



AGENDA
Town of Nags Head Planning Board
Nags Head Municipal Complex Board Room
Tuesday, February 18, 2020; 9:00 a.m.

- A. Call To Order
- B. Approval Of Agenda
- C. Joint Discussion With Board Of Commissioners
to Review Draft Flood Damage Prevention Ordinance Amendments

Documents:

[MEMO JOINT WORKSHOP- FLOOD MAP ADOPTION 2.14.20 FINAL W ATTACHMENT.PDF](#)
[MEMO FLOOD ORDINANCE UPDATE WITH ATTACHMENTS_2-4-2020.PDF](#)

- D. Public Comment/Audience Response
- E. Establishment Of Regular Meeting Dates For Calendar Year 2020

Documents:

[2020 SUBMITTAL DATES.PDF](#)

- F. Action Items

- 1. Continued Consideration Of A Text Amendment
to the Unified Development Ordinance submitted by a property owner to expand the principal sale items from outdoor stands to include reservations and tickets for events/activities.

Documents:

[MEMO WITH ATTACH TO PB RE OUTDOOR SALES AMENDMENT FOR TICKETS_2.13.2020.PDF](#)

- 2. Consideration Of A Text Amendment
to the Unified Development Ordinance to correct identified typographical errors.

Documents:

[UDO HOUSEKEEPING TEXT AMENDMENT- FEBRUARY 2020 PB.PDF](#)

- G. Report On Board Of Commissioners Actions
February 5, 2020 BOC Meeting

Documents:

[FEB 5 2020 BOC ACTIONS.PDF](#)

H. Town Updates - As Requested

I. Discussion Items

1. Continued Discussion Of Regulation Of Large Occupancy/Event Homes

Documents:

[EVENT HOME PDF FOR PB.PDF](#)

2. Discussion Of Legacy Establishments/Structures

Documents:

[MEMO WITH ATTACH TO PB RE LEGACY ESTABLISHMENTS AND STRUCTURES_2142020.PDF](#)

3. Discussion Of Residential Stormwater Regulations

Documents:

[MEMO WITH ATTACH TO PB RE STORMWATER_2.14.2020.PDF](#)

4. Discussion Of FY20-21 Planning & Land Use Work Plan

Documents:

[MEMO FY20-21 P AND D STRATEGIC WORK PLAN_2-17-2020.PDF](#)

J. Planning Board Members' Agenda

K. Planning Board Chairman's Agenda

L. Adjournment



MEMORANDUM

Town of Nags Head

Planning & Development Department

To: Board of Commissioners and Planning Board

From: Holly B. White, Principal Planner
Michael Zehner, Director of Planning & Development
Kelly Wyatt, Deputy Director of Planning & Development

Date: February 13, 2020

Subject: Joint Discussion with Board of Commissioners to Review Draft Flood Damage Prevention Ordinance Amendments

OVERVIEW

The Planning Board and Board of Commissioners received a packet of information on Wednesday, February 5th in preparation for this Joint Meeting. This memo will highlight relevant information identified since the packet was distributed.

The main objective for discussion at this joint meeting will be to review and discuss the draft Flood Damage Prevention Ordinance. In order to remain on schedule for adoption of the Flood Maps and Flood Damage Prevention Ordinance before June 19, 2020, it will be important that staff incorporate in any needed changes into the draft and bring back the draft Ordinance for consideration at the March 10th Planning Board Meeting. In order for the Town to remain in the National Flood Insurance Program, which offers federally backed flood insurance to homeowners and disaster assistance to the Town, the Town has to adopt the Preliminary Flood Maps.

Specific items for discussion at the meeting include:

- Development of a local elevation standard (LES)
- LES and Regulatory Flood Protection Elevations (RFPE)
 - Section 11.42.3.
- Optional language (noted in the draft Flood Damage Prevention Ordinance)

POLICY CONSIDERATIONS

The Comprehensive Plan has several policies and actions that are supportive of protecting the health and safety of the Town from hazards. These include:

- LU-3 Recognize a low-density pattern of development for the oceanfront that is characterized by small scale, adaptable structures.
 - LU-3a: Develop incentives or regulations that limit individual building sizes to 5,000 square feet and 35 feet in height for new oceanfront development.

- Any new town regulations should not preclude existing structures greater than 5,000 square feet from making improvements, renovations, or repairs.
- LU-3b: Regulate accessory structures in the active, oceanfront environment where frequent damage occurs to protect private property and limit storm damage and debris. This may include additional regulations applicable to oceanfront pools, dune decks, walkovers, and gazebos.
 - LU-3c: Maintain current regulations regarding free of obstruction and the prohibition of ground floor enclosures along the oceanfront.
- NR-10 Protect the public health and safety of the town from natural and manmade hazards through proactive planning and mitigation efforts.
 - NR-11 Ensure that the town is a disaster resilient community that can survive, recover from, and thrive after a natural or man-made disaster event.
 - NR-11i: Explore resilient construction techniques and higher regulatory standards to protect existing and future development from frequent localized flooding events.
 - NR-11j: Monitor areas of frequent flooding during regular and major storm events. Maintain and utilize this information to ensure accurate floodplain mapping, educational efforts, and the application of higher regulatory standards (if needed).
 - NR-13 Support the town's continued participation in the National Flood Insurance Program (NFIP) and Community Rating System (CRS). Participation in the NFIP is key in making federally backed flood insurance available within the town and to improve the town's CRS rating.
 - NR-16 Minimize impacts of future sea level rise.

ISSUE AND OPTIONS

Since the distribution of the packet last week the following items have come to light:

- The definition reflected in the draft ordinance for Local Elevation Standard should be updated to allow for flexibility of administration in Nags Head. In addition, this definition may also need to be updated to maximize CRS credits.

Local Elevation Standard means a locally adopted elevation level used as the Regulatory Flood Protection Elevation (RFPE) ~~in Shaded X and X zones~~ or used in conjunction with the BFE and freeboard standard to mitigate flood hazards in the ~~Shaded X, X, AE, AO, VE~~, as depicted on the FIRMs for Nags Head.

- The definition in Appendix A for Regulatory Flood Protection was intended to be the same as that language referenced in 11.42.3. Establishment of Regulatory Flood Protection Elevation (RFPE). For the final draft, this will be amended.

- Addition of language to allow for the creation of the Local Elevation Standard. Suggest adding as 11.42.3. The language would be as follows:

*Establishment of a Local Elevation Standard for Shaded X and X Zones.
A locally adopted elevation standards shall apply to any Shaded X or X zone as identified on the effective DFIRMs for Dare County. These areas may be vulnerable to flooding from storm surge, wind-driven tides, and excessive rainfall associated with storm systems. Many of these areas have flooded during past storm events and continue to remain at risk to flooding. Therefore, an elevation standard and other floodplain development standards have been determined by the Town of Nags Head to be appropriate for these Shaded X and X zones as defined in Appendix A Definitions. All development activities in any Shaded X or X zone shall conform to the provisions set forth in this Article.*

- Amend the definition of Coastal High Hazard Area (CHHA) as follows:

“Coastal High Hazard Area (CHHA)” 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 11.42.2. Basis for Establishing the Special Flood Hazard Areas of this ordinance, as Zone VE, or any property containing a structure or proposed structure east of NC 12 or SR 1243.

- Instead of referencing the regulations for Section 11.44.3 as Properties East of NC 12 and SR 1243, reference this as the Coastal High Hazard Area.
- Strike language in the draft ordinance for the following sections. These are not necessary model ordinance language as there are no LiMWA, floodways, or non-encroachment areas within the Town.
 - 11.44.4 Standards for Coastal A Zones (Zone CAZ) LiMWA
 - Section E. Standards for riverine floodplains with base flood elevations but without established floodways or non-encroachment areas.
 - Section F. Floodways and non-encroachment areas.

NEXT STEPS

Following the joint meeting, consistent with the tentative schedule, Staff will incorporate any suggested changes in the draft Flood Damage Prevention Ordinance, a community informational meeting will be held in early March, and the text amendment will officially be presented to the Planning Board at their March 17, 2020 meeting.

- Early March 2020 - Community Information Meeting; information materials made available online
- March 17, 2020 - Planning Board Meeting; consider recommendation
- April 8, 2020 - Board of Commissioners Consent Agenda; request to schedule public hearing

- May 6, 2020 - Board of Commissioners Public Hearing; Final Action (or continued consideration to June 3, 2020 meeting)
- June 19, 2020 - Effective Date (no later than)

Attachment: FAQ for the Local Elevation Standard (LES)



Town of Nags Head
Local Elevation Standard (LES)
 Guidance & FAQ's

Planning and Development Department
 5401 S. Croatan Highway
 PO Box 99
 Nags Head, NC 27959
 252-441-7016 • Planning@nagsheadnc.gov
www.nagsheadnc.gov

What is a Local Elevation Standard?

A local elevation standard or LES is a locally adopted elevation level used as the Regulatory Flood Protection Elevation (RFPE) or used in conjunction with the Base Flood Elevation (BFE) and freeboard standard to mitigate flood hazards in Shaded X and X, AE, AO, or VE flood zones as depicted on the FIRMS for Nags Head.

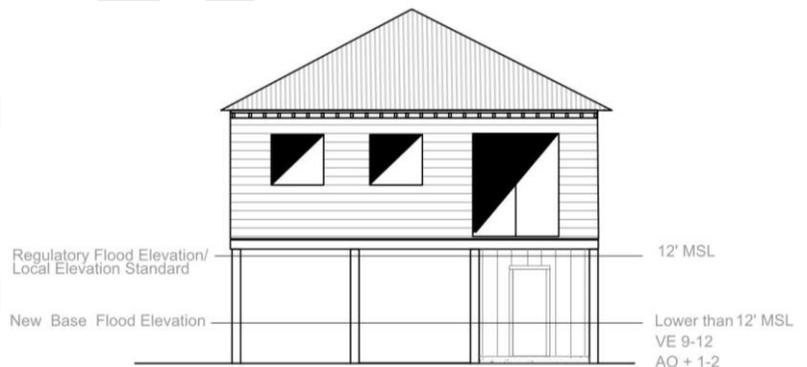
RFPE means the BFE plus the "freeboard". In special flood hazard areas (SFHA) where base flood elevations (BFE) have been determined, this elevation shall be the BFE plus one foot of freeboard or the Local Elevation Standard for those areas where base flood elevations have been determined on the FIRM.

What is the LES in Nags Head?

The LES in Nags Head is defined as:

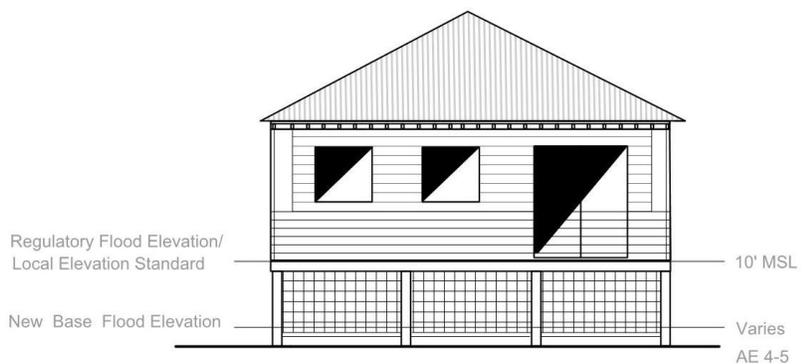
- For properties located east of NC 12 and SR 1243-

Properties located to the east of NC 12 and SR 1243 are located in an active oceanfront environment that is vulnerable to storm surge, erosion, sea level rise, and other hazards. These areas have special flood hazards associated with high velocity waters from storm surges or seismic activity and, therefore, the RFPE is 12 feet NAVD 1988.



Local Elevation Standard East of Hwy 12 and Hwy 1243

- For properties located west of NC 12 and SR 1243- Properties located in flood zones Shaded X, X, or AE, the RFPE is 10 feet NAVD 1988.



Local Elevation Standard West of Hwy 12

How does the LES impact new development?

New development should meet the RFPE and the regulations in Section 11.44 Provisions for Flood Hazard Reduction of the UDO.

How does the LES affect homes that are already constructed?

The local elevation standard was developed to protect human life, safety, and health and minimize damage to property due to flooding in areas known to flood but located in a Shaded X or X flood zone. The regulations in Section 11.44 Provisions for Flood Hazard Reduction of the UDO outline the standards for construction.

For all homes:

- Areas in existing structures shall not be converted for use as conditioned, temperature-controlled space unless the reference level is located to or above the RFPE.

For additions, improvements, or conversions of homes located in Shaded X or X Flood zones:

- The substantial improvement/substantial damage definitions (Appendix A) do not apply.
- Lateral additional (increase in the footprint of the conditioned, temperature-controlled space) to existing structures greater than 10% of the total floor area on the level on which the addition is located shall have the reference level elevated to or above the RFPE.
- Remodeling or renovations of existing habitable area in structures with the reference level located below the current applicable RFPE that do not increase the footprint of the structure may be authorized at the existing reference level or higher.
- Reconstruction of damaged portions of a structure may be authorized at the existing reference level or higher. However, if a structure is entirely demolished, for whatever reason, the replacement structure shall be constructed to or above the RFPE.

If I am in an Shaded X or X flood zone, do I still need flood insurance?

Floods can happen anywhere. Flood maps do not account for rainfall, elevated groundwater levels, or the naturally low topography of the Outer Banks barrier islands. Even properties located in Shaded X or X zones can flood. For more information visit OBXFloodMaps.Com.

**Did you know
that 1 in 4 flood losses
occur in low-risk
X Zones?
Floods can
happen anywhere.**



MEMORANDUM

Town of Nags Head

Planning & Development Department

To: Board of Commissioners
Planning Board

From: Holly White, Principal Planner
Michael Zehner, Director of Planning & Development

Date: February 4, 2020

Subject: Updated Flood Maps, Flood Prevention Ordinance, and Related Regulations

Overview and Background

As the boards are aware, the Town now has the Letter of Final Determination concerning the updated FEMA Flood Insurance Rate Map (F.I.R.M.) as of December 19, 2019. As previously relayed, the updated map would be effective no later than 6 months after receipt of the letter, so June 19, 2020. The Board of Commissioners and Planning Board will meet jointly at the Planning Board's meeting on February 18, 2020 to review and discuss an initial draft of the updated Flood Damage Prevention Ordinance, along with updated building height measurement and fill provisions, to be considered in concert with the updated F.I.R.M. covering the Town. The tentative schedule beyond the February 18 meeting is as follows:

- Early March 2020 - Community Information Meeting; information materials made available online
- March 17, 2020 - Planning Board Meeting; consider recommendation
- April 8, 2020 - Board of Commissioners Consent Agenda; request to schedule public hearing
- May 6, 2020 - Board of Commissions Public Hearing; Final Action (or continued consideration to June 3, 2020 meeting)
- June 19, 2020 - Effective Date (no later than)

Updated Flood Maps

The preliminary F.I.R.M., released in June of 2016, revealed that many areas of the Town will be removed from the Special Flood Hazard Area. Additionally, the Base Flood Elevations have been significantly reduced in areas remaining in the Special Flood Hazard Area. The F.I.R.M. depicts impacts from storm surge for the 1% (or 100-year) and .2% (500-year) flood zones; however, Staff does not believe that the F.I.R.M. accurately represents risks associated with rainfall flooding.

Major changes to the F.I.R.M. include:

1. The primary frontal dune has been established and used in modeling of storm surge;
2. Reduction of surge impacts, overland waves, and stillwater elevations;

3. Fewer VE zone properties;
4. Fewer AE zone properties;
5. Overall increase in X zone properties town wide, even on the oceanfront;
6. Removal of causeway properties from VE zone;
7. Base flood elevations reduced in AE zone; most new BFE's are 4' or 5', formerly 8'-10';
8. Base flood elevations modified; BFE's range from 10'-12'; formerly 11' through entire town; and
9. Addition of AO zones west of primary frontal dune

A memo to the Board of Commissioners dated February 15, 2018 and the associated presentation titled *Flood Map Workshop* (February 21, 2018) have been attached to provide a detailed background on the flood maps, previous community engagement steps, and considerations for adoption.

Below is a summary of changes in the current and updated maps for properties in the V and A Zone for Dare County and all the municipalities. This information was provided by the State. The draft FRIS (Flood Risk Information System) maps can be viewed at the following: [LINK](#) - Be sure to click the drop down button in the upper right hand corner and select "Preliminary" instead of "Effective to view the draft maps.

	Buildings			
	V Zone		A Zone	
	Current	Updated	Current	Updated
DARE COUNTY	1,828	124	12,875	8,493
DUCK	397	255	882	96
KILL DEVIL HILLS	511	226	4,369	182
KITTY HAWK	500	278	1,898	979
MANTEO	13	0	1,149	418
NAGS HEAD	1,405	726	2,756	481
SOUTHERN SHORES	250	122	1,035	237

Kitty Hawk has 389 structures in Zone AH and there will be 893 structures in Zone AO (County-wide).

