

# FLOOD DAMAGE PREVENTION ORDINANCE



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## **ARTICLE IV. FLOOD DAMAGE PREVENTION--COASTAL REGULAR PHASE\***

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**\*Editor's note:** Ord. No. 01-492, adopted Nov. 13, 2001, repealed ch. 12, art. IV, §§ 12-166--12-177, 12-186--12-189, and 12-198--12-201, in its entirety and enacted new provisions to read as herein set out. Prior to amendment art. IV pertained to flood damage prevention and derived from Ord. No. 87-227, Art. 1, §§ A--D; Art. 2; Art. 3 §§ A--H; Art. 4 §§ A--D; Art. 5, §§ A--D,; adopted May 12, 1987; Ord. No. 98-424, adopted May 12, 1998; and Ord. No. 436, adopted March 9, 1999.

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### **DIVISION 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES**

#### **Sec. 12-166. Statutory authorization.**

**Municipal:** The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3, 5, and 8 of Article 19 of Chapter 160A; and Article 8 of Chapter 160A of the North Carolina General Statutes, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

#### **Sec. 12-167. Findings of fact.**

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

#### **Sec. 12-168. Statement of purpose.**

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

- (1) Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (4) Control filling, grading, dredging, and other development which may increase erosion or flood damage; and,
- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.  
(Ord. No. 01-492, 11-13-01)

**Sec. 12-169. Objectives.**

The objectives of this article are:

- (1) To protect human life and health;
- (2) To minimize expenditure of public money for costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business interruptions;
- (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in floodplains;
- (6) To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas; and,
- (7) To insure that potential home buyers are notified that property is in a flood area.  
(Ord. No. 01-492, 11-13-01)

## DIVISION 2. DEFINITIONS

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

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

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

Appeal means a request for a review of the administrator's interpretation of any provision of this article.

Area of special flood hazard see “Special Flood Hazard Area (SFHA)”

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

Base Flood Elevation means a determination as published in the Flood Insurance Study of the water surface elevations of the base flood. This elevation, when combined with the “Freeboard” establishes the “Regulatory Flood Protection Elevation.”

Basement means, for floodplain management purposes, any area of the building having its floor subgrade (below ground level) on all sides.

Breakaway wall means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system. A breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. A wall with loading resistance of more than 20 pounds per square foot requires a professional engineer or architect's certificate.

Building see “Structure”

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).

*CBRS* means Coastal Barrier Resources System.

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

*Coastal Barrier Resources System (CBRS)* consists of undeveloped portions of coastal and adjoining areas established by the Coastal Barrier Resources Act (CoBRA) of 1982, the Coastal Barrier Improvement Act (CBIA) of 1990, and subsequent revisions, and includes areas owned by federal or state governments or private conservation organizations identified as Otherwise Protected Areas (OPA)

*Coastal high hazard area* means a Special Flood Hazard Area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM, or other adopted flood map as determined in Section 12-171 of this ordinance, as Zones VE or V1-30.

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

*Elevated building* means a non-basement building which has its reference level raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns

*Existing manufactured home park or manufactured home subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before May 12, 1987.

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

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

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

*Flood hazard boundary map (FHBM)* means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined as Zone A.

Flood insurance rate map (FIRM) means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood insurance study means an examination, evaluation, and determination of flood hazard areas, corresponding water surface elevations (if appropriate), flood insurance risk zones, and other flood data in a community issued by the Federal Emergency Management Agency. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published

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

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

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

Freeboard means the height added to the Base Flood Elevation (BFE) to account for watershed development as well as limitations of the engineering methodologies for the determination of flood elevations. The freeboard plus the Base Flood Elevation establishes the “Regulatory Flood Protection Elevation”.

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

Highest adjacent grade means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of the structure.

Historic structure means any structure that is:

- (a) listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the national register;
- (b) certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district;

(c) individually listed on a local inventory of historic landmarks in communities with a “Certified Local Government (CLG) Program”; or

(d) certified as contributing to the historical significance of a historic district designated by a community with a “Certified Local Government (CLG) Program”

Lowest Adjacent Grade (LAG) means the elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building. For Zones A, use the natural grade elevation prior to construction.

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

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

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Market Value means the building value, excluding the land value and that of any accessory structures or other improvements on the lot, established by independent certified appraisal, replacement cost depreciated by age of building and quality of construction (Actual Cash Value), or adjusted tax assessed values.

