that the provisions of § 7.05(B)(6) and (7) are met; and
 - 9 (i) A description of proposed watercourse alteration or relocation, when applicable,
10 including an engineering report on the effects of the proposed project on the flood-carrying
11 capacity of the watercourse and the effects to properties located both upstream and
12 downstream; and a map (if not shown on plot plan) showing the location of the proposed
13 watercourse alteration or relocation.
- 14 (2) *Permit requirements.* The floodplain development permit shall include, but not be
15 limited to:
- 16 (a) A complete description of **all** the development to be permitted under the floodplain
17 development permit (i.e. house, garage, pool, septic, bulkhead, cabana, pier, bridge, mining,
18 dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment
19 or materials, ~~and the like~~etc.);
 - 20 (b) The **Special Flood Hazard Area**~~special flood hazard area~~ determination for the
21 proposed development in accordance with the available data specified in § 7.03(B);
 - 22 (c) The regulatory flood protection elevation required for the reference level and all
23 attendant utilities;
 - 24 (d) The regulatory flood protection elevation required for the protection of all public
25 utilities;
 - 26 (e) All certification submittal requirements with timelines;
 - 27 (f) A statement that no fill material or other development shall encroach into the
28 floodway or non-encroachment area of any watercourse unless the requirements of § 7.05(F)
29 have been met;
 - 30 (g) The flood openings requirements, if in zones ~~V, VE,~~A, AE, AH, AO or A99;
 - 31 (h) Limitations of below BFE enclosure uses (i.e., parking, building access and
32 limited storage only);
 - 33 (i) A statement that there shall be no alteration of sand dunes which would increase
34 potential flood damage;
 - 35 (j) A statement that there shall be no fill used for structural support; and
 - 36 (k) A statement, that all materials below BFE/RFPE must be flood resistant materials.
- 37 (3) *Certification requirements.*

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(a) *Plot plans and elevation certificates.*

(i) A plot plan and an elevation certificate (FEMA Form 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 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 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 3" x 3". Digital photographs are acceptable.

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

(i) a floodproofing certificate (FEMA Form 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

1 floodproofed design elevation of the reference level and all attendant utilities,
2 in relation to mean sea level. Floodproofing certification shall be prepared by
3 or under the direct supervision of a professional engineer or architect and
4 certified by same. The Floodplain Administrator shall review the certificate
5 data, the operational plan, and the inspection and maintenance plan.

6 Deficiencies detected by such review shall be corrected by the applicant prior
7 to permit approval. Failure to submit the certification or failure to make
8 required corrections shall be cause to deny a floodplain development permit.
9 Failure to construct in accordance with the certified design shall be cause to
10 withhold the issuance of a certificate of compliance/occupancy.

11 (ii) A final Finished Construction Floodproofing Certificate (FEMA Form 086-0-
12 34), with supporting data, an operational plan, and an inspection and
13 maintenance plan are required prior to the issuance of a Certificate of
14 Compliance/Occupancy. It shall be the duty of the permit holder to submit to
15 the Floodplain Administrator a certification of the floodproofed design
16 elevation of the reference level and all attendant utilities, in relation to NAVD
17 1988. Floodproofing certificate shall be prepared by or under the direct
18 supervision of a professional engineer or architect and certified by same. The
19 Floodplain Administrator shall review the certificate data, the operational plan,
20 and the inspection and maintenance plan. Deficiencies detected by such
21 review shall be corrected by the applicant prior to Certificate of Occupancy.
22 Failure to submit the certification or failure to make required corrections shall
23 be cause to deny a Floodplain Development Permit. Failure to construct in
24 accordance with the certified design shall be cause to deny a Certificate of
25 Compliance/Occupancy.

26 (c) *Manufactured home.* If a manufactured home is placed within Zones A, AE, AH,
27 AO, and A99 and the elevation of the chassis is more than 36 inches in height above grade,
28 an engineered foundation certification is required in accordance with the provisions of §
29 7.05(B)(3)(b).

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

36 (e) *Certification exemptions.* The following structures, if located within Zones A, AE,
37 AH, AO, and A99, are exempt from the elevation/floodproofing certification requirements
38 specified in items (a) and (b) of this subsection:

39 (i) Recreational vehicles meeting requirements of § 7.05(B)(6)(a);

40 (ii) Temporary structures meeting requirements of § 7.05(B)(7); and

41 (iii) Accessory structures that are 150 square feet or less or that is a minimal
42 investment of \$35,000 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. 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~~ ordinance 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~~ ordinance. This certification is not a substitute for an elevation certificate. In addition, prior to the certificate of compliance/occupancy issuance, a registered professional engineer or architect shall certify the finished construction is compliant with the design, specifications and plans for VE Zone construction. ~~the Floodplain Administrator may require that a registered professional engineer or architect certify that the finished construction is compliant with the design, specifications and plans for VE Zone construction.~~

(4) *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~~ ordinance 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~~ Special Flood Hazard Areas to assure that the requirements of this ~~article~~ ordinance have been satisfied;

(2) Review all proposed development within ~~special flood hazard areas~~ 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;

1 (3) Notify adjacent communities and the State Department of Public Safety, Division of
2 Emergency Management, State Coordinator for the National Flood Insurance Program prior
3 to any alteration or relocation of a watercourse, and submit evidence of such notification to
4 the Federal Emergency Management Agency (FEMA);

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

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

9 (6) Obtain actual elevation (in relation to mean sea level) of the reference level and all
10 attendant utilities of all new and substantially improved structures, in accordance with §
11 7.04(B)(3);

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

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

17 (9) When floodproofing is utilized for a particular structure, obtain certifications from a
18 registered professional engineer or architect in accordance with the provisions of §§
19 7.04(B)(3) and 7.05(B)(2);

20 (10) Where interpretation is needed as to the exact location of boundaries of the ~~special~~
21 ~~flood hazard areas~~ **Special Flood Hazard Areas**, floodways or non-encroachment areas (for
22 example, where there appears to be a conflict between a mapped boundary and actual field
23 conditions), make the necessary interpretation. The person contesting the location of the
24 boundary shall be given a reasonable opportunity to appeal the interpretation as provided in
25 this ~~article~~ **ordinance**;

26 (11) When BFE data has not been provided in accordance with § 7.03(B), obtain,
27 review and reasonably utilize any BFE data, along with floodway data or non-encroachment
28 area data available from a federal, state or other source, including data developed pursuant to
29 § 7.05(D)(2)(c), in order to administer the provisions of this ~~article~~ **ordinance**;