Draft Flood Prevention Ordinance Amendments

The Town's existing Flood Damage Prevention Ordinance is largely consistent with the State Model Ordinance for coastal communities; however, the Town does currently utilize several higher standards that include:

- 1' Freeboard - V & AE
- 18" Free of Obstruction - VE
- Enclosures
 - No enclosures in V
 - Limited to 300 sq. ft. in AE
- Elevation Certificates
 - Require Two
 - After 1st floor established; and
 - Final
 - Only required to have final

The most significant change to the draft Flood Damage Prevention Ordinance is the development of a Local Elevation Standard ("LES"). Staff has worked with the planning staff from Dare County and the other municipalities to develop these standards in conjunction with the Outer Banks Home Builders Association. Attached is a matrix that provides an overview of all the changes as well as the approach taken by each community. The LES creates Regulatory Flood Protection Elevations ("RFPE") for Shaded X, X, AE, AO, and VE flood zones as described below from Section 11.42.3., *Establishment of Regulatory Flood Protection Elevation (RFPE)*, of the draft:

11.42.3. Establishment of Regulatory Flood Protection Elevation (RFPE)
Regulatory flood protection elevation means the "base flood elevation" plus the "freeboard". In "special flood hazard areas" where base flood elevations (BFE) have been determined, this elevation shall be the BFE plus one foot of freeboard or the "Local Elevation Standard" for those areas where base flood elevations have been determined on the FIRM; the base flood depth above the highest adjacent grade or "Local Elevation Standard" for those areas identified as AO zones of the FIRM, or the "Local Elevation Standard" for those areas identified as Shaded X or X zones on the FIRM. The Local Elevation Standard means a locally adopted elevation level used as the Regulatory Flood Protection Elevation (RFPE) in Shaded X and X zones or used in conjunction with the BFE and freeboard standard to mitigate flood hazards in the AE, AO, VE, as depicted on the FIRMs for Nags Head.

11.42.3.1. In Nags Head the RFPE is as defined as:

11.42.3.1.1. Properties located to the east of NC 12 and SR 1243 are located in an active oceanfront environment that is vulnerable to storm surge, erosion, sea level rise, and other hazards. These areas have special flood hazards associated with high velocity waters from storm surges or seismic activity and, therefore, the RFPE is 12 feet NAVD 1988.

11.42.3.1.2. Properties located in flood zones Shaded X, X, or AE, the RFPE is 10 feet NAVD 1988.

The LES would:

- Create an elevation requirement for properties east of NC 12 and NC 1243 of 12'. All properties in this area, regardless of mapped zone would be treated as VE zone properties for regulatory purposes. The existing language requiring 18" free of obstruction and no enclosure for VE zones would be carried forward.
- Create an elevation requirement for Shaded X, X, or AE flood zones of 10'.
- The substantial improvement/substantial damage definitions as established in Appendix A, Definitions, do not apply to Shaded X and X zones.
- Remodeling or renovations of existing habitable area in structures with the reference level located below the current applicable RFPE that do not increase the footprint of the structure may be authorized at the existing reference level or higher.
- Laterals additions (increase in the footprint of the conditioned, temperature-controlled space) to existing structures greater than 10% of the total floor area on the level on which the addition is located shall have the reference level elevated to or above the RFPE.
- Areas in existing structures shall not be converted for use as conditioned, temperature controlled space unless the reference level is located to or above the RFPE.

Draft UDO Amendments Related to Flood Damage Prevention

In conjunction with amendment of the Flood Damage Prevention Ordinance, it will also be necessary to update relevant portions of Article 4, *Development Review Process*, concerning Floodplain Development Permits, and Article 8, District Development Standards, concerning the measurement of height. Relevant sections are provided below, with draft changes shown in orange.

Article 4, *Development Review Process*

4.11.3. Floodplain Development Permit.

Floodplain Development Permits are can be issued in combination with a zoning, land disturbance, and/or building permit or as a stand-alone permit for any development within the **Special Flood Hazard Area (SFHA) Shaded X, X, AE, AO, and VE flood zones.**

4.12.2. Specific Site Plan Requirements Based on the Proposed Activity.

Depending on the proposed development activity, additional information may be required for permitting. Site plan information submitted as part of the development review process for non-residential development will be sufficient to complete the permitting process (excluding full construction drawings). The follow items may be required if applicable:

4.12.2.1 For All Types of Development Activity.

- Site plan/survey

- Property information- address, ownership, lot number/map book/page reference
- Existing and proposed development including but not limited to streets, topographic and natural features, and drainage
- Coastal Area Management Act (CAMA) Permit.
- Wastewater approval from Dare County Health Department or NC Department of Environmental Quality.
- Erosion control approval is issued with general development for projects disturbing more than 5,000 square feet (see Article 11, Part II).
- Flood (if in a Special Flood Hazard Area, **Shaded X, or X Zone**, see Article 11, Part III).
- Stormwater management (for projects which propose filling greater than one foot or for all new commercial construction, see Article 11, Part I).
- Architecture (for residential structures greater than 3,500 square feet, see UDO Section 7.4 , Dwelling, Large Residential)
- Utility connections (see Town Code Chapter 44).
- Any other State or Federal Permits

Article 8, District Development Standards

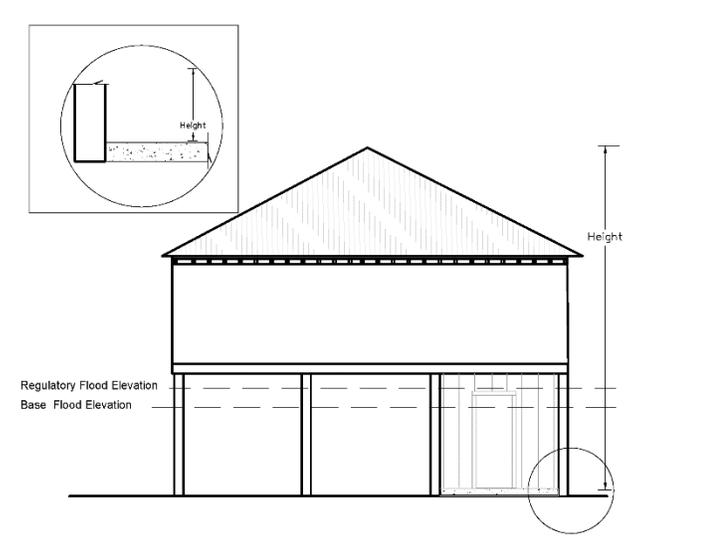
8.6.4. Building Height.

8.6.4.1. Measurement of height. Height means the vertical distance measured from the tallest part of a building to the ground at the base of the building. Typically, height is measured from the tallest portion of the roof to the top of the concrete slab. In cases where a concrete slab is not present, height is measured from the tallest part of the roof to the average finished grade using the corners at the base of the building.



8.6.4.1.2. VE Flood Zone- Height

8.6.4.1.1. In any **Shaded X, X, or AE special flood hazard area flood zone**, height will be measured from the regulatory flood protection elevation or finished grade, whichever is higher. In cases where there is a ground floor enclosure below the regulatory flood protection elevation, height shall be measured from finished grade.



8.6.4.1.1. AE Flood Zone- Height

8.6.4.1.2. In coastal high hazard areas ~~or~~, VE zones, **AO, and Shaded X or X special flood hazard areas east of Hwy 12 and 1243**, height shall be measured from regulatory flood protection elevation. In cases where the finished grade elevation is above the regulatory flood protection elevation, height shall be measured at approximately eighteen (18) inches above the highest, undisturbed, finished grade directly beneath the structure.

8.6.4.2. The maximum height of a structure may be increased to forty-two (42) feet if the structure utilizes an eight-twelfths roof pitch as specified in the Town of Nags Head Residential Design Guidelines.

Fill Amendments

Fill provisions, as contained in Part I, *Stormwater, Fill, and Runoff Management*, of Article 11, *Environmental Regulations*, work in concert with regulations contained in the Flood Prevention Ordinance. As noted, consideration should be given to updating these provisions when consideration adoption of the Flood Prevention Ordinance amendments. A previous markup of the fill provisions applicable to residential or duplex development is attached; however, this markup did not take into account a significant consideration wherein the reduction of the V/VE zone along the east side of NC 12 and NC 1243 and increase of the X zone may allow for greater filling of oceanfront properties without being addressed.

In terms of fill provisions applicable to commercial projects, the current provision is as follows. Consideration to the expansion of the X zone and the current allowance of greater filling within the X zone will need to be considered, especially for properties located on the east side of NC 12 and NC 1243.

11.4.3.6. Fill shall not be permitted to exceed base flood elevation except in cases where it is placed directly beneath a slab that is designed to meet the regulatory flood protection elevation as defined in Appendix A Definitions. In these instances, fill may exceed the base flood elevation by up to 12 inches to support a turn-down or thickened edge slab or beneath a slab that is supported by a ring-wall style foundation. Fill placed above the base flood elevation shall not extend beyond the outside edge of the slab. In areas in which there is no base flood, fill shall not exceed the amount required for wastewater permits required by the Dare County Health Department, or two (2) feet above pre-development surface elevation, whichever is higher.

In no case shall fill be placed or a lot be graded such that off-site drainage patterns are altered to direct stormwater runoff onto another property unless part of an approved plan with appropriate agreements or easements.

Next Steps

Staff will continue to refine this information and options for consideration at the February 18 meeting, updating the boards as necessary. Board members are welcome and encouraged to submit any questions or thoughts that might benefit the conversation. Following the joint meeting, consistent with the tentative schedule, Staff will incorporate any suggested changes in the draft Flood Damage Prevention Ordinance, a community informational meeting will be held in early March, and the text amendment will officially be presented to the Planning Board at their March 17, 2020 meeting.

Red- changes/new language as provided in the State Model Ordinance
 Blue- suggested local ordinance language developed to support a local elevation standard
 Orange- Nags Head specific edits
 Black- existing flood damage prevention ordinance in UDO
 Grey Highlight- optional model ordinance language

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Red- changes/new language as provided in the State Model Ordinance

Blue- suggested local ordinance language developed to support a local elevation standard

Orange- Nags Head specific edits

Black- existing flood damage prevention ordinance in UDO

Grey Highlight- optional model ordinance language

PART III. FLOOD DAMAGE PREVENTION

SECTION 11.41. ~~PURPOSE AND INTENT~~ STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES.

11.41.1. Statutory Authorization.

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 (NCGS), delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety and general welfare of its citizenry. Therefore, the Board of Commissioners does ordain as follows in this Article 11, Part III.

11.41.2. Findings of Fact.

11.41.2.1. The flood prone areas of the Town are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

11.41.2.2. 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.

11.41.3. Statement of Purpose.

It is the purpose of this Article 11, Part III to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:

11.41.3.1. 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;

11.41.3.2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

11.41.3.3. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;

11.41.3.4. Control filling, grading, dredging and other development which may increase erosion or flood damage; and

11.41.3.5. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters, or which may increase flood hazards to other lands.

Red- changes/new language as provided in the State Model Ordinance

Blue- suggested local ordinance language developed to support a local elevation standard

Orange- Nags Head specific edits

Black- existing flood damage prevention ordinance in UDO

Grey Highlight- optional model ordinance language

11.41.4. Objectives.

The objectives of this article are to:

- 11.41.4.1.** Protect human life, safety and health;
- 11.41.4.2.** Minimize expenditure of public money for costly flood control projects;
- 11.41.4.3.** Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- 11.41.4.4.** Minimize prolonged business losses and interruptions;
- 11.41.4.5.** Minimize damage to public facilities and utilities, such as water and gas mains, electric, telephone, cable and sewer lines, streets and bridges, located in flood prone areas;
- 11.41.4.6.** Minimize damage to private and public property due to flooding;
- 11.41.4.7.** Make flood insurance available to the community through the National Flood Insurance Program (NFIP);
- 11.41.4.8.** Maintain the natural and beneficial functions of floodplains;
- 11.41.4.69.** Help maintain a stable tax base by providing for the sound use and development of flood-prone areas; and
- 11.41.4.710.** To ensure that potential homebuyers are notified that property is in a ~~s~~Special Flood Hazard Area (SFHA) or other areas prone to flooding.
- 11.41.4.11.** Mitigate flood risks in Nags Head by implementing local elevation standards for all Special Flood Hazard Areas and Shaded X and X zones.

SECTION 11.42 GENERAL PROVISIONS.

11.42.1. Lands to Which this Article 11, Part III Applies.

This Article 11, Part III shall apply to all ~~special flood hazard~~ areas within the jurisdiction of the Town, including Extra-Territorial Jurisdictions (ETJs) as allowed by law.

11.42.2. Basis for Establishing the Special Flood Hazard Areas.

The special flood hazard areas are those identified under the ~~e~~Cooperating ~~t~~Technical ~~s~~State (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) dated June 19, 2020 for Town of Nags Head, Dare County and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of this ordinance, and all revisions thereto after January 1, 2021. ~~Future revisions to the FIS and DFIRM panels that do not~~

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change flood hazard data within the jurisdictional authority of the Town of Nags Head are also adopted by reference and declared a part of this ordinance. Subsequent Letter of Map Revisions (LOMRs) and/or Physical Map Revisions (PMRs) shall be adopted within 3 months.

Commented [HW1]: Model ordinance is more restrictive than current regulations. We currently do not do this.

and its accompanying Flood Insurance Rate Maps (FIRM), for Dare County dated September 20, 2006, which are adopted by reference and declared to be a part of this Article 11, Part III.

11.42.3. Establishment of Regulatory Flood Protection Elevation (RFPE)

Regulatory flood protection elevation means the "base flood elevation" plus the "freeboard". In "special flood hazard areas" where base flood elevations (BFE) have been determined, this elevation shall be the BFE plus one foot of freeboard or the "Local Elevation Standard" for those areas where base flood elevations have been determined on the FIRM; the base flood depth above the highest adjacent grade or "Local Elevation Standard" for those areas identified as AO zones of the FIRM, or the "Local Elevation Standard" for those areas identified as Shaded X or X zones on the FIRM. The Local Elevation Standard means a locally adopted elevation level used as the Regulatory Flood Protection Elevation (RFPE) in Shaded X and X zones or used in conjunction with the BFE and freeboard standard to mitigate flood hazards in the AE, AO, VE, as depicted on the FIRMs for Nags Head.

Commented [HW2]: Establishes the regulatory flood protection elevation for the local elevation standard.

11.42.3.1. In Nags Head the RFPE is as defined as:

11.42.3.1.1. Properties located to the east of NC 12 and SR 1243 are located in an active oceanfront environment that is vulnerable to storm surge, erosion, sea level rise, and other hazards. These areas have special flood hazards associated with high velocity waters from storm surges or seismic activity and, therefore, the RFPE is 12 feet NAVD 1988.

11.42.3.1.2. Properties located in flood zones Shaded X, X, or AE, the RFPE is 10 feet NAVD 1988.

11.42.4. Establishment of Floodplain Development Permit.

A floodplain development permit shall be required in conformance with the provisions of this Part prior to the commencement of any development activities within ~~special flood hazard areas determined in accordance with subsection 11.42.2~~ the AE, AO, VE, Shaded X or X zone.

~~11.42.4.~~ **11.42.5. Compliance.**

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

~~11.42.5.~~ **11.42.6. Abrogation and Greater Restrictions.**

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

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~~11.42.6.~~ 11.42.7. Interpretation.

In the interpretation and application of this Part, all provisions shall be considered as minimum requirements; liberally construed in favor of the ~~Board of Commissioners governing body~~; and deemed neither to limit nor repeal any other powers granted under state statutes.

~~11.42.7.~~ 11.42.8. Warning and Disclaimer of Liability.

The degree of flood protection required by this Part is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur; actual flood heights may be increased by manmade or natural causes. This Part does not imply that land outside the special flood hazard areas or uses permitted within such areas will be free from flooding or flood damages. This Part shall not create liability on the part of the Town or by an officer or employee thereof for any flood damages that result from reliance on this Part or any administrative decision lawfully made thereunder.

~~11.42.9.~~ 11.42.9. Penalties for Violations.

Violation of the provisions of this Part or failure to comply with its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a **Class 1** misdemeanor pursuant to NC G.S. § 143-215.58. Any person who violates this article or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$500.00 or imprisoned for not more than 30 days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town from taking such other lawful action as it necessary to prevent or remedy any violation. Other lawful actions may include, but shall not be limited to, those provisions in Section 1.10, Violation of UDO Regulations.

SECTION 11.43 ADMINISTRATION.

11.43.1. Designation of Floodplain Administrator.

The Chief Building Inspector or his designee, hereinafter referred to as the "Floodplain Administrator", is hereby appointed to administer and implement the provisions of this Part. ~~In instances where the Floodplain Administrator receives assistance from others to complete tasks to administer and implement this ordinance, the Floodplain Administrator shall be responsible for the coordination and community's overall compliance with the National Flood Insurance Program and the provisions of this ordinance.~~

11.43.2. Duties and Responsibilities of the Floodplain Administrator.

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

11.43.2.1. Review ~~of~~ all floodplain development applications and issue permits for all proposed development ~~within special flood hazard areas-Shaded X, X, AE, AO, and VE flood zones~~ to assure that all requirements of this Part have been satisfied.