Mean sea level means, for purposes of the NFIP, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a FIRM are referenced.

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

New construction means, for floodplain management purposes, structures for which the "start of construction" commenced on or after the effective date of this article and includes any subsequent improvements to such structures.

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

Primary frontal dune means 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 over-topping 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.

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

Reference Level is the portion of a structure or other development that must be compared to the regulatory flood protection elevation to determine regulatory compliance. For structures within Special Flood Hazard Areas designated as Zone A1-A30, AE, A, A99 or AO, the reference level is the top of the lowest floor or bottom of lowest attendant utility including ductwork, whichever is lower. For structures within Special Flood Hazard Areas designated as zones VE or V1-V30, the reference level is the bottom of the lowest horizontal structural member of the lowest floor or bottom of lowest attendant utility including ductwork, whichever is lower.

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

Regulatory Flood Protection Elevation means the elevation, in relation to mean sea level, to which the reference level of all structures and other development located within Special Flood Hazard Areas must be protected. Where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE

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

60-year setback means a distance equal to sixty (60) times the average annual long-term recession rate at a site, measured from the reference feature.

Repetitive Loss means flood-related damages sustained by a structure on two (2) separate occasions during any 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds twenty-five percent (25%) of the market value of the structure before the damage occurred.

Start of construction (for other than new construction or substantial improvements under the Coastal Barrier Resources Act, P.L. 97-348) includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, or improvement was within one hundred eighty (180)

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

Special Flood Hazard Area (SFHA) means the land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year as determined in Sec. 12-171 of this ordinance.

Structure means, for floodplain management purposes, a walled and roofed building, a manufactured home, a gas or liquid storage tank, or other man-made facility or infrastructure that is principally above ground.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred. See definition of "substantial improvement". "Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

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

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

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

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

Zone of imminent collapse means an area subject to erosion adjacent to the shoreline of an ocean, bay or lake and within a distance equal to ten (10) feet plus five (5) times the average annual long-term erosion rate for the site, measured from the reference feature.  
(Ord. No. 01-492, 11-13-01)

## DIVISION 3. GENERAL PROVISIONS

### **Sec. 12-170. Lands to which this article applies.**

This article shall apply to all areas of special flood hazard within the jurisdiction of Town of Carolina Beach.

(Ord. No. 01-492, 11-13-01)

### **Sec. 12-171. Basis for establishing the areas of special flood hazard.**

The Special Flood Hazard Areas are those identified by the Federal Emergency Management Agency (FEMA) in its flood hazard boundary map or flood insurance study and flood insurance rate map(s), for Town of Carolina Beach dated April 03, 2006, which with accompanying supporting data, and any revision thereto, including letters of map amendment or revision, are adopted by reference and declared to be a part of this article. The Special Flood Hazard Areas also include those defined through standard engineering analysis for private developments or by governmental agencies, but which have not yet been incorporated in the FIRM. This includes but is not limited to:

1. detailed flood information generated as a requirement of division 4, section 12-180(10) this article.
2. preliminary FIRMs where more stringent than the effective FIRM; or
3. post-disaster Flood Recovery Maps

*Municipal:* In addition, upon annexation to Town of Carolina Beach, or inclusion in the extraterritorial jurisdiction, the Special Flood Hazard Areas identified by the Federal Emergency Management Agency in its flood hazard boundary map or flood insurance study and flood insurance rate map(s) for Unincorporated New Hanover County, with accompanying maps and other supporting data, and any revision thereto, are adopted by reference and declared to be a part of this article.

(Ord. No. 01-492, 11-13-01)

### **Sec. 12-172. Establishment of development permit.**

A development permit shall be required in conformance with the provisions of this article prior to the commencement of any development activities within Special Flood Hazard Areas as determined in Sec. 12-171.

(Ord. No. 01-492, 11-13-01)

### **Sec. 12-173. Compliance.**

No structure or land shall hereafter be located, extended, converted, or structurally altered without full compliance with the terms of this article and other applicable regulations.