30 (12) When BFE data is provided but no floodway or non-encroachment area data has
31 been provided in accordance with § 7.03(B), obtain, review and reasonably utilize any
32 floodway data or non-encroachment area data available from a federal, state or other source
33 in order to administer the provisions of this ~~article~~ **ordinance**;

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

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

4 (15) Make on-site inspections of work in progress. As the work pursuant to a floodplain
5 development permit progresses, the Floodplain Administrator shall make as many
6 inspections of the work as may be necessary to ensure that the work is being done according
7 to the provisions of the local ordinance and the terms of the permit. In exercising this power,
8 the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on
9 any premises within the jurisdiction of the community at any reasonable hour for the
10 purposes of inspection or other enforcement action;

11 (16) Issue stop-work orders as required. Whenever a building or part thereof is being
12 constructed, reconstructed, altered or repaired in violation of this ~~article~~ ordinance, the
13 Floodplain Administrator may order the work to be immediately stopped. The stop-work
14 order shall be in writing and directed to the person doing or in charge of the work. The stop-
15 work order shall state the specific work to be stopped, the specific reason(s) for the stoppage,
16 and the condition(s) under which the work may be resumed. Violation of a stop-work order
17 constitutes a misdemeanor;

18 (17) Revoke floodplain development permits as required. The Floodplain Administrator
19 may revoke and require the return of the floodplain development permit by notifying the
20 permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for
21 any substantial departure from the approved application, plans and specifications; for refusal
22 or failure to comply with the requirements of state or local laws; or for false statements or
23 misrepresentations made in securing the permit. Any floodplain development permit
24 mistakenly issued in violation of an applicable state or local law may also be revoked;

25 (18) Make periodic inspections throughout the ~~special flood hazard areas~~ Special Flood
26 Hazard Areas within the jurisdiction of the community. The Floodplain Administrator and
27 each member of his or her inspections department shall have a right, upon presentation of
28 proper credentials, to enter on any premises within the territorial jurisdiction of the
29 department at any reasonable hour for the purposes of inspection or other enforcement
30 action;

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

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

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

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

39 (D) *Corrective procedures.*

40 (1) *Violations to be corrected.* When the Floodplain Administrator finds violations of
41 applicable state and local laws, it shall be his or her duty to notify the owner or occupant of

1 the building of the violation. The owner or occupant shall immediately remedy each of the
2 violations of law cited in such notification.

3 (2) *Actions in event of failure to take corrective action.* If the owner of a building or
4 property shall fail to take prompt corrective action, the Floodplain Administrator shall give
5 the owner written notice, by certified or registered mail to the owner’s last known address or
6 by personal service, stating:

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

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

13 (c) That following the hearing, the Floodplain Administrator may issue an order to
14 alter, vacate or demolish the building; or to remove fill as applicable.

15 (3) *Order to take corrective action.* If, upon a hearing held pursuant to the notice
16 prescribed above, the Floodplain Administrator shall find that the building or development is
17 in violation of the flood damage prevention ordinance, they shall issue an order in writing to
18 the owner, requiring the owner to remedy the violation within a specified time period, not
19 less than 60 calendar days, nor more than 180 calendar days. Where the Floodplain
20 Administrator finds that there is imminent danger to life or other property, they may order
21 that corrective action be taken in such lesser period as may be feasible.

22 (4) *Appeal.* Any owner who has received an order to take corrective action may appeal
23 the order to the local elected governing body by giving notice of appeal in writing to the
24 Floodplain Administrator and the Clerk within ten days following issuance of the final order.
25 In the absence of an appeal, the order of the Floodplain Administrator shall be final. The
26 local governing body shall hear an appeal within a reasonable time and may affirm, modify
27 and affirm, or revoke the order.

28 (5) *Failure to comply with order.* If the owner of a building or property fails to comply
29 with an order to take corrective action for which no appeal has been made or fails to comply
30 with an order of the governing body following an appeal, the owner shall be guilty of a Class
31 1 misdemeanor pursuant to G.S. § 143-215.58 and shall be punished at the discretion of the
32 court.

33 (E) *Variance procedures.*

34 (1) The Board of Adjustment as established by the town, hereinafter referred to as the
35 “Appeal Board”, shall hear and decide requests for variances from the requirements of this
36 ~~article~~ ordinance.

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

39 (3) Variances may be issued for:

1 (a) The repair or rehabilitation of historic structures upon the determination that the
2 proposed repair or rehabilitation will not preclude the structure's continued designation as a
3 historic structure and that the variance is the minimum necessary to preserve the historic
4 character and design of the structure;

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

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

10 (4) In passing upon variances, the appeal board shall consider all technical evaluations,
11 all relevant factors, all standards specified in other sections of this ordinance, and:

12 (a) The danger that materials may be swept onto other lands to the injury of others;

13 (b) The danger to life and property due to flooding or erosion damage;

14 (c) The susceptibility of the proposed facility and its contents to flood damage and the
15 effect of such damage on the individual owner;

16 (d) The importance of the services provided by the proposed facility to the
17 community;

18 (e) The necessity to the facility of a waterfront location as defined under Article 11 as
19 a functionally dependent facility, where applicable;

20 (f) The availability of alternative locations, not subject to flooding or erosion damage,
21 for the proposed use;

22 (g) The compatibility of the proposed use with existing and anticipated development;

23 (h) The relationship of the proposed use to the comprehensive plan and floodplain
24 management program for that area;

25 (i) The safety of access to the property in times of flood for ordinary and emergency
26 vehicles;

27 (j) The expected heights, velocity, duration, rate of rise and sediment transport of the
28 flood waters and the effects of wave action, if applicable, expected at the site; and

29 (k) The costs of providing governmental services during and after flood conditions
30 including maintenance and repair of public utilities and facilities such as sewer, gas,
31 electrical and water systems, and streets and bridges.

32 (5) A written report addressing each of the above factors shall be submitted with the
33 application for a variance.

34 (6) Upon consideration of the factors listed above and the purposes of this
35 ~~article~~ ordinance, the Appeal Board may attach such conditions to the granting of variances
36 as it deems necessary to further the purposes and objectives of this ~~article~~ ordinance.