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11.43.2.2. ~~Advising permittee that additional federal or state permits (wetlands, endangered species, erosion and sedimentation control, CAMA, riparian buffers, mining, etc.) may be required, and if specific federal or state permits are known, requiring that copies of such permits be provided and maintained on file with the floodplain development permit.~~ Review all proposed development ~~within Special Flood Hazard Areas~~ to assure that all necessary local, state and federal permits have been received, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

11.43.2.3. Notifying adjacent communities and the North Carolina Department of Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alterations or relocation of a watercourse and submitting evidence of such notification to FEMA.

11.43.2.4. ~~Ensuring~~ Assuring that maintenance is provided within the altered or relocated portion of such watercourse so that the flood-carrying capacity is ~~not diminished~~ maintained.

11.43.2.5. Obtaining the actual elevation (in relation to ~~mean-sea-level NAVD 1988~~) of the reference level (including the basement) and all attendant utilities of all new or substantially improved structures in accordance with subsection 11.43.5.1 of this section.

11.43.2.6. Obtaining the actual elevation (in relation to ~~mean-sea-level NAVD 1988~~) to which all new or substantially improved structures and utilities have been floodproofed in accordance with subsection 11.43.5.1 of this section.

11.43.2.7. Obtain actual elevation (in relation to ~~mean-sea-level NAVD 1988~~) of all public utilities in accordance with subsection 11.43.5.1 of this section.

11.43.2.8. When floodproofing is utilized for a particular structure, the floodplain administrator shall obtain certifications from a ~~state~~ registered professional engineer or architect in accordance with subsection 11.43.5.2 of this section and subsection 11.44.2.2.

11.43.2.9. Where interpretation is needed as to the exact location of the boundaries of the special flood hazard areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) or ~~Shaded X or X flood zones~~, the floodplain administrator shall 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 Part.

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

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of map amendment (LOMA) issued by FEMA in the floodplain development permit file.

(OPTIONAL)

11.43.2.11. Making 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 this article and 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 Town at any reasonable hour for the purposes of inspection or other enforcement action.

11.43.2.12. Issue stop work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this Part, 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 reasons(s) for the stoppage, and the conditions(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.

11.43.2.13. 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 any applicable state or local law may be revoked.

11.43.2.14. Permanently maintain all records pertaining to the administration of this Part and making these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.

11.43.2.15. Providing the North Carolina Department of Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program with two copies of the maps delineating new corporate limits within six months from date of annexation or change in corporate boundaries.

11.43.2.16. Make periodic inspections throughout ~~all special flood hazard areas within~~ the jurisdiction of the Town. 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.

11.43.2.17. Follow through with corrective procedures of subsection 11.43.6.

11.43.2.18. Review, provide input, and make recommendations for variance requests.

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11.43.2.19. Maintain a current map repository to include, but not limited to, ~~the historical and effective~~ FIS report, ~~historical and effective~~ FIRM and other official flood maps and studies adopted in accordance with subsection 11.42.2 of this Part, including any revisions thereto including letters of map change, issued by FEMA. Notify state and FEMA of mapping needs.

11.43.2.20. Coordinate revisions to FIS reports and FIRMS, including letters of map revision based on fill (LOMR-F) and letters of map revision (LOMR).

11.43.3. Floodplain Development Application Requirements.

Application for a floodplain development permit shall be made to the floodplain administrator on forms ~~furnished by him~~ prior to any development activities ~~located within special flood hazard areas~~. The following items shall be presented to the floodplain administrator to apply for a floodplain development permit:

11.43.3.1. Two copies of a ~~P~~plot plans ~~in duplicate~~ drawn to scale, ~~along with an electronic version~~, which shall include, but shall not be limited to, the following specific details of the proposed floodplain development; ~~at the discretion of the floodplain administrator, such plot plans shall be certified by a North Carolina registered land surveyor or professional engineer:~~

11.43.3.1.1. The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, location of fill materials, storage areas, drainage facilities, and other development;

11.43.3.1.2. The boundary of ~~the any~~ special flood hazard area ~~or any Shaded X or X Zone~~ as delineated on the FIRM or other flood map as determined in subsection 11.42.2 or a statement that the entire lot is within the special flood hazard area;

11.43.3.1.3. Flood zone(s), ~~including any Shaded X or X zone~~, designation of the proposed development area as determined on the FIRM or other flood map as determined in subsection 11.42.2;

11.43.3.1.4. The base flood elevation (BFE) ~~and/or the Regulatory Flood Protection Elevation (RFPE)~~ where provided as set forth in subsection 11.42.2;

11.43.3.1.5. The old and new location of any watercourse that will be altered or relocated as a result of proposed development; ~~and~~

11.43.3.1.6. The boundary and designation date of the CBRS area or OPA, if applicable. ; ~~and~~

~~**11.43.3.1.7.** Certification of the plot plan by a registered land surveyor or professional engineer. (OPTIONAL)~~

Commented [HW3]: Model indicates this is optional language. Incorporated into 11.43.4.1

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11.43.3.2. Proposed elevation, and method thereof, of all development ~~within a special flood hazard area~~ including but not limited to:

11.43.3.2.1. The elevation in relation to ~~mean sea level~~ NAVD 1988 of the proposed reference level (including the basement) of all new and substantially ~~improved structures~~ ~~improvements~~; and

11.43.3.2.2. Elevation in relation to ~~mean sea level~~ NAVD 1988 to which any non-residential structure in zone AE or ~~AO~~ or ~~Shaded X~~ or ~~X Zone~~ will be floodproofed; and

11.43.3.2.3. Elevation in relation to ~~mean sea level~~ NAVD 1988 to which any proposed utility systems will be elevated or floodproofed.;

11.43.3.3. If floodproofing, a floodproofing certificate (FEMA Form ~~81-65~~ 086-0-34) with supporting data, ~~and an~~ operational plan, ~~and an inspection and maintenance plan~~ that includes, but is not limited to, installation, exercise, and maintenance of floodproofing measures.

11.43.3.4. A foundation plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this Part are met. These details include but are not limited to:

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

11.43.3.4.2. Openings to facilitate equalization of hydrostatic flood forces on walls in accordance with subsection 11.44.2.4 when solid foundation perimeter walls are used in zones AE ~~or AO~~ or ~~Shaded X~~ or ~~X Zone~~.

11.43.3.4.3. The following, in coastal high hazard areas, in accordance with subsection 11.44.2.4.4 and subsection 11.44.3:

11.43.3.4.3.1. V-Zone certification with accompanying plans and specifications verifying the engineered structure and any breakaway wall designs ~~for accessory structures~~. ~~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. (OPTIONAL);~~

11.43.3.4.3.2. Plans for open wood lattice or insect screening, if applicable.

Commented [HW4]: Staff recommends that AO Flood zones are treated as VE Flood Zones due to their vulnerability to storm surge and location east of Hwy 12 and 1243. AO Flood Zones would be treated the same as VE Flood Zones are now. This is a higher standard.

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11.43.3.4.3.3. Plans for non-structural fill, if applicable. If non-structural fill is proposed, it must demonstrate through coastal engineering analysis that the proposed fill would not result in any increase in the base flood elevation or otherwise cause adverse impacts by wave ramping and deflection onto the subject structure or adjacent properties.

11.43.3.5. Usage details of any enclosed areas below the regulatory flood protection elevation.

11.43.3.6. 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.

11.43.3.7. ~~Copies of Certification that~~ 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.) **have been received.**

Commented [HW5]: Model language more stringent than current

11.43.3.8. Documentation for placement of recreational vehicles and/or temporary structures, when applicable, to ensure subsections 11.44.2.3 and 11.44.2.5 of this Part are met.

11.43.3.9. 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 on properties located both upstream and downstream; and a map (if not shown on the plot plan) showing the location of the proposed watercourse alteration and relocation.

11.43.3.10. *In Shaded X and X zones, a survey prepared by a licensed North Carolina surveyor may be used to demonstrate the natural grades of the parcel relative to the RFPE of 10 feet*

11.43.4. Floodplain Development Permit Requirements.

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

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

11.43.4.2. The ~~special flood hazard area~~ **flood zone** determination for the proposed development per available data specified in subsection 11.42.2.

11.43.4.3. The regulatory flood protection elevation required for the reference level and all attendant utilities.

11.43.4.4. The regulatory flood protection elevation required for the protection of all public utilities.

11.43.4.5. All certification submittal requirements with timelines.

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11.43.4.6. The flood openings requirements, if in zones AE, ~~or AO~~ **or Shaded X, or X Zone.**

11.43.4.7. Limitations of use of the enclosures below the lowest floor, not to exceed 300 square feet in area, (i.e. parking, building access and limited storage only).

Commented [HW6]: Higher standard

11.43.4.8. A statement, if in zone VE, that there shall be no alteration of sand dunes which would increase potential flood damage.

11.43.4.9. A statement, if in zone VE, that there shall be no fill used for structural support.

11.43.4.10 A statement, that all materials below BFE/RFPE must be flood resistant materials.

11.43.5. Floodplain Development Certification Requirements.

11.43.5.1. Elevation Certificates for AE, AO, VE, Shaded X, and X Zones.

11.43.5.1.1. An elevation certificate (FEMA Form ~~81-31 086-0-33~~) may be required prior to the actual start of any new construction if determined necessary by the floodplain administrator. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of elevation of the reference level, in relation to ~~mean-sea level~~ NAVD 1988. 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.

(STATE RECOMMENDED BUT OPTIONAL)

Commented [HW7]: Optional language is for requiring 1st EC. The Town's language allows the FA to make the determination

11.43.5.1.2. An elevation certificate (FEMA ~~81-31 086-0-33~~) is required after the reference level is established. Within 21 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~~ NAVD 1988. Any work done within the 21 calendar-day-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 the required corrections shall be cause to issue a stop-work order for the project. **(STATE RECOMMENDED BUT OPTIONAL)**

Commented [HW8]: This is currently being required.

11.43.5.1.3. A final ~~as-built~~ **Finished Construction** elevation certificate (FEMA ~~81-31 086-0-33~~) 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~~

Commented [HW9]: This is currently being required.

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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 to a certificate of compliance/occupancy. **The Finished Construction Elevation Certificate certifier shall provide at least 2 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 provided in Section A. To the extent possible, these photographs should show the entire building including foundation. If the building has split-level or multi-level areas, provide at least 2 additional photographs showing side views of the building. In addition, when applicable, provide a photograph of the foundation showing a representative example of the flood openings or vents. All photographs must be in color and measure at least 3" x 3". Digital photographs are acceptable. (OPTIONAL) (THE FEMA ELEVATION CERTIFICATE IS OPTIONAL FOR FLOODPLAIN MANAGEMENT ELEVATION DATA, BUT RECOMMENDED. THE USE OF THE FEMA ELEVATION CERTIFICATE IS REQUIRED FOR THE PURCHASE OF FLOOD INSURANCE AND MANDATORY FOR CRS PARTICIPATION, AND THIS LANGUAGE SHOULD BE INCLUDED IN ITS ENTIRETY.)**

11.43.5.1.4. In Shaded X and X zones, the submission of the under construction elevation certificate may be waived if a survey of the parcel was used to certify the natural grade of the parcel was to or above 10 feet at the time of permit application. A finished construction elevation certificate is required at the completion of the project.

11.43.5.2. Floodproofing Certificate. If non-residential floodproofing is used to meet the regulatory flood protection elevation requirements, a floodproofing certificate (FEMA 086-0-33), with supporting data, ~~and~~ an operational plan, **and an inspection and maintenance plan** is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities in relation to ~~mean-sea-level~~ NAVD 1988. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The floodplain administrator shall review the certificate data ~~and plan, the operational plan, and the inspection and maintenance plan~~. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a certificate of compliance/occupancy. **(OPTIONAL) (THE FEMA FLOODPROOFING CERTIFICATE IS OPTIONAL AT**

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THE TIME OF PERMITTING THE STRUCTURE BUT RECOMMENDED TO ENSURE COMPLIANCE WITH THIS ORDINANCE AND PROPERLY PERMIT THE STRUCTURE.)

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

~~11.43.5.3.~~ 11.43.5.4. If a watercourse is to be altered or relocated, a description of the extent of the watercourse alteration or relocation, a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall be submitted by the permit applicant prior to issuance of a floodplain development permit.

~~11.43.5.4.~~ 11.43.5.5. **Certification Exemptions.** The following structures, if located within zones AE, AO, and Shaded X or X, are exempt from the elevation/floodproofing certification requirements specified in subsections 11.43.5.1.1 and 11.43.5.1.2 above:

~~11.43.5.4.1.~~ 11.43.5.5.1 Recreational vehicles meeting requirements of subsection 11.44.2.3;

~~11.43.5.4.2.~~ 11.43.5.5.2 Temporary structures meeting requirements of subsection 11.44.2.5; and,

~~11.43.5.4.3.~~ 11.43.5.5.3 Accessory structures less than 150 square feet meeting or Insert Cost of Structure (\$5,000 recommended) or less and meeting requirements of requirements of subsection 11.44.2.6.

~~11.43.5.5.~~ 11.43.5.6. 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 Part 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

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used are in accordance with accepted standards of practice for meeting the provisions of this Part. This certification is not a substitute for an elevation certificate. In addition, prior to the Certificate of Compliance/Occupancy issuance, the floodplain administrator may require a registered professional engineer or architect to ~~shall~~ certify that the finished construction is compliant with the design, specifications and plans for VE Zone construction if determined necessary. (OPTIONAL)

11.43.5.7. 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:

11.43.5.7.1. 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;

11.43.5.7.2. 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;

11.43.5.7.3 Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and

11.43.5.7.4. Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the NC Building Code and this ordinance is required.

11.43.6. Corrective Procedures.

11.43.6.1. Violations to be corrected. When the floodplain administrator finds violations of applicable state and local laws, it shall be his duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law ~~on the property he owns~~ cited in such notification.

11.43.6.2. 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 ~~him~~

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the owner written notice, by certified or registered mail, to his last known address or by personal service that:

11.43.6.2.1. The building or property is in violation of the flood damage prevention ordinance regulations;

11.43.6.2.2. A hearing will be held before the floodplain administrator at a designated place and time, not later than ten (10) working 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

11.43.6.2.3. Following the hearing, the floodplain administrator may issue such order to alter, vacate or demolish the building; or to remove fill as appears appropriate.

11.43.6.3. 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 this Part, he or she shall make issue an order in writing to the owner, requiring the owner to remedy the violation within such period not less than sixty (60) days, nor more than one hundred and eighty (180) calendar days, as the floodplain administrator may prescribe; provided, however, that where the floodplain administrator finds that there is imminent danger to life or other property, he or she may issue an order that corrective action be taken in such lesser period as may be feasible.

11.43.6.4. Appeal. Any owner who has received an order to take corrective action may appeal the order to the board of adjustment by giving notice of appeal in writing to the floodplain administrator and the Town 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 Board of Adjustment shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

11.43.6.5. Failure to comply with order. If the owner of a building or property fails to comply with an order to take corrective action from which no appeal has been taken, or fails to comply with an order of the board of adjustment following an appeal, he the owner shall be guilty of a misdemeanor and shall be punished in the discretion of the court.

11.43.7. Variance Procedures.

Variance procedures shall be apply in AE, AO, VE, and Shaded X and X flood zones in accordance with Section 3.10, Variances of this UDO and the following additional provisions:

11.43.7.1. The Board of Adjustment, as established by the Town, shall hear and decide requests for variances from the requirements of this Part.

11.43.7.2. Any person aggrieved by the decision of the Board of Adjustment may appeal such decision to superior court, as provided in NCGS Chapter 7A.

Commented [HW10]: Model ord.
Class 1 misdemeanor pursuant to NC G.S. § 143-215.58 and shall be punished at the discretion of the court.

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11.43.7.3. Variances may be issued for:

11.43.7.3.1. 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.

11.43.7.3.2. Functionally dependent facilities if determined to meet the definition as stated in Appendix A, provided provisions of subsections 11.43.7.10.2 and 11.43.7.10.3 have been satisfied, and such facilities are protected by methods that minimize flood damages **during the base flood and create no additional threats to public safety; or -**

11.43.7.3.3. Any other type of development provided it meets the requirements stated in this section.

11.43.7.4. In passing **judgment** upon **such applications variances**, the Board of Adjustment shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Part and the:

11.43.7.4.1. Danger that materials may be swept onto other lands to the injury of others;

11.43.7.4.2. Danger to life and property due to flooding or erosion damage;

11.43.7.4.3. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

11.43.7.4.4. Importance of the services provided by the proposed facility to the community;

11.43.7.4.5. Necessity to the facility of a waterfront location as defined under Appendix A as a functionally dependent facility, where applicable;

11.43.7.4.6. Availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

11.43.7.4.7. Compatibility of the proposed use with existing and anticipated development;

11.43.7.4.8. Relationship of the proposed use to the Town's Comprehensive Plan and floodplain management program for that area;

11.43.7.4.9. Safety of access to the property in times of flood for ordinary and emergency vehicles;

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11.43.7.4.10. Expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

11.43.7.4.11. 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.