(Ord. No. 01-492, 11-13-01)

**Sec. 12-174. Abrogation and greater restrictions.**

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

(Ord. No. 01-492, 11-13-01)

**Sec. 12-175. Interpretation.**

In the interpretation and application of this article all provisions shall be:

1. considered as minimum requirements;
2. liberally construed in favor of the governing body; and,
3. deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. No. 01-492, 11-13-01)

**Sec. 12-176. Warning and disclaimer of liability.**

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

(Ord. No. 01-492, 11-13-01)

**Sec. 12-177. Penalties for violation.**

Violation of the provisions of this article or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this article or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than fifty dollars (\$50.00) or imprisoned for not more than thirty (30) days, or both. Each day such a violation continues shall be considered a separate offense. Nothing herein contained shall prevent Town of Carolina Beach from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. No. 01-492, 11-13-01)

## DIVISION 4. ADMINISTRATION

### **Sec. 12-178. Designation of administrator.**

The director of planning and development or the director's designee, hereinafter referred to as the "administrator", is hereby appointed to administer and implement the provisions of this article. (Ord. No. 01-492, 11-13-01)

### **Sec. 12-179. Development permit and certification requirements.**

**1. Application Requirements:** Application for a development permit shall be made to the administrator on forms furnished by the administrator prior to any development activities. The development permit shall include, but not be limited to, plans in duplicate drawn to scale showing: the nature, location, dimensions, and elevations of the area in question; existing or proposed structures; and the location of fill materials, storage areas, and drainage facilities. Specifically, the following information is required:

- a. A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
  - i the nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
  - ii the boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Section 12-171, or a statement that the entire lot is within the Special Flood Hazard Area;
  - iii flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Section 12-171;
  - iv the boundary of the floodway(s) or non-encroachment area(s) as determined in Section 12-171;
  - v the Base Flood Elevation (BFE) where provided as set forth in Section 12-171; Division 4, Section 12-180(11 & 12); or Division 5, Section 12-186;
  - vi the old and new location of any watercourse that will be altered or relocated as a result of proposed development;
  - vii the boundary and designation date of the Coastal Barrier Resource System (CBRS) area or Otherwise Protected Areas (OPA), if applicable; and
  - viii certification of the plot plan by a registered land surveyor or professional engineer.

- b. Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:
  - i Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;
  - ii Elevation in relation to mean sea level to which any non-residential structure in Zone AE, A or AO will be flood-proofed;
  - iii Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed;
- c. If floodproofing, a Floodproofing Certificate (FEMA Form 81-65) along with detailed back-up computations and operational plans that specify the location on a FIRM panel of floodproofing measures, the entity responsible for transportation and installation according to the design within the warning time available, and maintenance of floodproofing measures assuring their effectiveness when installed. Floodproofing certificate and back-up computations and operational plans shall be certified by a registered professional engineer or architect to ensure that the non-residential floodproofed development will meet the floodproofing criteria in Section 12-184 (2)
- d. A Foundation Plan drawn to scale which shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details include but are not limited to:
  - i. The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls);
  - ii. Openings to facilitate equalization of hydrostatic flood forces on walls in accordance with Sec 12-184(4), when solid foundation perimeter walls are used in all A Zones;
  - iii. The following, in Coastal High Hazard Areas, in accordance with Sec 12-184(4) and Sec. 12-189:
    - 1. V-zone Certification form with accompanying plans and specifications verifying the engineered structure and any breakaway wall designs;
    - 2. Plans for open wood latticework or insect screening, if applicable;
    - 3. Plans for non-structural fill, if applicable.
- e. Usage details of any enclosed areas below the regulatory flood protection elevation.

- f. Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage;
  - g. Copies of all other Local, State and Federal permits required prior to floodplain development permit issuance (Wetlands, Endangered Species, Erosion and Sedimentation Control, CAMA, Riparian Buffers, Mining, etc.)
  - h. Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure Sec. 12-184(6 & 7) of this ordinance are met.
  - i. A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.
2. Permit Requirements. The Floodplain Development Permit shall include, but not be limited to:
- a. A description of the development to be permitted under the floodplain development permit.
  - b. The Special Flood Hazard Area determination for the proposed development per available data specified in Section 12-171.
  - c. The regulatory flood protection elevation required for the reference level and all attendant utilities.
  - d. The regulatory flood protection elevation required for the protection of all public utilities.
  - e. All certification submittal requirements with timelines.
  - f. A statement that no fill material shall encroach into the floodway or non-encroachment area of any watercourse, as applicable.
  - g. The minimum opening requirements, if in A Zones.
  - h. Limitations of below BFE enclosure uses (if applicable). (i.e., Parking, Building Access and Limited Storage only).
  - i. A statement, if in Zone VE or V1-30, that there shall be no alteration of sand dunes which would increase potential flood damage.