37 (7) Any applicant to whom a variance is granted shall be given written notice specifying
38 the difference between the BFE and the elevation to which the structure is to be built and

1 that such construction below the BFE increases risks to life and property, and that the
2 issuance of a variance to construct a structure below the BFE may result in increased
3 premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such
4 notification shall be maintained with a record of all variance actions, including justification
5 for their issuance.

6 (8) The Floodplain Administrator shall maintain the records of all appeal actions and
7 report any variances to the FEMA and the state upon request.

8 (9) Conditions for variances:

9 (a) Variances shall not be issued when the variance will make the structure in
10 violation of other federal, state or local laws, regulations or ordinances;

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

14 (c) Variances shall only be issued upon a determination that the variance is the
15 minimum necessary, considering the flood hazard, to afford relief;

16 (d) Variances shall only be issued prior to development permit approval; and

17 (e) Variances shall only be issued upon:

18 (i) A showing of good and sufficient cause;

19 (ii) A determination that failure to grant the variance would result in exceptional
20 hardship; and

21 (iii) A determination that the granting of a variance will not result in increased flood
22 heights, additional threats to public safety, or extraordinary public expense, create nuisance,
23 cause fraud on or victimization of the public, or conflict with existing local laws or this
24 ~~article~~ ordinance.

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

28 (a) The use serves a critical need in the community.

29 (b) No feasible location exists for the use outside the ~~Special Flood Hazard~~
30 ~~Areas~~ special flood hazard area.

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

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

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

36 (Ord. passed 4-2-2009; Ord. passed 11-2-2011; Ord. passed 11-3-2016)

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§ 7.05 PROVISIONS FOR FLOOD HAZARD REDUCTION.

(A) *General standards.* In all ~~special flood hazard areas~~ 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. ~~If replaced as part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment and other service equipment shall also meet these provisions.~~

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

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

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

~~—(8) Any alteration, repair, reconstruction or improvements to a structure, which is in compliance with the provisions of this ordinance, shall meet the requirements of “new construction” as contained in this ordinance.~~

(8) Nothing in this ordinance shall prevent the repair, reconstruction or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the floodway, non-encroachment area or stream setback, provided there is no additional encroachment below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction or replacement meets all of the other requirements of this ordinance.

1 (9) New solid waste disposal facilities and sites, hazardous waste management
2 facilities, salvage yards and chemical storage facilities shall not be permitted, except by
3 variance as specified in § 7.04(E)(10). A structure or tank for chemical or fuel storage
4 incidental to an allowed use or to the operation of a water treatment plant or wastewater
5 treatment facility may be located in a ~~Special Flood Hazard Areas~~ ~~special flood hazard area~~
6 only if the structure or tank is either elevated or floodproofed to at least the regulatory flood
7 protection elevation and certified in accordance with the provisions of § 7.04(B)(3).

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

10 (11) All subdivision proposals and other development proposals shall have public
11 utilities and facilities such as sewer, gas, electrical and water systems located and
12 constructed to minimize flood damage.

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

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

19 (14) When a structure is partially located in a ~~Special Flood Hazard Areas~~ ~~special flood~~
20 ~~hazard area~~, the entire structure shall meet the requirements for new construction and
21 substantial improvements.

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

25 (16) Fill shall not be used for structural support. This includes not approving
26 conditional letters or letters of map revision - based on fill (CLOMR-F or LOMR-F).

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

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

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

39 (3) *Manufactured homes.*

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(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 lowest floor or below the 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;

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

(d) 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 flood waters to automatically enter and exit;

1 (iv) The bottom of all required flood openings shall be no higher than one foot
2 above the higher of the interior or exterior adjacent grade;

3 (v) Flood openings may be equipped with screens, louvers or other coverings or
4 devices, provided they permit the automatic flow of flood waters in both directions; and

5 (vi) Enclosures made of flexible skirting are not considered enclosures for
6 regulatory purposes, and, therefore, do not require flood openings. Masonry or wood
7 underpinning, regardless of structural status, is considered an enclosure and requires flood
8 openings as outlined above.

9 (e) Shall, in coastal high hazard areas (Zones VE and AE), ~~either be free of~~
10 ~~obstruction or constructed with breakaway walls, open wood latticework or insect screening,~~
11 ~~provided they are not part of the structural support of the building and are designed so as to~~
12 ~~breakaway, under abnormally high tides or wave action without causing damage to the~~
13 ~~elevated portion of the building or supporting foundation system or otherwise jeopardizing~~
14 ~~the structural integrity of the building. The following design specifications shall be met:~~

15 ~~—— (i) Material shall consist of open wood latticework or insect screening; or~~

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

17 ~~—— a) Breakaway walls in Zones A, AE, AH, AO and A99 shall have flood openings~~
18 ~~that allow for the automatic entry and exit of floodwaters to minimize damage caused by~~
19 ~~hydrostatic loads, per § 7.05(B)(4)(d)(i) through (vi); and~~

20 ~~—— b) Design safe loading resistance shall be not less than ten, nor more than 20~~
21 ~~pounds per square foot; or~~

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

31 ~~—— (iii) Concrete pads, including patios, decks, parking pads, walkways, driveways,~~
32 ~~pool decks and the like, the following is required:~~

33 ~~—— 1) Shall be structurally independent of the primary structural foundation system of~~
34 ~~the structure and shall not adversely affect structures through redirection of floodwaters or~~
35 ~~debris; and~~

36 ~~—— 2) Shall be constructed to breakaway cleanly during design flood conditions, shall~~
37 ~~be frangible, and shall not produce debris capable of causing damage to any structure. (The~~
38 ~~installation of concrete in small segments (approximately 4' x 4') that will easily break up~~
39 ~~during the base flood event, or score concrete in 4' x 4' maximum segments is acceptable to~~
40 ~~meet this standard); or~~

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20 ~~3) May be reinforcing, including welded wire fabric; and~~

2 ~~4) Pad thickness shall not exceed four inches; and~~

3 ~~5) Provide a design professional's certification stating the design and method of~~
4 ~~construction to be used meet the applicable criteria of this section.~~

5 ~~(f) Fill/grading:~~

6 ~~(i) Minor grading and the placement of minor quantities of nonstructural fill may be~~
7 ~~permitted for landscaping and for drainage purposes under and around buildings and for~~
8 ~~support of parking slabs, pool decks, patios and walkways.~~

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

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

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

19 ~~(v) Fill shall not be used for structural support. This includes not approving~~
20 ~~conditional letters or letters of map revision based on fill (CLOMR-F or LOMR-F).meet~~
21 ~~the requirements of § 7.05(G).~~

22 (5) *Additions/improvements.*

23 (a) Additions and/or improvements to pre-FIRM structures when the addition and/or
24 improvements in combination with any interior modifications to the existing structure are:

25 (i) Not a substantial improvement, the addition and/or improvements must be
26 designed to minimize flood damages and must not be any more nonconforming than the
27 existing structure; or

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

32 (b) Additions to pre-FIRM and post-FIRM structures that are a substantial
33 improvement with no modifications/rehabilitations/improvements to the existing structure
34 other than a standard door in the common wall, shall require only the addition to comply
35 with the standards for new construction.