11.43.7.5. A written report addressing each of the above factors shall be submitted with the application for a variance.

11.43.7.6. Upon consideration of the factors listed in subsection 11.43.7.4 of this Part and the purposes of this Part, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Part.

11.43.7.7. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the ~~base flood elevation (BFE) RFPE~~ and the elevation to which the structure is to be built and that such construction below the ~~base flood elevation RFPE~~ increases risks to life and property, and that the issuance of a variance to construct a structure below the ~~base flood elevation RFPE~~ will result in increased premium rates for flood insurance up to \$25.00 per \$100.00 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their insurance.

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

11.43.7.9. Conditions for variances.

11.43.7.9.1. Variances ~~may~~ **shall** not be issued when the variance will make the structure in violation of other federal, state or local laws, regulations or ordinances.

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

11.43.7.9.3. Variances shall only be issued prior to development permit approval.

~~11.43.7.9.3.~~ **11.43.7.9.4.** Variances shall only be issued upon:

~~11.43.7.9.3.1.~~ **11.43.7.9.4.1.** A showing of good and sufficient cause;

~~11.43.7.9.3.2.~~ **11.43.7.9.4.2.** A determination that failure to grant the variance would result in exceptional hardship; and

~~11.43.7.9.3.3.~~ **11.43.7.9.4.3.** A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or

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extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances

~~11.43.7.9.4. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation (BFE) and the elevation to which the structure is to be built and a written statement that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced reference level elevation. Such notification shall be maintained with a record of all variance actions.~~

~~11.43.7.9.5. The floodplain administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.~~

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

11.43.7.10.1. The use serves a critical need in the community.

11.43.7.10.2. No feasible locations exist for the use outside the SFHA.

11.43.7.10.3. The reference level of any structure is elevated or floodproofed to at least the RFPE.

11.43.7.10.4. The use complies with all other applicable federal, state and local laws.

11.43.7.10.5. The Town has notified the Secretary of the North Carolina Department of Public Safety of its intention to grant a variance at least 30 calendar days prior to granting the variance.

Commented [HW12]: Redundant language. Same as 11.43.7.7 and 11.43.7.8 above. Only in model as shown above.

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SECTION 11.44 PROVISIONS FOR FLOOD HAZARD REDUCTION.

11.44.1. General Standards.

~~In all special flood hazard areas, the~~ The following provisions are required in Shaded X, X, AE, AO, and VE flood zones:

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

11.44.1.2. All new construction or 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.**

11.44.1.3. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damages.

11.44.1.4. All new ~~E~~electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities **shall be located at or above the RFPE or designed and/or located installed** so as to prevent water from entering or accumulating within the components during **conditions occurrence of base 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, freezers, etc.), hot water heaters, and electric outlets/switches.

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

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

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

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

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

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~~11.44.1.8. 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 Part.~~

Commented [HW13]: Combined with 11.44.1.4 above

11.44.1.8. 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.

Commented [HW14]: While we don't have these, the state said we need to include this language.

11.44.1.9. New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted except by variance as specified in subsection 11.43.7.10. A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in an SFHA only if the structure or tank is either elevated or floodproofed to at least the regulatory flood protection elevation and certified according to subsection 11.43.5 of this Part.

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

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

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

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

11.44.1.14. When a structure is partially located in a Special Flood Hazard Area or Shaded X or X flood zone, the entire structure shall meet the requirements for new construction and substantial improvements.

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

11.44.1.16. Fill is prohibited in the SFHA, including construction of buildings on fill. This includes not approving Conditional Letters or Letters of Map Revision - Based on Fill (CLOMR-F or LOMR-

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F). (maximum 280 CRS points possible) (OPTIONAL) Note: This should be consistent with Article 5, Section G (11)(e) in coastal areas.

Commented [HW15]: Optional model language

11.44.2. Specific Standards.

In ~~all special flood hazard areas~~ Shaded X, X, AE, AO, and VE flood zones ~~where base flood elevation data has been provided~~ as set forth in subsection 11.42.2 and 11.42.3, the following provisions, in addition to subsection 11.44.1 of this section are required:

11.44.2.1. Residential Construction. New construction or substantial improvement of any residential structure shall have the reference level, including the basement, elevated no lower than the regulatory flood protection elevation, as defined in Appendix A.

11.44.2.2. Non-Residential Construction. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Appendix A. Structures located in AE, ~~and AO~~, Shaded X, and X zones may be floodproofed to the regulatory flood protection elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the regulatory flood protection elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. **For AO Zones, the floodproofing elevation shall be in accordance Section 11.44.3. and 11.44.5.** A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the floodplain administrator as set forth in subsection 11.43.5, along with the operational and **the inspection and** maintenance plans.

11.44.2.3. Recreational Vehicles. Recreational vehicles placed on sites shall either:

11.44.2.3.1. Be on-site for fewer than 180 days; **or**

11.44.2.3.2. ~~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**

11.44.2.3.2. Meet all the requirements for new construction, including anchoring and elevation requirements of subsection 11.42.3 and subsections 11.44.1 of this section.

11.44.2.4. Elevated Buildings. Fully enclosed areas of new construction and substantially improved structures, which are below the regulatory flood protection elevation **in AE, AO, Shaded X, or X Zones:**

11.44.2.4.1. 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

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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;

11.44.2.4.2. Shall not be temperature-controlled or conditioned Non-temperature controlled dehumidifiers may be used in enclosed areas and shall not result in the enclosed area being determined to be conditioned space; (OPTIONAL, strongly encouraged)

~~11.44.2.4.2.~~ **11.44.2.4.3.** Shall be constructed entirely of flood-resistant materials, up to the regulatory flood protection elevation;

~~11.44.2.4.3.~~ **11.44.2.4.4.** Shall not, in areas governed by the local elevation standard, zones AE, exceed 300 "square feet in area" below the reference level with the exception of crawl space construction, and shall also include flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. For the purposes of this requirement, enclosures shall be measured to the outside of the wall framing (to calculate floor area) excluding the thickness of sheathing, siding, or trim applied to the outside of the framing. 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:

~~11.44.2.4.3.1-~~ **11.44.2.4.4.1** A minimum of two flood openings on different sides of each enclosed area subject to flooding;

~~11.44.2.4.3.2.~~ **11.44.2.4.4.2.** 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;

~~11.44.2.4.3.3.~~ **11.44.2.4.4.3.** If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;

~~11.44.2.4.3.4.~~ **11.44.2.4.4.4.** The bottom of all required flood openings shall be no higher than one foot above the adjacent grade;

~~11.44.2.4.3.5.~~ **11.44.2.4.4.5.** Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and

~~11.44.2.4.3.6-~~ **11.44.2.4.4.6.** Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

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~~11.44.2.4.4.~~ **11.44.2.4.5.** Shall allow, in coastal high hazard areas (zones VE), open wood latticework or insect screening, 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.

11.44.2.4.6. Property owners shall be required to execute and record a non-conversion agreement prior to issuance of a building permit declaring that the area below the lowest floor shall not be improved, finished or otherwise converted to habitable space (30 CRS points); The Town of Nags Head will have the right to inspect the enclosed area (30 CRS points). ~~_____ (community name) will conduct annual inspections (30 CRS points).~~ This agreement shall be recorded with the Dare County Register of Deeds and shall transfer with the property in perpetuity. (OPTIONAL for a maximum total of 90 CRS points)

11.44.2.4.7. Release of restrictive covenant. If a property which is bound by a non-conversion agreement is modified to remove enclosed areas below BFE, then the owner may request release of restrictive covenant after staff inspection and submittal of confirming documentation. (OPTIONAL)

11.44.2.4.8. All building enclosures, of any size, are prohibited below BFE, including those with breakaway walls. Screening and open lattice-work are not considered enclosures. (maximum 240 CRS points) (OPTIONAL)

Commented [HW16]: Not recommended if using language above

11.44.2.5. Temporary Non-Residential Structures. Prior to the issuance of a floodplain development permit, for a temporary structure, all applicants must submit to the ~~local~~ floodplain administrator a plan for the removal of such structures 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:

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

11.44.2.5.2. The name, address and phone number of the individual responsible for the removal of the temporary structure;

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

11.44.2.5.4. A copy of the contract or other suitable instrument with a trucking company to ensure the availability of removal equipment when needed; and

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11.44.2.5.5. Designation, accompanied by documentation, of a location outside the ~~floodplain~~ Special Flood Hazard Area to which the temporary structure will be moved.

11.44.2.6. Accessory Structure. ~~When an~~ Accessory structures (sheds, detached garages, etc.) ~~are to be placed in the floodplain Special Flood Hazard Area, shall meet the following criteria shall be met:~~

11.44.2.6.1. ~~Any portion of an a~~ Accessory structures ~~that has the~~ with floor area located below the regulatory flood protection elevation shall not be used for human habitation, (including working, sleeping, living, cooking or restroom areas).

11.44.2.6.2. ~~Any portion of an accessory structure that has the floor located below the regulatory flood protection elevation~~ Accessory structures shall not be temperature controlled.

11.44.2.6.3. Any portion of an accessory structure located below the regulatory flood protection elevation shall not exceed 300 "square feet in area."

11.44.2.6.4. Accessory structures shall be designed to have low flood damage potential.

11.44.2.6.5. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.

11.44.2.6.6. Accessory structures shall be firmly anchored in accordance with subsection 11.44.1.1 of this section.

11.44.2.6.7. All service facilities such as electrical and heating equipment shall be ~~elevated~~ installed in accordance with subsection 11.44.1.4 of this section.

11.44.2.6.8. Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with subsection 11.44.2.4.3 of this section.

11.44.2.6.9. An accessory structure with a footprint less than 150 square feet ~~or that is a minimal investment of Insert Cost of Structure (\$5,000 recommended) or less and~~ 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 subsection 11.43.5.

11.44.2.6.10. Other secondary structures located on the same parcel, in addition to a principal use structure, which feature conditioned, temperature-controlled areas elevated above the regulatory flood protection elevation shall be constructed consistent with Section 11.44.1. General Standards and 11.44.2. Specific Standards. The certification requirements of 11.43.5.1. Elevation Certificates shall apply.

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11.44.2.6.11. Accessory structures, regardless of the size or cost, shall not be placed below elevated buildings in V and VE Zones, east of NC 12 and NC 1243.

11.44.2.7. Additions/Improvements/Conversions.

11.44.2.7.1. Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

11.44.2.7.1.1. Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more nonconforming than the existing structure.

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

11.44.2.7.2. Additions to pre-FIRM or 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.

11.44.2.7.3. 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:

11.44.2.7.3.1. Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction consistent with the code and requirements for the original structure.

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

11.44.2.7.4. Where an independent perimeter load-bearing wall is provided between the addition and the existing building, the addition(s) shall be considered a separate building and only the addition must comply with the standards for new construction.

11.44.2.7.5. Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a ~~insert number of years~~ ~~(One (1) year minimum is required)~~ year 365 day period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the ~~insert number of years~~ ~~(One (1) year minimum is~~

Commented [HW17]: Shown as optional language now in the model ordinance

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~~required~~ year 365 day period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this ordinance. 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. (The repetitive loss portion is OPTIONAL, but will be required for flood insurance policy holders to be eligible for Increased Cost of Compliance (ICC) benefits for repetitive losses.) If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:

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

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

11.44.2.7.8. *Areas in existing structures shall not be converted for use as conditioned, temperature controlled space unless the reference level is located to or above the RFPE.*

11.44.2.7.9. Additional Standards in Shaded X and X Flood Zones

11.44.2.7.9.1. *The substantial improvement/substantial damage definitions as established in Appendix A, Definitions, do not apply to Shaded X and X zones.*

11.44.2.7.9.2. *Laterals additions (increase in the footprint of the conditioned, temperature-controlled space) to existing structures greater than 10% of the total floor area on the level on which the addition is located shall have the reference level elevated to or above the RFPE.*

11.44.2.7.9.3. *Remodeling or renovations of existing habitable area in structures with the reference level located below the current applicable RFPE that do not increase the footprint of the structure may be authorized at the existing reference level or higher.*

11.44.2.7.9.4. *Reconstruction of damaged portions of a structure may be authorized at the existing reference level or higher. However, if a structure is entirely demolished, for whatever reason, the replacement structure shall be constructed to or above the RFPE.*

Red- changes/new language as provided in the State Model Ordinance

Blue- suggested local ordinance language developed to support a local elevation standard

Orange- Nags Head specific edits

Black- existing flood damage prevention ordinance in UDO

Grey Highlight- optional model ordinance language

11.44.2.7.9.5. Structures that are relocated on the same site or to another site shall be elevated to or above the applicable RFPE of the lot or to or above the RFPE of the new site.

11.44.2.7.9.6. Areas in existing structures shall not be converted for use as conditioned, temperature controlled space unless the reference level is located to or above the RFPE.

11.44.2.8. Tanks. When gas and liquid storage tanks are to be placed within a ~~Special Flood Hazard Area~~ the Shaded X, X, AE, AO, or VE flood zones, the following criteria shall be met:

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

11.44.2.8.2. Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be elevated to or above the Regulatory Flood Protection Elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;

11.44.2.8.3. Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of Section 11.44.2.2. of this ordinance shall not be permitted in V or VE Zones. Tanks may be permitted in other flood hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions.

11.44.2.8.4. Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:

11.44.2.8.4.1. At or above the Regulatory Flood Protection Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and

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

11.44.3. Coastal High Hazard Areas (Zones VE) and Properties East of NC 12 and SR 1243.

Commented [HW18]: Higher standard. Now would include Shaded X/X, AO, and VE flood zones.

Red- changes/new language as provided in the State Model Ordinance

Blue- suggested local ordinance language developed to support a local elevation standard

Orange- Nags Head specific edits

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~~Coastal high hazard areas are special flood hazard areas established in subsection 11.42.2 and designated as zones VE.~~ Properties located to the east of NC 12 and SR 1243 are located in an active oceanfront environment that is vulnerable to storm surge, erosion, sea level rise, and other hazards. These areas have special flood hazards associated with high velocity waters from storm surges or seismic activity and, therefore, in addition to meeting all requirements of Part III Flood Damage Prevention, the following provisions shall apply:

11.44.3.1 All new construction and substantial improvements shall:

11.44.3.1.1. Be located landward of the reach of mean high tide;

11.44.3.1.2. Be located landward of the first line of stable natural vegetation; and

Commented [HW19]: Higher standard than model ordinance

11.44.3.1.3. Comply with all applicable CAMA setback requirements.

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

11.44.3.3. All new construction and substantial improvements, including properties with elevations above the regulatory flood protection elevation, shall have the space below the bottom of the lowest horizontal structural member of the lowest floor either be free of obstruction or constructed with Open wood latticework or insect screening so as not to impede the flow of floodwaters, ~~with the following exceptions:~~ provided they are not part of the structural support of the building and are designed so as to breakaway, under abnormally high tides or wave action without causing damage to the elevated portion of the building or supporting foundation system or otherwise jeopardizing the structural integrity of the building in accordance with subsection 11.43.3. The following design specifications shall be met: ~~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 subsection 11.44.2.4.4.~~

Commented [HW20]: Higher standard- free of obstruction

11.44.3.3.1. Design plans shall be submitted in accordance with subsection 11.43.3.

11.44.3.3.2. Material shall consist of open wood or plastic lattice having at least 40 percent of its area open, or

11.44.3.3.3. Insect screening; or

11.44.3.4. All new construction and substantial improvements shall be securely anchored to an open "pile or column foundation" to allow floodwaters and waves to pass beneath the structure. "All pilings and columns and the structures attached thereto shall be anchored to

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resist flotation, collapse and lateral movement due to the effect of wind and water loads acting simultaneously on all building components."

11.44.3.4.1. Water loading values used shall be those associated with the base flood.

11.44.3.4.2. Wind loading values used shall be those required by the current edition of the North Carolina State Building Code.

11.44.3.5. All new construction, initiated after the adoption of this UDO, located east of NC 12 and SR 1243 shall limit the total enclosed habitable living space of individual structures to 5,000 square feet. Enclosed habitable living space for large residential dwellings shall also include any enclosed habitable space that may be present in any accessory structure or accessory dwelling that is located on the same lot as the principal structure.

Commented [HW21]: Higher Standard- adopted with the UDO.

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

11.44.3.6.1. 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

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

11.44.3.6.3. Reinforcing, including welded wire fabric, shall not be used in order to minimize the potential for concreted pads being a source of debris; and

11.44.3.6.4. Pad thickness shall not exceed 4 inches; or

11.44.3.6.5. Provide a Design Professional's certification stating the design and method of construction to be used meet the applicable criteria of this section.