- j. A statement, if in Zone VE or V1-30, that there shall be no fill used for structural support.
3. Certification Requirements.
- a. Elevation Certificates:
    - i. A reference level is required at foundation or piling inspection. It is at the permit holders risk that the reference level be established accurately.
    - ii. A Final As-Built Elevation Certificate (FEMA Form 81-31) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. Elevation certification shall be prepared by, or under the direct supervision of, a registered land surveyor or professional engineer and certified by same. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy
  - b. If non-residential floodproofing is used to meet the regulatory flood protection elevation requirements, a Floodproofing Certificate (FEMA Form 81-65) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The floodplain administrator shall review the certificate data 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. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.
  - c. If a manufactured home is placed within Zone A, AO, AE, or A1-30 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required per Sec. 12-184(3).
  - d. If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of

the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.

- e. Certification Exemptions. The following structures, if located within Zone A, AO, AE or A1-30, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) above:
  - i. Recreational Vehicles meeting requirements of Sec. 12-184(6)(a);
  - ii. Temporary Structures meeting requirements of Sec. 12-184(7); and
  - iii. Accessory Structures less than 150 square feet meeting requirements of Sec. 12-184(8).
- f. A completed V-Zone Certification form with back up 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 data to ensure the design standards of this 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 ordinance. This certification is not a substitute for an Elevation Certificate

**Sec. 12-180. Duties and responsibilities of the administrator.**

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

1. Review all development permits to assure that the requirements of this article have been satisfied.
2. Advise permittee that additional federal or state permits may be required, (Wetlands, Endangered Species, Erosion and Sedimentation Control, CAMA, Riparian Buffers, Mining, etc.) and if specific federal or state permits are known, require that copies of such permits be provided and maintained on file with the development permit.
3. Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency.
4. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
5. Prevent encroachments within floodways unless the certification and flood hazard reduction provisions of Division 5 are met.
6. Obtain actual elevation (in relation to mean sea level) of the lowest floor (including basement) and all attendant utilities of all new or substantially improved structures, in accordance with Division 4, Section 12-179(7).

7. Obtain the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been floodproofed, in accordance with Division 4, section 12-179(7).
8. Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with Sec. 12-179.
9. When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with Division 5, Section 12-184(2).
10. Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
11. When base flood elevation data or floodway data has not been provided in accordance with Division 3, Section 12-171, obtain, review, and reasonably utilize any base flood elevation data and floodway data available from a federal, state, or other source, including data developed pursuant to Division 5, Section 12-187(d), in order to administer the provisions of this article.
12. When the exact location of boundaries of the Special Flood Hazard Areas conflict with the current, natural topography information at the site the property owner may apply and be approved for a Letter of Map Amendment (LOMA) by FEMA. A copy of the Letter of Map Amendment issued from FEMA will be maintained by the administrator in the permit file.
13. Permanently maintain all records that pertain to the administration of this ordinance and make these records available for public inspection.
14. Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the floodplain administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the floodplain administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.
15. Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the floodplain administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.
16. Revoke floodplain development permits as required. The floodplain administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain

development permit mistakenly issued in violation of an applicable State or local law may also be revoked.

17. Make periodic inspections throughout all special flood hazard areas within the jurisdiction of the community. The floodplain administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
18. Follow through with corrective procedures of Sec. 12-181.
19. Maintain a current map repository to include, but not limited to, the FIS Report, FIRM and/or other official flood maps /studies adopted under Sec. 12-171 of this ordinance, including any revisions thereto including Letters of Map Change), issued by State and/or FEMA. Notify State and FEMA of mapping needs.