36 (c) Additions and/or improvements to post-FIRM structures when the addition and/or
37 improvements in combination with any interior modifications to the existing structure are:

1 (i) Not a substantial improvement, the addition and/or improvements only must
2 comply with the standards for new construction consistent with the code and requirements
3 for the original structure; and

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

6 (d) Any combination of repair, reconstruction, rehabilitation, addition or improvement
7 of a building or structure taking place during a one-year period, the cumulative cost of which
8 equals or exceeds 50% of the market value of the structure before the improvement or repair
9 is started must comply with the standards for new construction. For each building or
10 structure, the one-year period begins on the date of the first improvement or repair of that
11 building or structure subsequent to the effective date of this ~~article~~ ordinance. Substantial
12 damage also means flood-related damage sustained by a structure on two separate occasions
13 during a 10-year period for which the cost of repairs at the time of each such flood event, on
14 the average, equals or exceeds 25 percent of the market value of the structure before the
15 damage occurred. (The repetitive loss portion is OPTIONAL, but will be required for flood
16 insurance policy holders to be eligible for Increased Cost of Compliance (ICC) benefits for
17 repetitive losses.) If the structure has sustained substantial damage, any repairs are
18 considered substantial improvement regardless of the actual repair work performed. The
19 requirement does not, however, include either:

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

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

25 (6) *Recreational vehicles.* Recreational vehicles shall either:

26 (a) *Temporary placement.*

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

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

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

33 (7) *Temporary nonresidential structures.* Prior to the issuance of a floodplain
34 development permit for a temporary structure, the applicant must submit to the Floodplain
35 Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash
36 flood or other type of flood warning notification. The following information shall be
37 submitted in writing to the Floodplain Administrator for review and written approval:

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

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

5 (c) The time frame prior to the event at which a structure will be removed (i.e.,
6 minimum of 72 hours before landfall of a hurricane or immediately upon flood warning
7 notification);

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

10 (e) Designation, accompanied by documentation, of a location outside the **Special
11 Flood Hazard Area**~~special flood hazard area~~, to which the temporary structure will be
12 moved.

13 (8) *Accessory structures.*

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

16 (b) Accessory structures shall not be temperature-controlled;

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

18 (d) Accessory structures shall be constructed and placed on the building site so as to
19 offer the minimum resistance to the flow of flood waters;

20 (e) Accessory structures shall be firmly anchored in accordance with the provisions of
21 § 7.05(A)(1);

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

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

27 (h) An accessory structure with a footprint less than 150 square feet or that is a
28 minimal investment of \$35,000 or less and satisfies the criteria outlined above is not required
29 to meet the elevation or floodproofing standards of § 7.05(B)(2). Elevation or floodproofing
30 certifications are required for all other accessory structures in accordance with § 7.04(B)(3).

31 (9) *Tanks.* When gas and liquid storage tanks are to be placed within a **Special Flood
32 Hazard Area**~~special flood hazard area~~, the following criteria shall be met:

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

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

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

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

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

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

15 (10) *Other development.*

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

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

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

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

29 (C) *Reserved.*

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

34 (1) No encroachments, including fill, new construction, substantial improvements or
35 new development shall be permitted within a distance of 20 feet each side from top of bank
36 or five times the width of the stream, whichever is greater, unless certification with
37 supporting technical data by a registered professional engineer is provided demonstrating
38 that such encroachments shall not result in any increase in flood levels during the occurrence
39 of the base flood discharge.

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(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 ordinance 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 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 (nonresidential) 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~~ ~~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~~ ~~Special Flood Hazard Areas~~ established in § 7.03(B). The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of flood waters 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

1 and hydraulic analyses performed in accordance with standard engineering practice and
2 presented to the Floodplain Administrator prior to issuance of floodplain development
3 permit; or

4 (b) A conditional letter of map revision (CLOMR) has been approved by FEMA. A
5 letter of map revision (LOMR) must also be obtained within six months of completion of the
6 proposed encroachment.

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

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

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

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

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

18 (1) All new construction and substantial improvements shall:

19 (a) Be located landward of the reach of mean high tide;

20 (b) Comply with all applicable CAMA setback requirements.

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

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

34 (a) **Material shall consist of open wood or plastic lattice having at least 40 percent of**
35 **its area open, or** ~~Open wood or plastic latticework or insect screening may be permitted~~
36 ~~below the lowest floor for aesthetic purposes only and must be designed to wash away in the~~
37 ~~event of wave impact and in accordance with the provisions of § 7.05(B)(4)(e)(i). Design~~
38 ~~plans shall be submitted in accordance with the provisions of § 7.04(B)(1)(d)(iii)2); or~~

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(b) Insect screening; or ~~Breakaway walls may be permitted provided they meet the criteria set forth in § 7.05(B)(4)(a),(b),(c) and (e)(ii). Design plans shall be submitted in accordance with the provisions of § 7.04(B)(1)(d)(iii)1).~~

(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); and
- (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.

(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 ~~and the like~~etc., the following is required:

(a) Pad thickness shall not exceed four inches; and

(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 breakaway 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 4' x 4') that will easily break up during the base flood event, or score concrete in 4' x 4' maximum segments is acceptable to meet this standard); ~~or~~and

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

1 (e) ~~If reinforced, provide~~ Provide a design professional’s certification stating the
2 design and method of construction to be used meet the applicable criteria of this section.

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

4 (a) Be designed to withstand all flood-related loads and load combinations; ~~and~~.