11.44.3.7. For swimming pools and spas, the following is required:

11.44.3.7.1. Be designed to withstand all flood-related loads and load combinations.

11.44.3.7.2. Be elevated so that the lowest horizontal structural member is elevated above the RFPE; or

11.44.3.7.3. Be designed and constructed to break away during design flood conditions without producing debris capable of causing damage to any structure; or

11.44.3.7.4. Be sited to remain in the ground during design flood conditions without obstructing flow that results in damage to any structure.

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

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

11.44.3.8. All elevators, vertical platform lifts, chair lifts, etc., the following is required:

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

11.44.3.8.2. Utility equipment in Coastal High Hazard Areas (VE Zones) must not be mounted on, pass through, or be located along breakaway walls.

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

11.44.3.8.4. Elevator shafts/enclosures that extend below the RFPE shall be constructed of reinforced masonry block or reinforced concrete walls and located on the landward side of the building to provide increased protection from flood damage. Drainage must be provided for the elevator pit.

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

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

11.44.3.9. Accessory structures, regardless of size or cost, shall not be permitted below elevated structures.

~~**11.44.3.6,**~~ **11.44.3.10.** A registered professional engineer or architect shall certify that the design, specifications and plans for construction are in compliance with the provisions contained in subsection 11.43.2, subsections 11.44.3.1 and 11.44.3.2, subsection 11.44.3.4 and subsection

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11.44.3.6 of this Part on the current version of the North Carolina "National Flood Insurance Program V-Zone Certification" form or equivalent local version. In addition, prior to the Certificate of Compliance/Occupancy issuance, the floodplain administrator may require a registered professional engineer or architect to ~~shall~~ certify the finished construction is compliant with the design, specifications and plans for VE Zone construction if determined necessary. (OPTIONAL)

~~11.44.3.7.~~ 11.44.3.11. Fill/Grading

11.44.3.11.1. The placement of site-compatible, non-structural fill under or around an elevated building is limited to two (2) feet. Fill greater than two (2) feet must include an analysis prepared by a qualified registered design professional demonstrating no harmful diversion of floodwaters or wave runup and wave deflection that would increase damage to adjacent elevated buildings and structures.

11.44.3.11.2. The fill material must be similar and consistent with the natural soils in the area.

11.44.3.11.3. Minor grading and the placement of minor quantities of nonstructural fill, outside the areas referenced in 11.44.3.11.1., may be permitted for landscaping and for drainage purposes under and around buildings and for support of parking slabs, pool decks, patios and walkways.

11.44.3.11.4. Nonstructural fill with finished slopes that are steeper than five (5) units horizontal to one (1) unit vertical shall be permitted only if an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave deflection that would increase damage to adjacent elevated buildings and structures.

11.44.3.11.4. Fill is prohibited in the SFHA (maximum 280 CRS points possible) (OPTIONAL) Note: this should be consistent with Article 5, Section A (17)

~~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 it is demonstrated through coastal engineering analysis that the proposed fill would not result in any increase in the base flood elevation and not cause any adverse impacts by wave ramping and deflection to the subject structure or adjacent properties.~~

~~11.44.3.8.~~ 11.44.3.12. There shall be no alteration of sand dunes or mangrove stands which would increase potential flood damage.

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~~11.44.3.9.~~ **11.44.3.13.** Recreational vehicles may be permitted in coastal high hazard areas provided that they meet the recreational vehicle criteria of subsection 11.44.2.3 of this section and the temporary structure provisions of subsection 11.44.2.5 of this section.

11.44.3.14. A deck that is structurally attached to a building or structure shall have the bottom of the lowest horizontal structural member at or above the Regulatory Flood Protection Elevation and any supporting members that extend below the Regulatory Flood Protection Elevation shall comply with the foundation requirements that apply to the building or structure, which shall be designed to accommodate any increased loads resulting from the attached deck. The increased loads must be considered in the design of the primary structure and included in the V-Zone Certification required under Section 11.43.5.6.

11.44.3.15. A deck or patio that is located below the Regulatory Flood Protection Elevation shall be structurally independent from buildings or structures and their foundation systems, and shall be designed and constructed either to remain intact and in place during design flood conditions or to break apart into small pieces to minimize debris during flooding that is capable of causing structural damage to the building or structure or to adjacent buildings and structures.

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

11.44.3.16.1. Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures;

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

11.44.3.16.3. Docks, piers, and similar structures.

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

~~**11.44.3.18.** Property owners shall be required to execute and record a non-conversion agreement prior to issuance of a building permit declaring that the area below the lowest floor, or the detached accessory building shall not be improved, or otherwise converted; _____ (community name) will have the right to inspect the enclosed area. This agreement shall be~~

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~~recorded with the _____ (county name) County Register of Deeds and shall transfer with the property in perpetuity. (OPTIONAL) (Not recommended by staff)~~

~~**11.44.3.19.** Release of restrictive covenant. If a property which is bound by a non-conversion agreement is modified to remove enclosed areas below BFE, then the owner may request release of restrictive covenant after staff inspection and submittal of confirming documentation. (OPTIONAL) (Not recommended by staff)~~

11.44.4. Standards for Coastal A Zones (Zone CAZ) LiMWA (maximum 650 CRS points). Structures in CAZs shall be designed and constructed to meet V Zone requirements, including requirements for breakaway walls. However, the NFIP regulations also require flood openings in walls surrounding enclosures below elevated buildings in CAZs (see Technical Bulletin 1, Openings in Foundation Walls and Walls of Enclosures). Breakaway walls used in CAZs must have flood openings that allow for the automatic entry and exit of floodwaters to minimize damage caused by hydrostatic loads. Openings also function during smaller storms or if anticipated wave loading does not occur with the base flood.

Commented [HW22]: There are no CAZ zones in Nags Head. Staff is asking if it is necessary to carry language forward.

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

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

11.44.4.2.1. Material shall consist of open wood or plastic lattice having at least 40 percent of its area open, or

11.44.4.2.2. Insect screening; or

11.44.4.2.3. Breakaway walls shall meet the following design specifications:

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

11.44.4.2.3.2. Design safe loading resistance shall be not less than 10 nor more than 20 pounds per square foot; or

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11.44.4.2.3.3. 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.

11.44.4.2.4. Concrete pads, including patios, decks, parking pads, walkways, driveways, etc. must meet the provisions of subsection 11.44.3.6.

11.44.4.2.5. All new construction and substantial improvements shall meet the provisions of Article 5, Section G (3).

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

11.44.4.2.7. Recreational vehicles may be permitted in Coastal A Zones provided that they meet the Recreational Vehicle criteria of Article 5, Section B(6)(a).

11.44.4.2.8. Fill/Grading must meet the provisions of Article 5, Section G (11)

11.44.4.2.9. Fill is prohibited in the SFHA (maximum 280 CRS points possible) (OPTIONAL)

11.44.4.2.10. Decks and patios must meet the provisions of Article 5 Section G (15) and (16).

11.44.4.2.11. In coastal high hazard areas, development activities other than buildings and structures must meet the provisions of Article 5, Section G (17)

11.44.5. Standards For Areas Of Shallow Flooding (Zone AO). Located within the Special Flood Hazard Areas established in Article 3, Section B, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Sections 11.44.1. and 11.44.2., all new construction and substantial improvements shall meet the following requirements of Section 11.44.3. Properties East of NC 12 and SR 1243=

11.44.5.1. The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of Insert freeboard [four (4), (feet of freeboard selected for Regulatory Flood Protection Elevation

Commented [HW23]: AO flood zones will be treated the same as VE flood zones. This is a higher standard.

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definition)) feet, above the highest adjacent grade; or at least Insert feet [Four (4), (A minimum of two (2) feet is required and four (4) feet is recommended where a depth is not provided)) feet above the highest adjacent grade if no depth number is specified.

~~11.44.5.2. Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in Article 5, Section 1 (1) so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with Article 4, Section B (3) and Article 5, Section B (2).~~

~~11.44.5.3. Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.~~

SECTION E. STANDARDS FOR RIVERINE FLOODPLAINS WITH BASE FLOOD ELEVATIONS BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS.

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

- (1) Standards of Article 5, Sections A and B; and
- (2) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point.

SECTION F. FLOODWAYS AND NON-ENCROACHMENT AREAS.

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

- (1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:
 - (a) It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood discharge, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to

Commented [HW24]: There are no riverine floodplains in Nags Head. I have asked the State if we can leave off this section.

Commented [HW25]: There are no floodway or non-encroachment areas in Nags Head. I have asked the State if we can leave off this section.

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issuance of floodplain development permit; or

- (b) A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained within six months of completion of the proposed encroachment.
- (2) If Article 5, Section F (1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.
- (3) Manufactured homes may be permitted provided the following provisions are met:
 - (a) The anchoring and the elevation standards of Article 5, Section B (3); and
 - (b) The encroachment standards of Article 5, Section F (1).

SECTION 11.45 REMEDIES.

Any violation of this Article 11, Part III shall be subject to the remedies as stated in Section 1.10, Violation of UDO Regulations of this UDO.

SECTION 11.46 LEGAL STATUS PROVISIONS.

11.46.1. Effect on Rights and Liabilities Under the Existing Flood Damage Prevention Ordinance.

This Article 11, Part III in part comes forward by re-enactment of some of the provisions of the flood damage prevention ordinance enacted February 3, 1975 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 11, Part III shall not affect any action, suit or proceeding instituted or pending. All provisions of the flood damage prevention ordinance of the Town of Nags Head enacted on February 3, 1975, as amended, which are not reenacted herein are repealed.

11.46.2. Effect Upon Outstanding Floodplain Development Permits.

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the floodplain administrator or his or her authorized agents before the time of passage of this Article 11, Part III; provided, however, that when construction is not begun under such outstanding permit within a period of six (6) months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this Article 11, Part III.

11.46.3. 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.

~~SECTION 11.47 – 11.50 RESERVED.~~

APPENDIX A. DEFINITIONS

SECTION 11.47 EFFECTIVE DATE.

This ordinance shall become effective insert upon adoption or a specific date.

SECTION 11.48 ADOPTION CERTIFICATION.

I hereby certify that this is a true and correct copy of the Flood Damage Prevention Ordinance as adopted by the governing body of Community Name, North Carolina, on the Day (number or text) day of Month, Year.

WITNESS my hand and the official seal of insert Name, Title, this the Day (number or text) day of Month, Year.

(signature)

SECTION 11.49 – 11.50 RESERVED.

APPENDIX A. DEFINITIONS

APPENDIX A. DEFINITIONS

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APPENDIX A. DEFINITIONS

SECTION A.1 PURPOSE.

For the purposes of this UDO, certain words, concepts, and ideas are defined herein. Except as defined herein, all other words used in this Ordinance shall have their customary dictionary definition.

SECTION A.2 INTERPRETATION.

- A.2.1.** As used in this UDO, words importing the masculine gender include the feminine and neuter.
- A.2.2.** Terms used in the singular include the plural and the plural includes the singular number.
- A.2.3.** Terms used in the past or present tense include the future as well as the past and present.
- A.2.4.** The term "person" shall include a corporation, firm, partnership, association, organization and any other group acting as a unit, as well as an individual.
- A.2.5.** The words "may" and "should" are permissive; an officially adopted course or method of action intended to be followed.
- A.2.6.** The words "shall" and "will" are always mandatory and not merely directive; expresses determination to implement/take action.
- A.2.7.** The word "used for" shall include the meaning "designed for."
- A.2.8.** The term "used" or "occupied" as applied to any land or building shall be construed to include the terms "intended, arranged, or designed to be used or occupied."
- A.2.9.** The term "lot" includes the terms "plot," "parcel," "site," and "tract."
- A.2.10.** The term "building" includes the term "structure."
- A.2.11.** The word "includes" shall not limit the term to specified examples but is intended to extend its meaning to all other instances or circumstances of like kind or character.
- A.2.12.** The terms "the Town" or "this Town" shall mean the Town of Nags Head, in the County of Dare, in the State of North Carolina, except as otherwise provided.
- A.2.13.** The term "County" shall mean the County of Dare, in the State of North Carolina, except as otherwise provided.
- A.2.14.** The terms "state" or "this state" shall be construed to mean the State of North Carolina, except as otherwise provided.
- A.2.15.** The word "UDO Administrator" shall mean the UDO Administrator or his/her designee.
- A.2.16.** The words "Planning Board" shall mean the "Town of Nags Head Planning Board."

APPENDIX A. DEFINITIONS

A.2.17. The terms "Board of Commissioners" and "commissioners" shall mean the Mayor and Commissioners, or governing body, of the Town of Nags Head, North Carolina.

A.2.18. The words "Board of Adjustment" shall mean the "Town of Nags Head Board of Adjustment."

A.2.19. The words "map," and "zoning map" shall mean the "Official Zoning Map for the Town of Nags Head, North Carolina."

A.2.20. The terms "GS" and "NCGS" refers to the latest edition of the General Statutes of North Carolina, as amended.

A.2.21. The term "US 158" shall mean United States Highway 158 or US Highway 158, also referred to as South Croatan Highway.

A.2.22. The term "NC 12" shall mean North Carolina Highway 12, also referred to as South Virginia Dare Trail.

A.2.23. The term "SR 1243" shall mean North Carolina State Road 1243, also referred to as South Old Oregon Inlet Road.

SECTION A.3 ACRONYMS

AEC Area of Environmental Concern.

ALE Alcohol Law Enforcement.

BOA Board of Adjustment.

BOC Board of Commissioners.

BMP Best Management Practice.

CAMA Coastal Area Management Act.

CBRS Coastal Barrier Resources System.

CRS Community Rating System.

CLOMR Conditional Letter of Map Revision.

FCC Federal Communications Commission or a designated representative.

FEMA Federal Emergency Management Agency.

FIS Flood Insurance Study.

FIRM Flood Insurance Rate Map.

FLSNV First Line of Stable Natural Vegetation.

APPENDIX A. DEFINITIONS

IESNA Illumination Engineering Society of North America.

LIMWA Limit of Moderate Wave Action.

LOMA Letter of Map Amendment.

LOMC Letter of Map Change.

LOMR Letter of Map Revision.

LOMR-F Letter of Map Revision Based on Fill.

NCDEQ North Carolina Department of Environmental Quality.

NCDHHS North Carolina Department of Health and Human Services.

NCDOT North Carolina Department of Transportation.

NCGS North Carolina General Statutes.

OPA Otherwise Protected Area.

ROW Right-of-Way.

SCM Stormwater Control Measure.

UDO Unified Development Ordinance.

USDA United States Department of Agriculture.

SECTION A.4 DEFINITIONS.

A

Abandoned vehicle means, as authorized and defined in NCGS 160A-303, a motor vehicle which is left:

- (1) Upon a public street or highway in violation of a law or ordinance prohibiting parking;
- (2) On a public street or highway for longer than seven days;
- (3) On property owned or operated by the Town for longer than 24 hours; or
- (4) On private property without the consent of the owner, occupant or lessee thereof, for longer than two hours.

Abandonment means the relinquishment of property, or cessation of the use of property, by the owner or lessee without any intention of transferring rights to the property to another owner or of resuming the use of the property.

Commented [HW26]: Need to decide how we will cite or if we will cite separately flood ordinance definitions- i.e. (for the purposes of Article 11, Part III, Flood Damage Prevention).

Not all definitions are currently cited this way.

Green highlighted definitions are definitions present in the model flood ordinance.

APPENDIX A. DEFINITIONS

Abutting means having property or zoning district lines in common. Lots are also considered to be abutting if they are directly opposite each other and separated by a street or alley.

Accelerated erosion means any increase over the rate of natural erosion as a result of land-disturbing activity (for the purposes of Article 11, Part II, Soil Erosion and Sedimentation Control).

Act means the North Carolina Sedimentation Pollution Control Act of 1973 and all rules and orders adopted pursuant to it (for the purposes of Article 11, Part II, Soil Erosion and Sedimentation Control).

Addition (to an existing building) means an extension or increase in the floor area or height of a building or structure.

Adequate erosion control measure, structure or device means one which controls the soil material within the land area under responsible control of the person conducting the land-disturbing activity (for the purposes of Article 11, Part II, Soil Erosion and Sedimentation Control).

Administrative approval means approval that the UDO Administrator or designee is authorized to grant after Administrative Review.

Administrative review means non-discretionary evaluation of an application by the UDO Administrator or designee. This process is not subject to a public hearing.

Adult arcade means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

Adult bookstore means as defined in NCGS 14-202.10(1) which is incorporated in this definition by reference.

Adult cabaret means a nightclub, bar, restaurant, or similar commercial establishment that for at least ten percent of its business hours in any 24-hour period features:

- (1) Persons who appear in a state of nudity or semi-nudity;
- (2) Live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities;
- (3) Films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas; or
- (4) Persons who engage in lewd, lascivious or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

APPENDIX A. DEFINITIONS

Adult day service center means a facility that provides day care on a regular basis for more than two hours per day for more than five adults, who are in need of supervision due to a physical or mental disability, and which does not provide overnight accommodations. Specifically, this definition excludes halfway houses and rehabilitation clinics.