### **Sec. 12-181 Corrective Procedures.**

1. Violations to be Corrected: When the floodplain administrator finds violations of applicable State and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law pertaining to their property.
2. Actions in Event of Failure to Take Corrective Action: If the owner of a building or property shall fail to take prompt corrective action, the floodplain administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:
  - a. that the building or property is in violation of the Flood Damage Prevention Ordinance;
  - b. that a hearing will be held before the floodplain administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and,
  - c. that following the hearing, the floodplain administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as appears appropriate.
3. Order to Take Corrective Action: If, upon a hearing held pursuant to the notice prescribed above, the floodplain administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, he or she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) days. Where the floodplain administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.
4. Appeal: Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the floodplain administrator and the clerk within ten (10) days following issuance of the final

order. In the absence of an appeal, the order of the floodplain administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

5. Failure to Comply with Order: If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, he or she shall be guilty of a misdemeanor and shall be punished at the discretion of the court.

**Sec. 12-182. Variance procedures.**

1. The board of adjustments as established by Town of Carolina Beach, hereinafter referred to as the "appeal board", shall hear and decide requests for variances from the requirements of this article.
2. Any person aggrieved by the decision of the appeal board may appeal such decision to the court, as provided in G.S. Chapter 7A.
3. Variances may be issued for:
  - a. the repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
  - b. functionally dependant facilities if determined to meet the definition as stated in Division 2 of this ordinance.
  - c. any other type of development, provided it meets the requirements stated in this section.
4. In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this article, and:
  - a. The danger that materials may be swept onto other lands to the injury of others;
  - b. The danger to life and property due to flooding or erosion damage;
  - c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - d. The importance of the services provided by the proposed facility to the community;
  - e. The necessity to the facility of a waterfront location, where applicable;
  - f. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

- g. The compatibility of the proposed use with existing and anticipated development;
  - h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - j. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
  - k. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
5. A written report addressing each of the above factors shall be submitted with the application for a variance.
6. Upon consideration of the factors listed above and the purposes of this article, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this article.
7. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
8. Conditions for variances:
- a. Variances may not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or ordinances.
  - b. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - c. Variances shall only be issued upon:
    - i. a showing of good and sufficient cause;
    - ii. a determination that failure to grant the variance would result in exceptional hardship; and,
    - iii. a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

- d. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and a written statement that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. Such notification shall be maintained with a record of all variance actions.
  - e. The administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.
9. A variance may be issued for solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met.
- a. The use serves a critical need in the community.
  - b. No feasible location exists for the use outside the Special Flood Hazard Area.
  - c. The reference level of any structure is elevated or floodproofed to at least the regulatory flood protection elevation.
  - d. The use complies with all other applicable Federal, State and local laws.
  - e. The Town of Carolina Beach has notified the Secretary of the North Carolina Department of Crime Control and Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

(Ord. No. 01-492, 11-13-01)

## DIVISION 5. PROVISIONS FOR FLOOD HAZARD REDUCTION

### **Sec. 12-183. General standards.**

In all areas of special flood hazard the following provisions are required:

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure;
2. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
3. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damages;
4. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, appliances (washers, dryers, refrigerators, freezers, etc.), hot water heaters, and electric outlets/switches.
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 article, shall meet the requirements of "new construction" as contained in this article.
9. Nothing in this ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the floodway, non-encroachment area, or stream setback, provided that the bulk of the building or structure below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback is not increased and provided that such repair, reconstruction, or replacement meets all of the other requirements of this ordinance.
10. New solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted in Special Flood Hazard Areas, except by variance as specified in Sec. 12-182(9). A structure or tank for



chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the regulatory flood protection elevation and certified according to Sec. 12-179(3) of this ordinance.

11. All development proposals shall be consistent with the need to minimize flood damage.
12. All development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
13. All development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

### **Sec. 12-184. Specific standards.**

In all areas of special flood hazard where base flood elevation data has been provided, as set forth in Division 3, Section 12-171, or Division 4, section 12-180(9), except areas designated as coastal high hazard areas, the following provisions are required:

1. *Residential construction.* New construction or substantial improvements of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Division 2 of this ordinance.
  - a. *Non-residential construction.* New construction or substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Division 2 of this ordinance. Structures located in A Zones may be floodproofed to the regulatory flood protection elevation in lieu of elevation provided that all areas of the structure below the required flood protection elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in Sec. 12-179(3), along with the operational and maintenance plans.
2. *Manufactured homes.*
  - a. New or 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 Division 2 of this ordinance. Manufactured homes that are to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the provisions of Division 5, Section 12-184(3)(a) of this article must be elevated on reinforced piers or other structural elements so that the lowest floor of the manufactured home is no lower than two (2) feet above the base flood elevation and be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement.