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

7 (c) Be designed and constructed to break away during design flood conditions without
8 producing debris capable of causing damage to any structure; or

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

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

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

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

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

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

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

28 (d) ~~Elevator shafts/enclosures that extend below the RFPE shall be constructed of reinforced~~
29 ~~masonry block or reinforced concrete walls. Drainage must be provided for the elevator pit. If an~~
30 ~~elevator is designed to provide access to areas below the BFE, a float switch system that will~~
31 ~~activate during a flood and send the elevator cab to a floor above the RFPE is recommended;~~
32 ~~and~~

33 (e) Flood damage-resistant materials can also be used inside and outside the elevator cab to
34 reduce flood damage. Use only stainless -steel doors and door frames below the BFE. Grouting in of
35 door frames and sills is recommended. ~~The elevator installer shall provide certification that the~~
36 ~~elevator has been installed to meet safety guidelines as set forth in ASME A17.1, Part 5~~
37 ~~Section 5.3 Elevator Code, as amended and Article 620 of the National Electrical Code, as~~
38 ~~amended by North Carolina.~~

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

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

6 (~~89~~) A registered professional engineer or architect shall certify that the design,
7 specifications and plans for construction are in compliance with the provisions of §§ 7.04(B)
8 and 7.05(G)(3) and (4), on the current version of the North Carolina V-Zone Certification
9 form or equivalent local version. In addition, prior to the certificate of
10 compliance/occupancy issuance, a registered professional engineer or architect shall certify
11 the finished construction is compliant with the design, specifications and plans for VE Zone
12 construction.~~the Planning Director may require that a registered professional engineer or~~
13 ~~architect certify the finished construction is compliant with the design, specifications and~~
14 ~~plans for VE Zone construction.~~

15 (~~910~~) Fill/grading:

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

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

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

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

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

31 (~~1011~~) There shall be no alteration of sand dunes or mangrove stands which would
32 increase potential flood damage.

33 (~~1112~~) No manufactured homes shall be permitted except in an existing manufactured
34 home park or subdivision. A replacement manufactured home may be placed on a lot in an
35 existing manufactured home park or subdivision provided the anchoring and elevation
36 standards of this section have been satisfied.

37 (~~1213~~) Recreational vehicles may be permitted in coastal high hazard areas provided
38 that they meet the recreational vehicle criteria of § 7.05(B)(6)(a).

39 (~~1314~~) A deck that is structurally attached to a building or structure shall have the
40 bottom of the lowest horizontal structural member at or above the regulatory flood protection

1 elevation and any supporting members that extend below the regulatory flood protection
2 elevation shall comply with the foundation requirements that apply to the building or
3 structure, which shall be designed to accommodate any increased loads resulting from the
4 attached deck. The increased loads must be considered in the design of the primary structure
5 and included in the V-Zone Certification required under § 7.04(B)(3)(f).

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

12 (1516) In coastal high hazard areas, development activities other than buildings and
13 structures shall be permitted only if also authorized by the appropriate state or local
14 authority; if located outside the footprint of, and not structurally attached to, buildings and
15 structures; and if analyses prepared by qualified registered design professionals demonstrate
16 no harmful diversion of floodwaters or wave runup and wave reflection that would increase
17 damage to adjacent buildings and structures. Such other development activities include but
18 are not limited to:

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

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

24 (c) Docks, piers, and similar structures.

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

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

39 (2) All new construction and substantial improvements shall have the space below the
40 lowest horizontal structural member free of obstruction or constructed with breakaway walls,
41 open wood latticework or insect screening, provided they are not part of the structural
42 support of the building and are designed so as to breakaway, under abnormally high tides or

1 wave action without causing damage to the elevated portion of the building or supporting
2 foundation system or otherwise jeopardizing the structural integrity of the building. The
3 following design specifications shall be met:~~so as not to impede the flow of flood waters,~~
4 ~~with the following exceptions:~~

5 (a) Material shall consist of open wood or plastic lattice having at least 40 percent of
6 its area open, or ~~Open wood latticework or insect screening may be permitted below the~~
7 ~~lowest floor for aesthetic purposes only and must be designed to wash away in the event of~~
8 ~~wave impact and in accordance with the provisions of § 7.05(B)(4)(e)(i). Design plans shall~~
9 ~~be submitted in accordance with the provisions of § 7.04(B)(1)(d)(iii)2); or~~

10 (b) Insect screening; or ~~Breakaway walls may be permitted provided they meet the~~
11 ~~criteria set forth in § 7.05(B)(4)(e)(ii). Design plans shall be submitted in accordance with~~
12 ~~the provisions of § 7.04(B)(1)(d)(iii)1).~~

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

14 (1) Breakaway walls shall have flood openings to automatically equalize
15 hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet
16 this requirement, the openings must either be certified by a professional engineer or architect
17 or meet or exceed the design criteria in Article 5, Section B(4)(d); and

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

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

29 ~~—(3) All new construction and substantial improvements shall include, in Zones CAZ,~~
30 ~~flood openings to automatically equalize hydrostatic flood forces on walls by allowing for~~
31 ~~the entry and exit of floodwaters. To meet this requirement, the openings must either be~~
32 ~~certified by a professional engineer or architect or meet or exceed the design criteria in §~~
33 ~~7.05(B)(4)(d).~~

34 (43) Concrete pads, including patios, decks, parking pads, walkways, driveways and the
35 like must meet the provisions of § 7.05(G)(5).

36 (54) All new construction and substantial improvements shall meet the provisions of §
37 7.05(G)(3).

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

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

3 (87) Fill/grading must meet the provisions of § 7.05(G)(11).

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

6 (109) Decks and patios must meet the provisions of § 7.05(G)(15) and (16).

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

9 ~~(I) Standards for areas of shallow flooding (Zone AO). Located within the special flood~~
10 ~~hazard areas established in § 7.03(B), are areas designated as shallow flooding areas. These~~
11 ~~areas have special flood hazards associated with base flood depths of one to three feet where~~
12 ~~a clearly defined channel does not exist and where the path of flooding is unpredictable and~~
13 ~~indeterminate. In addition to § 7.05(A) and (B), all new construction and substantial~~
14 ~~improvements shall meet the following requirements:~~

15 ~~—(1) The reference level shall be elevated at least as high as the depth number specified~~
16 ~~on the flood insurance rate map (FIRM), in feet, plus a freeboard of two feet, above the~~
17 ~~highest adjacent grade; or at least two feet above the highest adjacent grade if no depth~~
18 ~~number is specified.~~

19 ~~—(2) Non-residential structures may, in lieu of elevation, be floodproofed to the same~~
20 ~~level as required in § 7.05(I)(1) so that the structure, together with attendant utility and~~
21 ~~sanitary facilities, below that level shall be watertight with walls substantially impermeable~~
22 ~~to the passage of water and with structural components having the capability of resisting~~
23 ~~hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in~~
24 ~~accordance with §§ 7.04(B)(3) and 7.05(B)(2).~~

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

27 ~~(Ord. passed 11-2-2011; Ord. passed 11-3-2016)~~

28 § 7.06 LEGAL STATUS PROVISIONS.