Adult escort means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person for the purpose of participating in, engaging in, providing, or facilitating specified sexual activities.

Adult escort agency means a person or business that furnishes, offers to furnish, or advertises to furnish adult escorts as one of its business purposes for a fee, tip, or other consideration.

Adult establishment as defined in NCGS 14-202.10(2) which is incorporated in this definition by reference.

Adult live entertainment as defined in NCGS 14-202.10(3) which is incorporated in this definition by reference. (

Adult live entertainment business as defined in NCGS 14-202.10(4) which is incorporated in this definition by reference.

Adult media center means, but is not limited to, an adult bookstore, and an adult video store and means any place:

- (1) Which receives more than 50 percent of its gross income during any calendar month from the sale, rental, or both of books, periodicals, magazines, videotapes, CD-ROM, computer software, movies, and other products offered in photographic, print, electronic, magnetic, or digital or other imaging media which are distinguished or characterized by their emphasis on matter depicting, describing, or presenting specified anatomical areas as defined in NCGS 14-202.10(10), or specified sexual activities as defined in NCGS 14-202.10(11), or sexually oriented devices, as defined in NCGS 14-202.10(9), or any combination thereof; or
- (2) Having more than 25 percent of its merchandise inventory consisting of books, periodicals, magazines, videotapes, CD-ROM, computer software, movies, and other products offered in photographic, print, electronic, magnetic, or digital or other imaging media which are distinguished or characterized by their emphasis on matter depicting, describing, or presenting specified anatomical areas as defined in NCGS 14-202.10(10), or specified sexual activities as defined in NCGS 14-202.10(11), or sexually oriented devices, as defined in NCGS 14-202.10(9), or any combination thereof.

A commercial establishment may have other business purposes on the same building site that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as adult media center. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an adult media center so long as one of its business purposes is the offering for sale or rental for consideration the specified materials which depict or describe specified sexual activities or specified anatomical areas.

APPENDIX A. DEFINITIONS

Adult mini-motion picture theater as defined in NCGS 14-202.10(6), which is incorporated in this definition by reference.

Adult motel means a hotel, motel or similar commercial establishment that:

- (1) Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides, or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas; and has a sign visible from the public right-of-way that advertises the availability of this adult type of photographic reproductions; or
- (2) Offers a sleeping room for rent for a period of time that is less than 12 hours; or
- (3) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than 12 hours.

Adult motion picture theater as defined in NCGS 14-202.10(5), which is incorporated in this definition by reference.

Adult theater means a theater, concert hall, auditorium, or similar commercial establishment that for at least ten percent of its business hours in any day, features persons who appear in a state of nudity or live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities.

Adult video store means a commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion picture, videotapes or videocassettes, video reproductions, CD-ROMs, slides, or other visual representations which depict or describe specified sexual activities or specified anatomical areas; or any combination thereof.

Aerial adventure park means a place, typically a series of interconnected towers, platforms, and/or poles, consisting of a variety outdoor recreation elements including but not limited to rope climbing exercises, obstacle courses, and zip-lines.

Affiliate means a person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control of another person (for the purposes of Article 11, Part II, Soil Erosion and Sedimentation Control).

Alcohol and drug outpatient treatment facility Outpatient facility which provides care for persons with drug and/or alcohol dependency problems and which may include outpatient follow-up care to the facility's patients.

Alteration of a watercourse means a dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or

APPENDIX A. DEFINITIONS

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.

Amusement arcade means a building or any part of a building in which five or more pinball machines, video games or machines or other similar player operated amusement devices are maintained. The term adult arcade is specifically excluded from this definition.

Antenna means any communication equipment that transmits and/or receives electromagnetic radio signals used in the provision of all types of wireless communication services.

Antenna array means a single or group of antenna elements and associated mounting hardware, transmission lines, or other appurtenances which share a common attachment device such as a mounting frame or mounting support structure for the sole purpose of transmitting or receiving electromagnetic radio signals used in the provision of all types of wireless communication services.

Appeal means a request for a review of the UDO Administrator's interpretation and/or decision of any provision of this Unified Development Ordinance.

Applicable codes means the North Carolina State Building Code and any other uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization together with State or local amendments to those codes enacted solely to address imminent threats of destruction or property or injury to persons.

Application, wireless facilities means a request that is submitted by an applicant to the Town for a permit to collocate wireless facilities or to approve the installation, modification, or replacement of a utility pole, Town utility pole, or wireless support structure.

Area of shallow flooding means a designated Zone AO or AH on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one (1) to three (3) 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).

Area of future-conditions flood hazard means the land area that would be inundated by the 1-percent-annual-chance (100- year) flood based on future-conditions hydrology. (OPTIONAL).

Commented [HW27]: Already adopted as part of UDO, but this language is optional.

Art gallery means a room or structure in which original works of art or limited editions of original art are bought, sold, loaned, appraised, or exhibited to the general public.

Art gallery, owner occupied means a structure for the collection, display and/or distribution of objects of art and generally open to the public and operated by the art gallery owner residing at the structure and does not employ any person outside the immediate family.

Artisan's workshop means an establishment for the preparation, display, and sale of individually crafted artwork, jewelry, furniture, sculpture, pottery, leathercraft, hand-woven articles, and related items.

APPENDIX A. DEFINITIONS

Assisted living residence means any group housing and services program for two or more unrelated adults, by whatever name it is called, that makes available, at a minimum, one meal a day and housekeeping services and provides personal care services directly or through a formal written agreement with one or more licensed home care or hospice agencies. Settings in which services are delivered may include self-contained apartment units or single or shared room units with private or area baths. There are three types of assisted living residences: adult care homes, adult care homes that serve only elderly persons, and multi-unit assisted housing with services. As used in this definition, “elderly person” means: (i) any person who has attained the age of 55 years or older and requires assistance with activities of daily living, housing, and services; or (ii) any adult who has a primary diagnosis of Alzheimer’s disease or other form of dementia who requires assistance with activities of daily living, housing, and services provided by a licensed Alzheimer’s and dementia care unit.

- (1) **Adult care home** means an assisted living residence in which the housing management provides 24-hour scheduled and unscheduled personal care services to two or more residents, either directly or for scheduled needs, through formal written agreement with licensed home care or hospice agencies. Some licensed adult care homes provide supervision to persons with cognitive impairments whose decisions, if made independently, may jeopardize the safety or well-being of themselves or others and therefore require supervision. Medication in an adult care home may be administered by designated trained staff. Adult care homes that provide care to two to six unrelated residents are commonly called family care homes. Adult care homes include halfway houses and drug rehab facilities.
- (2) **Multi-unit assisted housing with services** means an assisted living residence in which hands-on personal care services and nursing services which are arranged by housing management are provided by a licensed home care or hospice agency through an individualized written care plan. The housing management has a financial interest or financial affiliation or formal written agreement which makes personal care services accessible and available through at least one licensed home care or hospice agency. The resident has a choice of any provider, and the housing management may not combine charges for housing and personal care services. All residents, or other compensatory agents, must be capable, through informed consent, of entering into a contract and must not be in need of 24-hour supervision. Assistance with self-administration of medications may be provided by appropriately trained staff when delegated by a licensed nurse according to the home care agency’s established plan of care.

Auction house means a building and/or land used for the temporary storage and sale on premise of new and/or used goods by means of request or invitation for bids.

Automated Ice Vending means an ice production machine or facility that may operate without full-time service personnel, designed to store and/or manufacture ice for the purpose of ice dispensing. These units are activated by the insertion of money, credit cards, check cards, token, or similar means. Ice is bagged automatically or dispensed in bulk to the consumer.

APPENDIX A. DEFINITIONS

Automobile dealership means a retail business primarily housed in a structure and characterized by a mixture of related uses upon a commercial site; however, the principal use of the site shall be the marketing of new or used automobiles, whether by sale, rent, lease or other commercial or financial means. Secondary supporting uses may also exist upon the same site, such as maintenance, repair and service areas, parts storage areas and financial service areas.

Average foot-candles means the average of a number of points of foot-candle calculations or foot-candle measurements in a given area.

B

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

Base flood elevation (BFE) means a determination of the water surface elevations of the base flood as published in the flood insurance study and in accordance with the Town's flood damage prevention ordinance (Article 11, Part III). When the BFE has not been provided in a "special flood hazard area," it may be obtained from engineering studies available from a Federal, State, or other source using FEMA approved engineering methodologies. This elevation, when combined with the "freeboard," establishes the "regulatory flood protection elevation." (for the purposes of Article 11, Part III, Flood Damage Prevention).

Base station means a station at a specific site authorized to communicate with mobile stations, generally consisting of radio receivers, antennas, coaxial cables, power supplies, and other associated electronics.

Basement means any area of the building which has its floor subgrade (below ground level) on all sides (for the purposes of Article 11, Part III, Flood Damage Prevention).

Battery charging station means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed federal, state, and/or local requirements.

Battery exchange station means a fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds federal, state, and/or local requirements.

Beach recreation equipment rentals and sales means a business involved in the rental and sale of non-motorized beach equipment such as kayaks, bicycles, surfboards, boogie boards, canopies, chairs and umbrellas for off premise use.

Bed and breakfast means a single-family dwelling that consists of the rental of more than two bedrooms on a daily or weekly basis. The rooms shall not be equipped to allow the preparation of meals, although meals may be provided to overnight guests in a common area by the proprietor of the

APPENDIX A. DEFINITIONS

establishment. The bed and breakfast operation shall be owner occupied and conducted by persons who are full time residents of the single-family dwelling.

Bedroom means a room designated as a sleeping or bedroom on the plans by the Dare County Health Department.

Being conducted means a land-disturbing activity has been initiated and permanent stabilization of the site has not been completed (for the purposes of Article 11, Part II, Soil Erosion and Sedimentation Control).

Best management practices or BMPs, also known as Stormwater Control Measures (SCM) or stormwater management practices, are techniques implemented as a way of treating or limiting pollutants and other damaging effects of stormwater runoff in order to meet legislative and North Carolina Administrative Code requirements. This term means a permanent stormwater device that is designed, constructed, and maintained to remove pollutants from stormwater runoff by promoting settling or infiltration; or to mimic the natural hydrologic cycle by promoting infiltration, evapotranspiration, post-filtration discharge, reuse of stormwater, or a combination thereof. Common stormwater control measures include but are not limited to infiltration systems, permeable pavements, stormwater wetlands, wet ponds, bioretention cells and vegetative treatment swales.

Birth center means an accredited facility designed and intended for uncomplicated childbirth procedures with patients staying less than 24 hours.

Block means that portion of any street lying between its intersection with other streets.

Boarding house means a single-family dwelling containing at least two rooms, which are intended to be rented or otherwise occupied by individuals outside of the permitted family members occupying the dwelling unit, where communal facilities (such as a kitchen) are available in such dwelling unit for use by the tenants.

Boat rental establishment means a business involved in the rental of boats, jet skis, windsurfers, and other personal watercraft for use in the sound waters only. The term includes both powered and non-powered watercraft. The term shall not include amusement rides for use in manmade ponds or pools.

Borrow fill means fill material which is required for onsite construction and which is obtained from other locations. (For the purposes of Article 11, Environmental Regulations, Part II, Soil Erosion and Sedimentation Control)

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 (for the purposes of Article 11, Part III, Flood Damage Prevention).

Buffer yard means a yard which contains materials used to provide sight and sound screening from adjoining properties and rights-of-way. The required height and width of the buffer yard and materials used in its construction vary according to use.

Commented [HW28]: Currently, the town does not allow breakaway walls. However, should we still consider defining it?

APPENDIX A. DEFINITIONS

Buffer yard, mature or mature buffer means an established vegetated area already in existence at the time of development or redevelopment which contains trees, shrubs, or combination thereof creating a densely vegetated landscape, which has the effect of providing an opaque visual barrier along a property's boundaries and within the property's yard setback.

Buffer zone means the strip of land adjacent to a lake or natural watercourse (for the purposes of Article 11, Part II, Soil Erosion and Sedimentation Control).

Building means any structure enclosed and isolated by exterior walls constructed or used for residence, business, industry or other purposes.

Building, accessory means a subordinate building consisting of walls and a roof, the use of which is clearly incidental to that of a principal building on the same lot.

Building materials means any material such as lumber, brick, block, stone, plaster, concrete, asphalt, roofing shingles, gutters and other substances accumulated as the result of repairs or additions to existing buildings or structures, construction of new buildings or structures or the demolition of existing buildings or structures.

Building permit means the permit required for new construction, additions, remodeling, rehabilitation, or other improvements to an existing structure pursuant to Article 4, Development Review Process of this UDO and NCGS 160-417.

Building, principal means a building in which is considered the primary or predominant use of the lot on which it is located.

Building setback line means the required minimum distance between any building and the adjacent right-of-way or property line.

Building site means the area necessary within a lot of disturbed land and vegetation required for placement of principal structures (exclusive of decks) and accessory structures, its accessways and utilities, including areas disturbed for parking lots, power lines, driveways, septic tank drainfields, cemeteries and hiking trails.

Built-upon area (BUA) means that portion of a development project that is covered by impervious materials or partially impervious surfaces and used to calculate stormwater runoff potential, including buildings; pavement and compacted gravel areas such as roads or parking lots, and paths and recreation facilities such as athletic courts and concrete pool decks. Built-upon area does not include the surface area of pools, wooden slatted decks, or un-compacted, washed gravel, or pervious or partially pervious paving material to the extent that the paving material absorbs water or allows water to infiltrate through the paving material. Built-upon area is distinct from "lot coverage" as defined herein.

Business or construction trailer means any trailer which, as its primary use, is used as a permanent, semi-permanent or temporary office or other place of business, or type of business, and from which a business may be operated.

Commented [HW29]: Model ordinance indicates to see definition of structure.

Model ordinance defines structure as- means a walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.

That definition is used in UDO as definition for structure.

Discuss how to resolve.

APPENDIX A. DEFINITIONS

Business trash means any waste accumulation of dust, paper, sawdust, cardboard, excelsior, rags or other accumulations other than garbage or household trash which are usually attendant to the operation of stores, offices and similar businesses.

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C

Capital costs means costs spent for developing public or community service facilities; such costs are limited to capital outlay items listed in the "Uniform Local Government Accounting Systems" procedural manual prepared by the state local government commission. Capital costs include payment of principal and interest on any debt or other financial obligation incurred by the Town with respect to a public facility.

Capital improvements plan means the plan adopted by the Town, projecting the capital needs and expenditures by the Town.

Car wash means the use of a site for washing and cleaning of vehicles and other light duty equipment.

Cemetery means land used or intended to be used for the burial of the human dead and dedicated for cemetery purposes, and specifically excluding crematories, mausoleums and mortuaries.

Channel means a portion of the electromagnetic frequency spectrum that is capable of carrying one standard video signal, in either analog or digital form. Consistent with future changes in technology and/or applicable law, the parties may mutually agree to a different definition in an individual franchise agreement.

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 (for the purposes of Article 11, Part III, Flood Damage Prevention).

Child care facility includes child care centers, family child care homes, and any other child care arrangement not excluded by NCGS 110-86 (2) that provides child care, regardless of the time of day, wherever operated, and whether or not operated for profit.

- (1) **Child care center** means any place where, at any one time, there are three or more preschool-age children or nine or more school-age children receiving child care.
- (2) **Family child care home** means a child care arrangement located in a residence where, at any one time, more than two (2) children, but less than nine (9) children, receive child care.

Cluster housing means a development in which more than one dwelling unit is placed on a lot. For the purposes of this UDO, cluster housing shall only pertain to dwelling units that are threatened by shoreline erosion and are being relocated onto a lot containing another dwelling unit.

Coastal Area Management Act (CAMA) means 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 NC Department of Environmental Quality's (NCDEQ's) Division of Coastal Management (DCM).

Coastal A Zone (CAZ) means an area within a special flood hazard area, landward of a V zone or landward of an open coast without mapped V zones; in a Coastal A Zone, the principal source of flooding must be astronomical tides, storm surges, seiches, or tsunamis, not riverine flooding. During the base

APPENDIX A. DEFINITIONS

flood conditions, the potential for wave heights shall be greater than or equal to 1.5 feet. Coastal A Zones are not normally designated on FIRMs (see Limit of Moderate Wave Action (LiMWA)).

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

Coastal counties means the following counties: Beaufort, Bertie, Brunswick, Camden, Carteret, Chowan, Craven, Currituck, Dare, Gates, Hertford, Hyde, New Hanover, Onslow, Pamlico, Pasquotank, Pender, Perquimans, Tyrrell, and Washington (for the purposes of Article 11, Part II, Soil Erosion and Sedimentation Control).

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 Article 11, Part III, Flood Damage Prevention, as Zone VE.