- b. All foundation enclosures or skirting shall be in accordance with Sec 12-184 (4).
  - c. 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 administrator and the local emergency management coordinator.
4. Elevated Buildings. Enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation:
- 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 partitioned or finished into separate rooms, except to enclose storage areas;
  - b. shall be constructed entirely of flood resistant materials below the regulatory flood protection elevation;
  - c. shall include, in Zones A, AO, AE, and A1-30, measures 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 the following minimum design criteria:
    - i. Provide a minimum of two openings on different sides of each enclosed area subject to flooding;
    - ii. The total net area of all openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;
    - iii. If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit;
    - iv. The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade;
    - v. Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and
    - vi. Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.

- d. shall allow, in Coastal High Hazard Areas (Zones VE and V1-30), breakaway walls, latticework or insect screening below the regulatory flood protection elevation, provided it is not part of the structural support of the building and is designed so as to breakaway, under abnormally high tides or wave action, without causing damage to the structural integrity of the building on which they are to be used, provided the following design specifications are met:
    - i. Material shall consist of open wood latticework or insect screening; or
    - ii. Breakaway walls shall meet the following design specifications:
      - 1. Design safe loading resistance of each wall shall be not less than 10 nor more than 20 pounds per square foot; or
      - 2. Breakaway walls that exceed a design safe loading resistance of more than 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 certifying that the designed 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.
5. Additions/Improvements.
- a. Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
    - i. not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.
    - ii. a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
  - b. Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.

- c. Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
    - i. not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.
    - ii. a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
  - d. Where a fire wall or independent perimeter load-bearing wall is provided between the addition and the existing building, the addition(s) shall be considered a separate building and only the addition must comply with the standards for new construction.
6. Recreational Vehicles. Recreational vehicles placed on sites within a Special Flood Hazard Area shall either:
- a. be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions); or
  - b. meet all the requirements for new construction, including anchoring and elevation requirements of Sec 12-179 and Sec 12-183 and 12-184(3).
7. Temporary Non-Residential Structures. Prior to the issuance of a floodplain development permit for a temporary structure, applicants must submit to the floodplain administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the floodplain administrator for review and written approval;
- a. a specified time period for which the temporary use will be permitted. Time specified should be minimal with total time on site not to exceed one year;
  - b. the name, address, and phone number of the individual responsible for the removal of the temporary structure;
  - c. the time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
  - d. a copy of the contract or other suitable instrument with a trucking company to ensure the availability of removal equipment when needed; and

- e. designation, accompanied by documentation of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.
8. Accessory Structures. When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:
- a. Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);
  - b. Accessory structures shall not be temperature-controlled;
  - c. Accessory structures shall be designed to have low flood damage potential;
  - d. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
  - e. Accessory structures shall be firmly anchored in accordance with Sec. 12-183(1);
  - f. All service facilities such as electrical shall be installed in accordance with Sec. 183(4); and
  - g. Openings to relieve hydrostatic pressure during a flood shall be provided below regulatory flood protection elevation in conformance with Sec. 12-184(4)(a).
  - h. An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with Sec. 12-179(3).

### **Sec. 12-185 Reserved**

### **Sec. 12-186 Standards for FloodPlains Without Established Baseflood Elevations**

Within the Special Flood Hazard Areas established in Section 12-184, where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to Section 12-183, shall apply:

1. No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
2. The BFE used in determining the regulatory flood protection elevation shall be determined based on one of the following criteria set in priority order:
  - a. If Base Flood Elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or floodproofed in accordance with standards in Sec. 12-180(11 & 12).

- b. All subdivision, manufactured home park and other development proposals located within Special Flood Hazard Areas shall provide Base Flood Elevation (BFE) data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such Base Flood Elevation (BFE) data shall be adopted by reference per Sec. 12-171 to be utilized in implementing this ordinance.
- c. When Base Flood Elevation (BFE) data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated above the highest adjacent grade as required in the regulatory flood protection elevation definition.

**Sec. 12-187 Standards for riverine floodplains with BFE but without established floodways or non-encroachment areas.**

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

- 1. Standards outlined in Sec. 12-183 and Sec. 12-184 and
- 2. 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.