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

30 (1) This ordinance in part comes forward by re-enactment of some of the provisions of
31 the flood damage prevention ordinance enacted May 2, 1990, as amended, and it is not the
32 intention to repeal but rather to re-enact and continue to enforce without interruption of such
33 existing provisions, so that all rights and liabilities that have accrued there under are reserved
34 and may be enforced. The enactment of this ordinance shall not affect any action, suit or
35 proceeding instituted or pending. All provisions of the flood damage prevention ordinance of
36 the town enacted on May 2, 1990, as amended, which are not reenacted herein are repealed.

37 (2) The date the initial flood damage prevention ordinance for the county is July 2,
38 1987.

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32 → (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 months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this ordinance.

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(C) *Severability.* If any section, clause, sentence, or phrase of the Ordinance 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 Ordinance.

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(D) *Effective date.* This ~~article~~ ordinance shall become effective ~~December 1, 2016~~ June 19, 2020.

14 (Ord. passed 11-2-2011; Ord. passed 11-3-2016)

15 (E) *Adoption Certification.*

16 I hereby certify that this is a true and correct copy of the Flood Damage Prevention Ordinance as
17 adopted by the Town of North Topsail Beach, North Carolina, on the __ day of _____, 2020.

18 WITNESS my hand and the official seal of insert Name, Title, this the __ day of _____, 2020.

19 _____

20 (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.

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.

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.**

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.

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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.

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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.

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

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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.

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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.

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

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

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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.

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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.

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

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

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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.

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

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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**:

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- The estuarine and ocean system;
 - The ocean hazard system;
 - Public water supplies; and

- 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**~~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**~~Freeboard~~", establishes the "**regulatory flood protection elevation**~~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.

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.

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 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.

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

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.

~~**CAMA.** North Carolina’s Coastal Area Management Act. This 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) Division of Coastal Management (DCM).~~

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:

(a) **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.

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

(c) **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.

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

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

9 **CHANGE OF USE.** See *USE, CHANGE OF*.

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

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

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

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

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

21 **COASTAL AREA MANAGEMENT ACT (CAMA).** North Carolina’s Coastal Area Management Act,
22 along with the Dredge and Fill Law and the Federal Coastal Zone Management Act, is managed through
23 North Carolina Department of Environment and Natural Resources’ (NCDENR’s) [North Carolina](#)
24 [Department of Environmental Quality \(NCDEQ\)](#) Division of Coastal Management (DCM).

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

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

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

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

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

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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.

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

9 **CONDOMINIUM HOTEL or CONDOTEL.** See **HOTELMINIUM.**

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

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

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

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

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

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

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

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

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

33 **DESIGN FLOOD.** ~~The flood associated with the greater of the following two areas:~~
34 ~~—(a) Area with a floodplain subject to a 1% or greater chance of flooding in any year; or~~
35 ~~—(b) Area designated as a flood hazard area on the community’s flood hazard map or otherwise~~
36 ~~legally designated.~~ See “Regulatory Flood Protection Elevation.”

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

39 **DEVELOPMENT.** Any manmade change to improved or unimproved real estate, including, but not
40 limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling
41 operations, or storage of equipment or materials.

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

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

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

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

13 **DISPOSAL.** As defined in G.S. § 130A-290(a)(6), the discharge, deposit, injection, dumping,
14 spilling, leaking or placing of any solid waste into or on any land or water so that the solid waste or any
15 constituent part of the solid waste may enter the environment or be emitted into the air or discharged
16 into any waters, including groundwaters.

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

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

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

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

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

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

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

- 32 • Estuarine frontal dunes: the first mounds of sand located landward of the estuarine waters of the
33 intercoastal and having a minimum elevation equal to mean flood level plus six feet;
- 34 • Frontal dunes: the first mound of sand located landward of the ocean beach having sufficient
35 vegetation, height, continuity and configuration to offer protective value;
- 36 • Interior dunes: all dunes located in the town that are not considered frontal dunes; and
- 37 • Primary dunes: the first mounds of sand located landward of the ocean beaches having an
38 elevation equal to mean flood level for the area plus six feet. Primary dunes extend landward to the
39 lowest elevation in the depression behind the same mound of sand.

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

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. 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.

EXISTING BUILDING and EXISTING STRUCTURE. Any building and/or structure for which the **START OF CONSTRUCTION** commenced before ~~May 2, 1990~~ [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 initial effective date of the floodplain management regulations adopted by the community.~~ [the community entered the NFIP, dated June 2, 1987.](#)

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 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. § 131D, 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.

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

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

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

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

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

14 **FLOOD BOUNDARY and FLOODWAY MAP (FBFM).** An official map of a community, issued by
15 the FEMA, on which the ~~special flood hazard areas~~ Special Flood Hazard Areas and the floodways are
16 delineated. This official map is a supplement to and shall be used in conjunction with the flood
17 insurance rate map (FIRM).

18 **FLOOD HAZARD BOUNDARY MAP (FHBM).** An official map of a community, issued by the
19 FEMA, where the boundaries of the ~~special flood hazard areas~~ Special Flood Hazard Areas have been
20 defined as Zone A.

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

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

26 **FLOOD INSURANCE STUDY (FIS).** An examination, evaluation and determination of flood
27 hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones and other flood
28 data in a community issued by the FEMA. The flood insurance study report includes flood insurance
29 rate maps (FIRMs) and flood boundary and floodway maps (FBFMs), if published.

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

32 **FLOOD PRONE AREA.** See **FLOODPLAIN**.

33 **FLOOD ZONE.** A geographical area shown on a flood hazard boundary map or flood insurance rate
34 map that reflects the severity or type of flooding in the area.

35 **FLOOD or FLOODING.** A general and temporary condition of partial or complete inundation of
36 normally dry land areas from:

- 37 (a) The overflow of inland or tidal waters; and/or
- 38 (b) The unusual and rapid accumulation of runoff of surface waters from any source.