Commented [HW30]: Update to reflect local definition if needed. areas east of 12 and 1243 or AO?

Coffee shop means an establishment primarily engaged in the serving of coffee beverages and other non-alcoholic beverages and food items and classified and regulated by the Dare County Health Department as a coffee shop with a customer service area not exceeding 385 square feet. Permitted accessory uses include but are not limited to retail sales of packaged coffee and retail merchandise. There shall be no drive-in or drive-through beverage service.

Collection means the act of removing solid waste to the transfer stations or the facility.

Co-location or co-located means the installation of new antenna arrays on previously approved structures, including towers, buildings, utility poles, and water tanks.

Collector street means a street which serves or is designed to serve as a trafficway for a neighborhood or as a feeder to a major street from local access streets.

Commercial crop production means the production of crops or produce for sale, to wholesale or retail establishments.

Commercial marina means any publicly or privately owned dock, basin or wet storage facility constructed to accommodate mooring for more than four boats or providing, but not limited to, any of the following services for a fee: Permanent or temporary transient docking spaces, dry storage, fueling facilities, haul-out facilities and repair service. Site plans which have been approved by the board of commissioners for outdoor recreational uses are not considered a commercial marina.

Commercial transitional protective yard means a buffered protective yard on a commercial (C-1, C-2, C-3, and C-4) lot. A commercial transitional protective yard is a required open space other than a court unoccupied and unobstructed by any structure or portion of a structure; provided, however, that fences, poles, posts may be permitted in any commercial transitional protective yard, subject to height limitations and requirements limiting obstruction of visibility or any other requirement of this UDO

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Commercial with accessory residential means a principal commercial use with accessory single-family residences either attached or detached. This use could include single-family residential, duplex, or multiple detached single-family residential dwelling units configured in a cottage court arrangement.

Communication facility means the set of equipment and network components, including wires and cables and associated facilities used by a communications service provider to provide communications service.

Communication tower, major means any tower over 70 feet in height, measured from ground level to the highest point intended for transmitting or receiving radio, television or telephone or wireless communications.

Communication tower, minor means any tower 70 feet or less in height, measured from ground level to the highest point intended for transmitting or receiving radio, television or telephone or wireless communications.

Communications service means cable service as defined in 47 U.S.C. § 522(6), information service as defined in 47 U.S.C. § 153(24), telecommunications service as defined in 47 U.S.C. § 153(53); or wireless services.

Communications service provider means a cable operator as defined in 47 U.S.C. § 522(5); a provider of information service, as defined in 47 U.S.C. § 153(24); a telecommunications carrier, as defined in 47 U.S.C. § 153(51); or a wireless provider.

Community garden means a use in which land is managed by a group of individuals to grow food or ornamental crops such as flowers, for donation or for use by those cultivating the land. Community Gardens may be divided into separate plots for cultivation by one or more individuals or may be farmed collectively by members of the group and may include common areas maintained and used by group members.

Competent evidence refers to the NC General Statutes requirement that the rules of evidence as applied in the trial division of the General Court of Justice ordinarily be followed but adds the important exception that “when evidence is not reasonably available under such rules to show relevant facts, they may be shown by the most reliable and substantial evidence available.” The Board just limits itself to the type of evidence that ought to be admissible before local administrative agencies generally. The term “competent” is essentially a synonym for “admissible before a local board.”

Completion of construction or development means that no further land-disturbing activity is required on a phase of a project except that which is necessary for establishing a permanent ground cover (for the purposes of Article 11, Part II, Soil Erosion and Sedimentation Control).

Computation of time means the time within which an act is to be done shall be computed by excluding the first and including the last day; and if the last day is Saturday, Sunday or a legal holiday, that shall be excluded.

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Concealed building mounted antenna (flush) means a building mounted antenna or antenna array which is concealed by, but not limited to, being located beneath the roof line, being screened behind an opaque facade, or blended into the building structure with faux windows, dormers or other architectural features that appear as part of the existing or proposed structure so that the antenna or antenna array is not visible by ordinary observation from the ground at the perimeter of the property boundary in any direction (360 degrees).

Condominium means ownership in common with others of a parcel of land and certain parts of a building thereon which would normally be used by all the occupants, together with individual ownership in fee of a particular unit in such building.

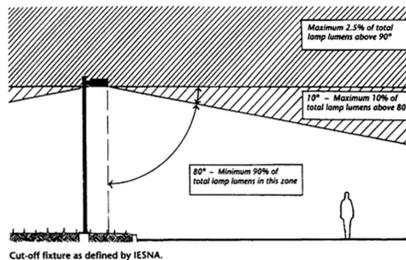
Cottage court means a residential type development with three or more detached single-family dwellings, on-site management office, and/or another complementary business use on one lot.

Crawl space construction means the enclosed under-floor space between the bottom of the floor joists and the earth under any building (for the purposes of Article 11, Part III, Flood Damage Prevention).

Crowd gathering activities in indoor public assemblies means all events or activities within places of indoor public assembly designed for multiple activities and intended to attract large numbers of people. Such events and activities may include conferences, conventions, private parties, catered meals, and general retail in the form of craft fairs, food fairs and indoor flea markets.

Customer service area means the area within a restaurant or restaurant drive-in, open to the general public and designated for the purchase and/or consumption of food, drink, or other similar items. Customer service area shall include indoor and/or outdoor seating areas, indoor and/or outdoor lounge and bar areas, decks, porches, and patios but shall not include stairs, stair landings, handicapped ramps, restrooms, kitchen and food preparation areas, private offices, loading areas, hallways, exit access and exit discharge areas, and any other areas not open to the general public. Customer service area shall not include outdoor seating areas, or outdoor decks, porches or patios where such areas are not designated for the purchase of food, drink, or similar items and instead are used primarily as waiting areas for customers who are waiting to be seated in indoor customer service areas. Additionally, customer service area shall not include any outdoor areas used by the customers of restaurants located in shopping centers.

Cutoff fixture means a flat lens, full cutoff fixture that by its design, directs a minimum of 90 percent of total lamp lumens within 80 degrees of the vertical plane of the light fixture and a maximum of ten percent of the total lamp lumens above 80 degrees from the vertical plane, and no more than 2.5 percent of total lamp lumens above 90 degrees. Full cutoff fixtures must be installed in a horizontal position as designed.



APPENDIX A. DEFINITIONS

D

Dare County Health Department means the Dare County Department of Health and Human Services.

Dedication means a gift to the general public or a municipality, by the owner, of the right to use land for stated purposes. Since a transfer of property is involved, a dedication must be made by written instrument.

Department means the NC Department of Environmental Quality (NCDEQ) (for the purposes of Article 11, Part II, Soil Erosion and Sedimentation Control).

Design flood see Regulatory Flood Protection Elevation

Design storm or design depth means a rainfall event, expressed in depth, measured in inches, for the purposes of Article 11, Part I, Stormwater, Fill & Runoff Management and independent of storm duration, utilized for the calculation of storage volume required for BMPs. Design storm depth varies by fill depth, flood zone, and use as specified in Article 11, Part I.

Designated public events site means a parcel or contiguous group of parcels of acreage greater than five, owned by the public and designated by the board of commissioners for the purpose of creating a variety of opportunities for recreation, leisure, social or cultural experiences and special events in accordance with the regulations of this Code. Public event sites may include temporary and fixed structures, as approved by the building inspector, and can host multiple uses with an events site and management plan and permit approved by the Town Manager.

Developer means that person who is improving a parcel of land within the Town and who may or may not be the owner of the property.

Development means any land disturbing activity that increases the amount of built-upon area or that otherwise decreases the infiltration of precipitation into the soil or any man-made change to improved or unimproved real estate including buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, not including existing residential or commercial development already in place.

Development activity means any activity defined as Development which will necessitate a Floodplain Development Permit. This term includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.

Dialysis center means a building or structure or portion thereof in which persons with impaired kidney function have toxins removed from their blood on a periodic basis through the use of dialysis machines. Application of the term shall be limited to facilities staffed routinely by nurses and/or technicians and not by a doctor.

APPENDIX A. DEFINITIONS

Digital Flood Insurance Rate Map (DFIRM) means the digital official map of a community, issued by the Federal Emergency Management Agency (FEMA), on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

Director means the director of the Division of Energy, Mineral, and Land Resources of the NC Department of Environmental Quality (for the purposes of Article 11, Part II, Soil Erosion and Sedimentation Control).

Discharge point means that point at which runoff leaves a tract of land (for the purposes of Article 11, Part II, Soil Erosion and Sedimentation Control).

Dish antenna means any accessory structure capable of receiving radio or television signals from a transmitter or a transmitter relay which is located in planetary orbit or land based.

Disposal means, as defined in NCGS 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters (for the purposes of Article 11, Part III, Flood Damage Prevention).

District means the Dare Soil and Water Conservation District created pursuant to NCGS Ch. 139.

Dock, private means an estuarine pier or dock which may be permitted as an accessory use to the principal use, and shall be for the exclusive use of the landowner and shall not provide any services of a commercial marina.

Docking facility means any publicly or privately-owned dock, basin or wet storage facility constructed to accommodate mooring for four or less boats as an accessory to a principal commercial use.

Dormitory means a commercial facility used for monthly rental housing of unrelated residents in a communal non-transient living arrangement. The facility shall consist of separate sleeping, bathing, and common living areas.

Drainage area means the entire tributary area contributing surface runoff to a point of interest.

Drainfield shall also mean nitrification field or wastewater disposal area.

Drive aisle means the area of driveway necessary for vehicles to access parking stalls and for emergency vehicle access to structures.

Driveway means an improved accessway for vehicular traffic with the purpose of providing access to parking or maneuvering space from a public street or highway into an abutting property.

Driveway apron means that portion of a driveway which connects to the adjacent street or highway, usually within the right-of-way for that street.

APPENDIX A. DEFINITIONS

Dry hydrant means an arrangement of pipe permanently connected to a water source other than a piped, pressurized water supply system that provides a ready means of water supply for fire-fighting purposes and that utilizes the drafting (suction) capability of the fire department pump.

Dry well means a structure or series of structures located to collect and discharge stormwater through a subterranean chamber which allows collected water to dissipate and infiltrate into the ground.

Dwelling, accessory means a secondary dwelling unit established in conjunction with, and clearly subordinate to, a principal dwelling unit, whether part of the same structure as the principal dwelling unit or as a detached structure on the same lot.

Dwelling, duplex means any dwelling place designed for, or occupied by, two families, each of which has direct access to the outside.

Dwelling, large residential means a single-family dwelling or two-family dwelling (duplex) that has 3,500 or more square feet of enclosed habitable living space.

Dwelling, multifamily means a building or portion thereof used or designed as a residence for three or more families living independently of each other and with each independent unit containing its own kitchen. Multifamily dwelling shall include a townhouse and any similar building, irrespective of the form of legal title.

Dwelling, single-family means a detached building designed for or occupied exclusively by one family.

Dwelling unit means one room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities for a single-family.

E

Easement means a grant by the property owner for use, by the public, a corporation or person, of a strip of land for specified purposes.

Easement, access means an easement created for the purpose of providing vehicular or pedestrian access to property.

Earth station - see Dish Antenna.

Educational facility, pre-school means a facility for the organized instruction of children not yet attending primary or secondary school.

Electric vehicle means any vehicle that operates, either partially or exclusively, on electrical energy from the grid, or an off-board source, that is stored on-board for energy purposes. Electric vehicle includes: (1) a battery powered electric vehicle; and (2) a plug-in hybrid electric vehicle.

APPENDIX A. DEFINITIONS

Electric vehicle charging station means a public or private parking space located together with a battery charging station which permits the transfer of electric energy (by conductive or inductive means) to a battery or other storage device in an electric vehicle. An electric vehicle charging station is permitted as an accessory use to any principal use.

Electric vehicle parking space means any marked parking space that identifies the use to be exclusively for an electric vehicle.

Electroluminescent means direct conversion of electric energy to light by a solid phosphor, or other materials, subjected to an electrical current.

Elevated building means a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns (for the purpose of Article 11, Part III, Flood Damage Prevention).

Elevation means:

- (1) A vertical distance above or below mean sea level;
- (2) A fully dimensioned drawing to the front, rear, or side of a structure showing features and their relationship to grade, sea-level, or other reference point.

Eligible facilities request means a request for modification of an existing wireless tower or a base station that involves collocation of new transmission equipment or replacement of transmission equipment but does not include a substantial modification.

Enclosure/Enclosed Area means that portion of an elevated building below the lowest elevated floor that is either partially or fully shut in by rigid/solid walls and is located either partially or fully below the RFPE.

Encroachment means the advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain (for the purpose of Article 11, Part III, Flood Damage Prevention).

Encroachment means the location of a structure within a required yard that is not permissible under the requirements of this UDO. Article 8, District Development Standards, contains the minimum yard requirements for the Town's primary and special zoning districts.

Energy dissipater means a structure or a shaped channel section with mechanical armoring placed at the outlet of pipes or conduits to receive and break down the energy from high velocity flow (for the purposes of Article 11, Part II, Soil Erosion and Sedimentation Control).

Engineer means a professional engineer registered in the state to act as duly authorized representative of the developer or the Town.

Environmental awareness area is an area designated and maintained for the purpose of conservation and environmental education. This may include non-profit wildlife, ecological preserves, watershed

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construction areas, interpretive signage, trails, research stations and appurtenant office, restroom and mechanical facilities (and is distinct from the definition of "area of environmental concern" or "AEC," which is a CAMA designation).

Erosion means the wearing away of land surface by the action of wind, water, gravity or any combination thereof (for the purposes of Article 11, Part II, Soil Erosion and Sedimentation Control).

Erosion escarpment means the normal vertical drop in the beach profile caused from high tide and/or storm tide erosion.

Erosion, natural means the wearing away of the earth's surface by water, wind or other natural agents under natural environmental conditions undisturbed by man (for the purposes of Article 11, Part II, Soil Erosion and Sedimentation Control).

Estuarine frontal dunes means the dunes which are the first mounds of sand located landward of the estuarine waters of the Roanoke Sound and having a minimum elevation equal to or greater than the mean flood level plus six feet (nine feet plus six feet). For the purpose of this article, estuarine frontal dunes occur in the area southerly of the northwest boundary of Parcel 13, Tax Map 185, as shown on Tax Maps 185 and 186. The estuarine frontal dunes extend southward and terminate at the southwest boundary of the SED-80 district.

Equipment compound means an area surrounding or near the base of wireless support structure within which a wireless facility is located.

Existing building and existing structure means any building and/or structure for which the "start of construction" commenced before the ~~date the Town's first floodplain management ordinance was adopted- community entered the NFIP,~~ dated ____.

Commented [HW31]: Verify date

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, either final site grading or the pouring of concrete pads, and the construction of streets) was completed before January 16, 1978 (for the purposes of Article 11, Part III, Flood Damage Prevention).

Commented [HW32]: Verify that this is the date the community entered the program.

Ex parte is a Latin legal term meaning "from (by or for) [the/a] party." An ex parte decision is one decided by a judge without requiring all of the parties to the controversy to be present.

F

Fall zone means the area in which a wireless support structure may be expected to fall in the event of a structural failure, as measured by engineering standards.

Family means any group of people operating as a single housekeeping unit occupying a dwelling unit.

Family care home means a home with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for not more than six resident

APPENDIX A. DEFINITIONS

persons with disabilities. "Person with disabilities" 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 NCGS Section 122C-3(11)b.

Family foster home means the private residence of one or more individuals who permanently reside as members of the household and who provide continuing full-time foster care for a child or children who are placed there by a child placing agency or who provide continuing full-time foster care for two or more children who are unrelated to the adult members of the household by blood, marriage, guardianship, or adoption.

Farm stand means a temporary open-air stand or place for the seasonal selling of agricultural produce. A produce stand is portable and capable of being dismantled or removed from the sales site.

Farmers Market, Municipally-Operated means a municipally operated, seasonal market that is open to the public and held on Town property where individuals offer for sale locally produced and/or acquired items such as seasonal fresh produce, fruits, flowers, dairy, meats, prepared foods, seafood, beverages, farm products, arts and crafts, and wares, which are dispensed from booths located on-site. Other secondary activities could include, but are not limited to, art shows, live music, educational and learning activities, kids programming, and other municipally organized events and activities.

Fence means any artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

Fill is the depositing of soil, rock or other earthen materials by artificial means, but not including poured slab, asphalt, porous pavement, Turfstone™, or other manmade materials or surfaces designed in association with construction.

Fill depth is the difference between the post-development surface elevation and the pre-development surface elevation.

Fine craft and folk art production means a variety of crafts and arts rooted in community and cultural traditions that generally expresses and encompasses a range of utilitarian and decorative media including cloth, wood, paper, clay, metal and more. The term does not include Artisan's Workshop as defined herein.

Flag pole means a pole with a pulley and a cord on which a flag or flag sign is raised and flown.