**Sec. 12-188 Floodways and Non-Encroachment Areas.**

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Sec. 12-184. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Sec. 12-183 and Sec. 12-184, shall apply to all development within such areas:

- 1. No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood. Such certification and technical data shall be presented to the floodplain administrator prior to issuance of floodplain development permit.
- 2. If Sec. 12-188(1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.

3. No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:
  - a. the anchoring and the elevation standards of Sec. 12-184(3); and
  - b. the no encroachment standard of Sec. 12-188(1) are met.

**Sec. 12-189. Coastal high hazard areas.**

Coastal High Hazard Areas are Special Flood Hazard Areas established in Division 3 Section 12-171, and designated as “V” Zones. These areas have special flood hazards associated with high velocity waters from surges and, therefore, in addition to meeting all other provisions in this ordinance with the exception of floodway and non-encroachment area provisions, the following provisions shall apply:

1. All development shall:
  - a. be located landward of the reach of mean high tide;
  - b. be located landward of the first line of stable natural vegetation; and
  - c. comply with all applicable CAMA setback requirements.
2. All new and substantial improved structures shall be elevated so that the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings or columns) is located no lower than the regulatory flood protection elevation. Floodproofing shall not be utilized on any structures in Coastal High Hazard Areas to satisfy the regulatory flood protection elevation requirements.
3. All space below the regulatory flood protection elevation shall be open so as not to impede the flow of water with the following exceptions:
  - a. Open wood latticework or insect screening may be permitted below the regulatory flood protection elevation for aesthetic purposes only and must be designed to wash away in the event of abnormal wave action and in accordance with Sec. 12-184(4)(b). Design plans shall be submitted in accordance with Sec. 12-179(1)(d)(iii); or
  - b. Breakaway walls may be permitted below the regulatory flood protection elevation provided they meet the criteria set forth in Sec. 12-184(4)(b). Design plans shall be submitted in accordance with Sec. 12-179(1)(d)(iii).
4. All new and substantial improved structures shall be securely anchored on pilings or columns. All pilings and columns and the structures 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 North Carolina State Building Code.
5. A registered professional engineer or architect shall certify that the design, specifications and plans for construction are in compliance with the provisions contained in Sec. 12-179, Sec. 12-189(3)(a&b), Sec. 12-189(4) and Sec. 12-189(6) of this ordinance on North Carolina's "National Flood Insurance Program V-Zone Certification" form dated May 1992 or newer.
6. Fill shall not be used for structural support. Limited non-compacted and non-stabilized fill may be used around the perimeter of a building for landscaping/aesthetic purposes provided the fill will wash out from storm surge, thereby rendering the building free of obstruction prior to generating excessive loading forces, ramping effects, or wave deflection. Design plans shall be submitted in accordance with Sec. 12-179(1)(d)(iii). The floodplain administrator may approve design plans for landscaping/aesthetic fill only after the applicant has provided an analysis by an engineer, architect, and/or soil scientist which demonstrates that the following factors have been satisfied:
  - a. Particle composition of fill material does not have a tendency for excessive natural compaction;
  - b. Volume and distribution of fill will not cause wave deflection to adjacent properties; and
  - c. Slope of fill will not cause wave run-up or ramping.
7. There shall be no alteration of sand dunes which would increase potential flood damage.
8. No manufactured homes shall be permitted except in an existing manufactured home park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring and elevation standards are in compliance with this section of ordinance.
9. Recreational vehicles may be permitted in Coastal High Hazard Areas provided that they meet the Recreational Vehicle criteria of Sec. 12-184(6)(a) and the Temporary Structure provisions of Sec. 12-184(7).



## DIVISION 6. LEGAL STATUS PROVISIONS

### **Sec. 12-190. Effect on rights and liabilities under the existing flood damage prevention ordinance.**

This article in part comes forward by re-enactment of some of the provisions of the flood damage prevention ordinance enacted May 12, 1987 as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this article shall not affect any action, suit or proceeding instituted or pending. All provisions of the flood damage prevention ordinance of Town of Carolina Beach enacted on May 12, 1987, as amended, which are not reenacted herein are repealed.

(Ord. No. 01-492, 11-13-01)

### **Sec. 12-191. Effect upon outstanding building permits.**

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

(Ord. No. 01-492, 11-13-01)

Secs. 12-192--12-210. Reserved.