39 **FLOOD-RESISTANT MATERIAL.** Any building product (material, component or system) capable
40 of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining
41 damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not
42 resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant.
43 Pressure-treated lumber or naturally decay-resistant lumbers are acceptable flooring materials. Sheet-
44 type flooring coverings that restrict evaporation from below and materials that are impervious, but

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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.

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 [article 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 nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures and their contents.

FLOODWAY. 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~~ [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.

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

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

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

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

12 **GAZEBO.** A free standing roofed, open sided structure providing a shady resting place.

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

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

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

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

25 **GUESTHOUSE.** A separate residence for guests.

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

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

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

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

38 **HISTORIC STRUCTURE.** Any structure that is:

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

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(b) Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district;

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

(d) 1. Certified as contributing to the historical significance of a historic district designated by a community with a “certified local government (CLG) program”.

2. 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)

1 **KENNEL.** A commercial non-incident or non-profit establishment used as housing, leasing, sealing,
2 training, rehabilitating, breeding, grooming or fostering of any species, excluding domesticated
3 livestock.

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

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

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

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

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

16 (a) **LETTER OF MAP AMENDMENT (LOMA).** An official amendment, by letter, to an effective
17 National Flood Insurance Program map. A LOMA is based on technical data showing that a property
18 ~~was incorrectly included in a designated special flood hazard area~~ had been inadvertently mapped as
19 being in the floodplain, but is actually on natural high ground above the base flood elevation.

20 A LOMA amends the current effective flood insurance rate map and establishes that a specific property,
21 portion of a property or structure is not located in a Special Flood Hazard Area ~~special flood hazard area~~.

22 (b) **LETTER OF MAP REVISION (LOMR).** A revision based on technical data that may show
23 changes to flood zones, flood elevations, Special Flood Hazard Area ~~special flood hazard area~~
24 boundaries and floodway delineations, and other planimetric features.

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

30 (d) **CONDITIONAL LETTER OF MAP REVISION (CLOMR).** A formal review and comment
31 as to whether a proposed ~~flood protection~~ project ~~or other project~~ complies with the minimum NFIP
32 requirements for such projects with respect to delineation of ~~special flood hazard areas~~ Special Flood
33 Hazard Areas. A CLOMR does not revise the effective flood insurance rate map or flood insurance
34 study; upon submission and approval of certified as-built documentation, a letter of map revision may be
35 issued by FEMA to revise the effective FIRM.

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

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

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

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

43 **LIGHTING, OUTDOOR.** The night-time illumination of an outside area or object by any man-made
44 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 AND STATE GOVERNMENT ADVISORY COMMITTEE (LSGAC). An FCC-established group which works with both carriers and communities on antenna siting solutions.

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

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 [article ordinance](#), such as in corner visibility requirements.

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

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. 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.

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.

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

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

5 **MANUFACTURED HOME.** A structure, transportable in one or more sections, which is built on a
6 permanent chassis and designed to be used with or without a permanent foundation when connected to
7 the required utilities. The term **MANUFACTURED HOME** does not include a “recreational vehicle”.

8 **MANUFACTURED HOME PARK OR SUBDIVISION.** A parcel (or contiguous parcels) of land
9 divided into two or more manufactured home lots for rent or sale.

10 **MAP REPOSITORY.** The location of the official flood hazard data to be applied for floodplain
11 management. It is a central location in which flood data is stored and managed; in North Carolina,
12 FEMA has recognized that the application of digital flood hazard data products carries the same
13 authority as hard copy products. Therefore, the NCEM’s Floodplain Mapping Program websites house
14 current and historical flood hazard data. For effective flood hazard data, the NC FRIS website
15 (<http://FRIS.NC.GOV/FRIS>) is the map repository, and for historical flood hazard data the FloodNC
16 website (<http://FLOODNC.GOV/NCFLOOD>) is the map repository.

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

22 (NCAC 10B.1401(9))

23 **MARKET VALUE.** The building value, not including the land value and that of any accessory
24 structures or other improvements on the lot. **MARKET VALUE** can be established by independent
25 certified appraisal; replacement cost depreciated for age of building and quality of construction (actual
26 cash value); or adjusted tax assessed values.

27 ~~**MEAN SEA LEVEL.** For purposes of this ordinance, the North American Vertical Datum (NAVD)
28 as corrected in 1988, to which base flood elevations (BFEs) shown on a DFIRM are referenced. Refer to
29 uses NAVD 1988.~~

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

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

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

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

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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.

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 [article ordinance](#) for the district in which it is located, either at the effective date of this [article ordinance](#) (May 2, 1990) or as a result of subsequent amendments which may be incorporated into this [article ordinance](#).

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. Any land or area, the preservation of which in its present use would:

- (1) Conserve and enhance natural or scenic resources;
- (2) Protect streams or water supply;
- (3) Promote conservation of soils, wetlands, beaches or tidal marshes;
- (4) Enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries; or
- (5) Enhance recreation opportunities.

OPEN SPACE. Shall not include lands below mean high water.

- 1 **ORDINANCE.** This unified development ordinance, text and map including any amendments.
2 Whenever the effective date of the **ORDINANCE** is referred to, the reference includes the effective date
3 of any amendment to it.
- 4 **OTHERWISE PROTECTED AREA (OPA).** See **COASTAL BARRIER RESOURCES SYSTEM**
5 (**CBRS**).
- 6 **OVERLAY ZONING.** Zoning which crosses other zoning lines which may add additional
7 requirements to each line crossed or “overlaid”. Note: does not include areas established by the state or
8 federal government such as the inlet hazard area or the coastal resource barrier system.
- 9 **OWNER.** Any person, agent, firm or corporation having a legal or equitable interest in the property.
- 10 **PARK.** Land consisting of open space, in grasses, trees and possibly with shrubbery, sometimes
11 providing paths for walking and bicycling, maintained as a public or semi-public use. **PARKS** are
12 usually either a formal landscape, or maintained in basically a natural state.
- 13 **PARKING LOT.** Any public or private area, providing ten or more parking spaces designed and used
14 for parking or storing motor vehicles
- 15 **PARKING SPACE.** A storage space of not less than 160 square feet for one automobile.
- 16 **PERVIOUS SURFACE.** Any material that permits full or partial absorption of stormwater into
17 previously unimproved land.
- 18 **PIER.** A water-related structure extending into the water from the shore, whether floating or fixed to
19 the bottom, for use as a boat landing place or promenade, constructed of pylons and decking for mooring
20 and access to a boat or watercraft. May also include structures designed and constructed to serve as a
21 means of recreational access (fishing and the like) to the ocean and sound waters.
- 22 **PLANNED UNIT DEVELOPMENT (PUD).**
- 23 (1) A zoning overlay;
- 24 (2) A special use designed to provide for developments incorporating a single type or a variety of
25 residential and related uses which are planned and developed as a unit. Such development may consist
26 of individual lots and common building sites. Common open space must be an element of the plan
27 related to affecting the long-term value of the entire development; or
- 28 (3) A subdivision designed to permit flexibility and allow creative approaches to residential
29 development not usually associated with conventional subdivisions. Flexible setbacks and lot sizes are
30 considered.
- 31 **PLANNING BOARD.** The town’s committee empowered to prepare a comprehensive plan and to
32 evaluate proposed changes in land use, either by public or private developers, for conformance with the
33 plan.
- 34 **PLAT.** A document, prepared by a registered surveyor or engineer, that delineates property lines and
35 shows monuments and other landmarks for the purpose of identifying property.
- 36 **POST-FIRM.** Construction or other development for which the “start of construction” occurred on or
37 after **July 2, 1987**, the effective date of the initial flood insurance rate map.
- 38 **POSTAL SERVICE.** Comprises establishments primarily engaged in operating the national postal
39 service. Establishments primarily engaged in performing one or more **POSTAL SERVICES**, such as
40 sorting, routing and/or delivery, on a contract basis (except the bulk transportation of mail) are included
41 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.**

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.

RECREATIONAL VEHICLE (RV). 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

1 (e) Is fully licensed and ready for highway use.

2 (For the purpose of this ordinance, “Tiny Homes/Houses” and Park Models that do not meet these
3 items listed above are not considered Recreational Vehicles and should meet the standards of and be
4 permitted as Residential Structures.)

5 **REFERENCE LEVEL.** The bottom of the lowest horizontal structural member of the lowest floor for
6 structures within all ~~special flood hazard areas~~Special Flood Hazard Areas.

7 **REGULATORY FLOOD PROTECTION ELEVATION.** The ~~base flood elevation~~”Base Flood
8 Elevation” -plus the ~~freeboard~~”Freeboard.”-In ~~special flood hazard areas~~Special Flood Hazard Areas
9 where base flood elevations (BFEs) have been determined, this elevation shall be the BFE plus two feet
10 of freeboard. In “~~special flood hazard areas~~Special Flood Hazard Areas” where no BFE has been
11 established, this elevation shall be at least two feet above the highest adjacent grade.

12 **REMEDY A VIOLATION.** To bring the structure or other development into compliance with state
13 and community floodplain management regulations, or, if this is not possible, to reduce the impacts of
14 its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected
15 development from flood damages, implementing the enforcement provisions of the flood damage
16 prevention ordinance or otherwise deterring future similar violations, or reducing federal financial
17 exposure with regard to the structure or other development.

18 **RENTAL, SHORT-TERM.** See **SEASONAL RENTAL.**

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

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

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

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

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

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

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

36 **SALVAGE YARD.** Any non-residential property used for the storage, collection, and/or recycling of
37 any type of equipment, and including but not limited to vehicles, appliances and related machinery.

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

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

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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.

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

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.

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

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

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

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

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

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

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

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

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

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

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

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

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

31 **SITE PLAN.** A plan, to scale, showing uses and structures proposed for a parcel of land as required by
32 the regulations involved. It includes lot lines, streets, building sites, reserved open space, buildings,
33 major landscape features-both natural and human-made and, depending on requirements, the location of
34 proposed utility lines.

35 **SITE-SPECIFIC DEVELOPMENT PLAN.**

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

38 a. Subdivision plans as referenced in the subdivision ordinance in effect at the time a vested right
39 is requested; or

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

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(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).

SPILL 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.

1 **STREET, PRIVATE.** Any road or street which:

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

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

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

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

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

11 **SUBSTANTIAL DAMAGE.** Damage of any origin sustained by a structure during any one-year
12 period whereby the cost of restoring the structure to its before damaged condition would equal or exceed
13 50% of the market value of the structure before the damage occurred. See definition of **SUBSTANTIAL**
14 **IMPROVEMENT.** **SUBSTANTIAL DAMAGE** also means flood-related damage sustained by a
15 structure on two separate occasions during a ten-year period for which the cost of repairs at the time of
16 each such flood event, on the average, equals or exceeds 25% of the market value of the structure before
17 the damage occurred. (Note: The last sentence is required for eligibility for ~~increased~~ **Increased cost**
18 **Cost of ~~compliance~~ Compliance** (ICC) benefits for repetitive losses.)

19 **SUBSTANTIAL IMPROVEMENT.** Any combination of repairs, reconstruction, rehabilitation,
20 addition or other improvement of a structure, taking place during any one-year period for which the cost
21 equals or exceeds 50% of the market value of the structure before the “start of construction” of the
22 improvement. This term includes structures which have incurred “substantial damage”, regardless of the
23 actual repair work performed. The term does not, however, include either:

24 (a) Any correction of existing violations of state or community health, sanitary or safety code
25 specifications which have been identified by the community code enforcement official and which are the
26 minimum necessary to assure safe living conditions; or

27 (b) Any alteration of a historic structure, provided that the alteration will not preclude the
28 structure’s continued designation as a historic structure and the alteration is approved by variance issued
29 pursuant to § 7.04(E).

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

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

38 **TECHNICAL BULLETIN** and **TECHNICAL FACT SHEET.**

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

(b) 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.

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 SURFACE ELEVATION (WSE). The height, in relation to ~~NAVD 1988 mean sea level~~, 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.

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

1 include electrical or telephone transmission lines or supporting distribution structures, antennas of
2 amateur radio (ham) operators, and amateur club services licensed by the FCC.

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

6 **YARD.** An open space on the same lot with a building (including the area of steps, eaves and
7 uncovered porches, but not including the areas of covered porches) unoccupied and unobstructed from
8 the ground upward, except by trees or shrubbery or as otherwise provided herein.

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

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

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

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

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

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

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

32 **TABLE 11-1 ABBREVIATIONS**

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

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