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

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

Commented [S33]: Should we update definition to include-
Excavated material moved or relocated onsite is considered fill.

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

Flood Hazard Boundary Map (FHBM) means an official map of a community, issued by the FEMA, where the boundaries of the Special Flood Hazard Areas have been defined as Zone A.

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

Flood Insurance Rate Map (FIRM) means an official map of a community issued by the Federal Emergency Management Agency on which both the special flood hazard areas and the risk premium zones applicable to the community are delineated (also see DFRIM).

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

Floodlight means a light fixture usually capable of being pointed in any direction that is designed to project a light beam to an object or surface area to a luminance considerably greater than its surroundings.

Flood-prone area. See Floodplain.

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

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

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

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

Floodplain management regulations means Article 11, Part III of this UDO and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state or local regulations, in any combinations thereof, which provide standards for preventing and reducing flood loss and damage.

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

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

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

Floodway encroachment analysis means 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 North Carolina licensed engineer using standard engineering methods and hydraulic models meeting the minimum requirement of the National Flood Insurance Program.

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

Flyboard means a type of jetpack which supplies propulsion to drive the flyboard through water, the rider typically stands on a board connected by a long hose to a watercraft.

Food bank means a building or portion of a building from which foodstuffs are distributed to indigent individuals or families.

Food truck means a licensed vehicle or trailer equipped with facilities for cooking and selling food which satisfies local and state regulations for health and sanitation standards.

Footcandle means the unit of measure of illuminance on a surface. Footcandles are the ratio of the quantity of light in lumens divided by the surface area in square feet on which the lumens are falling. One lumen per square foot is one footcandle.

Forest canopy means (collectively) the light-intercepting layer formed by all of the tree tops and ultimate leaf bearing branches in a forest; the uppermost layer of vegetation in a forest. In the Nags Head Woods, the forest canopy may be kept to near constant height by the pruning effect of salt mist nearer the ocean or it may become irregular in height where salt impact is less.

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Forest sub-canopy means a light-intercepting understory layer formed by shade-tolerant saplings, shrubs and small trees beneath the canopy of a forest. The Nags Head Woods sub-canopy species include dogwood, muscle wood, hop hornbeam and holly.

Free of obstruction means a space below the lowest floor of an elevated structure, located in a coastal high hazard area or VE-zone, that must be open and designed to be free and clear to allow floodwaters to flow freely beneath the structure. The space below the lowest floor that is unobstructed shall be a minimum vertical distance of 18 inches measured from the bottom of the lowest horizontal structural member of the lowest floor to the highest finished grade directly beneath the structure. Breakaway walls cannot be utilized to meet the free of obstruction requirement.

Freeboard means 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 or culvert openings, storm surge or precipitation exceeding the base flood and the hydrological effects of urbanization on the watershed. The base flood elevation plus the freeboard establishes the "regulatory flood protection elevation."

Frontal dune means, in areas where there is a primary dune, that dune shall be deemed to be the frontal dune. Where there is no primary dune, the frontal dune is deemed to be the first mound of sand located landward of the ocean beach having sufficient vegetation, height, continuity and configuration to offer protective value. Manmade mounds seaward of the natural line of frontal dunes and dunes created after June 1, 1979, shall not be considered to be frontal or primary dunes, except where no frontal or primary dune exists.

Fully shielded means a light fixture that is constructed or sufficiently shielded by an opaque housing, in such a manner that all light emitted is below the horizontal plane as determined by photometric test or certified by the manufacturer.

Functionally dependent facility means a facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales or service facilities (for the purposes of Article 11, Part III, Flood Damage Prevention).

Furniture showroom means a retail establishment that utilizes large, open floor areas to display furniture or mattresses.

Furniture store means an establishment that sells goods and/or movable objects, intended to support various human activities such as seating, eating, and sleeping, for furnishing or improving housing units that make a room or other area ready for occupancy.

G

General contractor's office means a building or portion of a building occupied as an office by a "general contractor" as defined in NCGS 87-1.

Commented [HW34]: Not in model- Higher standard.

Need to determine if free of obstruction will be required for AO zones or areas east of Hwy 12 and 1243.

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Glare means the sensation produced by luminance within the visual field that is significantly greater than the luminance to which the eyes are adapted, causing annoyance, discomfort, or loss of visual performance. It results from high luminance or insufficiently shielded light sources in the field of view or from reflecting areas of high luminance. There are two types:

- (1) Disability glare affects visual performance and reduces the ability to see or identify objects. It is often accompanied by discomfort.
- (2) Discomfort glare produces discomfort but does not necessarily interfere with visual performance or visibility.

Grade means the average elevation of the land around a building as measured at the four corners of the structure or at four points around the building distributed evenly, or as the natural elevation of land within a property measured in feet above sea level.

Grading means any cut or fill, or combination thereof, or re-compaction of soil, rock or other earthen materials.

Granny pods/temporary health care structure means a transportable residential structure, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, that (i) is primarily assembled at a location other than its site of installation; (ii) is limited to one occupant who shall be the mentally or physically impaired person, (iii) has no more than 300 gross square feet; and (iv) complies with applicable provisions of the State Building Code and NCGS 143-139.1. (NEW)

Grantee means a person who is granted a franchise or that person's lawful successors, transferees or assigns.

Grantor means the Town of Nags Head.

Gravel means a clean or washed, loose aggregation of well-rounded spherical stones, commonly referred to as pea gravel or river rock, that are up to three inches in diameter where 50 percent is larger than ¼-inch with less than five percent fines. Gravel is not crushed stone or rock.

Gross floor area means that area in square feet measured from the outside walls of a structure.

Ground cover means any natural vegetative growth or other material which renders the soil surface stable against accelerated erosion (for the purposes of Article 11, Part II, Soil Erosion and Sedimentation Control).

Groundwater recharge area means a catchment basin or watershed underlain by layers of alternating permeable and impermeable strata such that excess rainfall not lost by evapotranspiration or runoff is retained and stored in subterranean porous layers of soil. Nags Head Woods acts as a groundwater recharge area since porous sandy soils permit little runoff of excess precipitation. For the purposes of this UDO, components of this system include ponds, wetland swales, bay forests, dunes and marsh.

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Group demonstration means any assembly or concert of action between or among any two or more persons for the purpose of protesting or demonstrating for or against any matter, or of making known any position or promotion of such persons or matter, or of or on behalf of any organization, group, corporation or class of persons, or for the purpose of attracting attention to such assembly.

Group development means a group of buildings on a single site which are occupied and used for professional offices, retail, personal services, indoor recreation facilities, and/or restaurant uses.

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H

Habitable floors means any floor usable for living purposes, which includes working, sleeping, eating, cooking, or recreation or a combination thereof, except for a floor used only for storage purposes.

Habitable building area means a finished space in an enclosed portion of the building used for any purpose other than storage.

Haunted house means an indoor entertainment facility utilizing sets, props, and displays for a family-oriented environment.

Hazardous waste management facility means, as defined in NCGS 130, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste (for the purposes of Article 11, Part III, Flood Damage Prevention).

Height means the vertical distance measured from the tallest part of a building to the ground at the base of the building. Typically, height is measured from the tallest portion of the roof to the top of the concrete slab. In cases where a concrete slab is not present, height is measured from the tallest part of the roof to the average finished grade using the corners at the base of the building.

- In ~~any~~ Shaded X, X, or AE special flood hazard area, height will be measured from the regulatory flood protection elevation or finished grade, whichever is higher. In cases where there is a ground floor enclosure below the regulatory flood protection elevation, height shall be measured from finished grade.
- In coastal high hazard areas, ~~or~~ VE zones, AO zones, and Shaded X or X special flood hazard areas east of Hwy 12 or 1243 height shall be measured from regulatory flood protection elevation. In cases where the finished grade elevation is above the regulatory flood protection elevation, height shall be measured at approximately eighteen (18) inches above the highest, undisturbed, finished grade directly beneath the structure.

Height, wind energy facility means the distance measured from grade at the center of the tower to the highest point of the turbine rotor or tip of the turbine blade when it reaches its highest elevation.

Heliport means an area providing for the takeoff and landing of helicopters and fuel facilities (whether fixed or mobile) or appurtenant areas for parking, maintenance, and repair of helicopters.

High hazard flood area means the area subject to high velocity waters (including, but not limited to, hurricane wave wash) in a storm having a one percent chance of being equaled or exceeded in any given year, as identified as zone V1-30 on the flood insurance rate maps of the Federal Insurance Administration, US Department of Housing and Urban Development. In the absence of these rate maps, other available base flood elevation data prepared by a federal, state or other source may be used, provided that such data source is approved by the Town.

Commented [S35]: Should we put RFPE of 12'----In areas east of NC 12 and 1243, height would be measured from RFPE of 12'

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High quality water (HQW) zones means for the coastal counties areas within 575 feet of high quality waters and for the remainder of the state are areas within one mile and drain to HQW's (for the purposes of Article 11, Part II, Soil Erosion and Sedimentation Control).

High quality waters means those classified as such in 15A NCAC 2B.0101(e)(5) - General Procedures, which is incorporated in this section by reference to include further amendments pursuant to NCGS 150B-14(c) (for the purposes of Article 11, Part II, Soil Erosion and Sedimentation Control).

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

Historic structure means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing by the US Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the 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; or
- (3) Individually listed on a local inventory of historic landmarks in communities with a "certified local government (CLG) program"; or
- (4) Certified as contributing to the historical significance of a historic district designated by a community with a "certified local government program."

Certified local government (CLG) programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the state historical preservation officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

Home center means a retail outlet carrying products for home improvements, remodeling maintenance, decorating, home care, recreational leisure and related needs, including hardware, appliances, lumber and other building materials, but only in such amounts as will meet the need for self-pickup individuals, do-it-yourself customers, and not amounting to a lumber yard or building material storage yard from which deliveries are made to commercial customers.

Home occupation, class 1 means a professional services occupation commonly carried on within the dwelling by a member(s) of the household who occupy the dwelling. A home occupation shall be secondary to the use of the dwelling for living purposes.

Home occupation, class 2 means a professional service occupation that is limited to services without any on-site/wholesale sales of commodities owned and/or operated by member(s) of the household who occupy the dwelling. These services may include real estate sales, law practice, accounting services, handmade goods, including baked goods (as long as they are sold off-site), and other similar

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professional occupations. A home occupation shall be secondary to the use of the dwelling for living purposes.

Home occupation, class 3 means an occupation carried on within the dwelling owned and/or operated by member(s) of the household who occupy the dwelling that may involve the creation, display, or sale of artistic wares, crafts, pieces of art, sculptures, or other creations, and handmade goods (including baked goods). A home occupation shall be secondary to the use of the dwelling for living purposes.

Hospital means an institution providing physical services primarily for human inpatient medical or surgical care for the sick or injured. A hospital may include related facilities such as laboratories, outpatient services, training facilities, central service facilities, mental health and staff offices. A hospital shall include an on-site heliport.

Hotel means a structure containing hotel units, hotel suites, and or efficiency units with 24-hour, on-site management and intended for transient guests on a rental basis.

Hotel efficiency unit means a lodging unit having living and cooking facilities and also meeting the following requirements:

- (1) Efficiency units shall be limited to one bedroom.
- (2) The kitchen area shall comprise no more than ten percent of the entire unit.

Hotel suite means lodging unit having living and cooking facilities within a hotel and also meeting the following requirements:

- (1) Units shall be limited to two bedrooms.
- (2) The kitchen area shall comprise no more than ten percent of the entire unit.

Hotel unit means a lodging unit which does not contain independent cooking facilities and is designed and intended for transient guests on a rental basis. This definition shall include rental units customarily found in motels, hotels, inns and motor lodges.

Housekeeping unit means any household whose members are an interactive group of persons jointly occupying a dwelling unit, including joint access to and use of all common areas including living, kitchen, and eating areas within the dwelling unit, and sharing household activities and responsibilities such as meals, chores, expenses and maintenance, and whose makeup is determined by the members of the unit rather than by the landlord, property manager, or other third party.

I

Impacts of stormwater means impacts associated with inadequate storage, conveyance, or ponding of stormwater runoff, including erosion, intermittent flooding, or chronic flooding.

Impervious surface means any surface which, because of its material composition or compacted nature, impedes or prevents natural infiltration of stormwater into the soil.

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Improvements are all changes or additions made on or to the land, excluding buildings and structures and including, but not limited to:

- (1) Street and roads and related curbing;
- (2) Sidewalks;
- (3) Storm drains and mains;
- (4) Water lines, water mains and fire hydrants;
- (5) Sewer lines and sewer mains;
- (6) Any sewerage treatment facility of any kind except one-family or two-family residence septic tanks;
- (7) Surface and subsurface electric and telephone and cable television lines and conduits;
- (8) Recreational facilities, except recreational facilities intended for use by an individual for his own private purposes which include, but are not limited to:
 - (a) Playgrounds;
 - (b) Parks;
 - (c) Marinas;
 - (d) Beaches and swimming pools;
 - (e) Golf courses;
- (9) Street lighting and related electric wires;
- (10) Natural gas lines;
- (11) Parking lots.

Incipient inlet means an ocean-to-sound inlet which has been formed, or an inlet in the first stages of formation, or an inlet which has opened and is now closed, as a result of a severe storm event.

Incipient inlet high hazard area means that land area on both sides of an inlet, an incipient inlet, or former inlet which has closed.

Indoor entertainment means performances, entertainment, or presentations consisting of or using electric or electronic amplified sound by live entertainers, or by prerecorded media, presented before audiences or customers. Sexually oriented business activities and adult live entertainment are specifically excluded from this indoor entertainment definition.

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Indoor entertainment facilities means facilities as a part of, or included in the design or plan of, a building or structure to accommodate indoor entertainment as a principal or accessory use. Indoor entertainment facilities must be constructed to meet noise buffering requirements of the zoning district where located.

Indoor fitness center means a building which is occupied and used exclusively for physical health fitness programs and to provide facilities for group and individual exercise including aerobics, weightlifting, martial arts, stretching and meditation.

Indoor place of amusement and entertainment means any place of amusement and entertainment which operates indoors within a building which is completely walled on all sides and has a complete roof; except, a tent or temporary structure or building.

Indoor public assembly facility means a facility designated for multiple activities. The allowed activities may include conferences, conventions, concerts, private parties, catered meals, and general retail in the form of craft fairs, food fairs and indoor flea markets.

Indoor recreation activities means family indoor recreation uses either as a principal or accessory use.

Inn - see Hotel.

ISO footcandle diagram means lines plotted on a set of coordinates to show all points on a surface where equal levels of illuminance occur.

J

Jetpack means a device, usually worn on the back, which is propelled by jets of escaping gases or liquids to allow a single user to propel themselves in the air.

Junk means old or scrap metals, rope, rags, batteries, paper, trash, rubber or debris. Junked, dismantled or wrecked motor vehicles or parts thereof and iron, steel and other old or scrap ferrous or nonferrous material are also junk. The term junk shall also include old or salvaged building materials, appliances, dismantled or wrecked boats, machinery and machinery parts, or parts thereof, and any item which is either in a wholly or partially rusted, wrecked, dismantled or inoperative condition.

Junked motor vehicle means, as authorized and defined in NCGS 160A-303.2, a vehicle that does not display a current license plate upon that vehicle and that:

- (1) Is partially dismantled or wrecked;
- (2) Cannot be self-propelled or moved in the manner in which it originally was intended to move; or
- (3) Is more than five years old and appears to be worth less than \$100.00.

Junkyard means an open storage area such as an automobile wrecking yard, building material salvage yard, scrap metal processing yard or any lot, land or structure or part thereof where an area of 600

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square feet or larger is used for storing, keeping, buying, processing or selling junk. In addition, any open storage area on which three vehicles without proper, current license plates are located shall be considered a junkyard.

K

None

L

Lake or natural watercourse means any stream, river, brook, swamp, sound, bay, creek, run, branch, canal, waterway or estuary and any reservoir, lake or pond, natural or impounded, in which sediment may be moved or carried in suspension, and which could be damaged by accumulation of sediment. (For the purposes of Article 11, Environmental Regulations, Part II, Soil Erosion and Sedimentation Control)

Lamp means a bulb, tube, or light emitting diode (LED) that is a light source.

Land development regulations means any ordinance enacted pursuant to Part 3E of Article 19 of Chapter 160A of the North Carolina General Statutes (NCGS).

Land disturbing activity means any use of the land by any person in residential, industrial, educational, institutional or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation, excluding disturbance allowable for site investigations (for the purposes of Article 11, Part II, Soil Erosion and Sedimentation Control).

Landowner means any owner of a legal or equitable interest in real property, including heirs, devisees, successors, assigns, and personal representatives of such owner. The landowner may allow a person holding a valid option to purchase to act as his agent or representative for purposes of submitting a proposed site-specific development plan in the manner allowed by Article 3, Legislative/Quasi-Judicial Procedures of this UDO.

Letter of Map Change (LOMC) means an official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

- (1) **Letter of Map Amendment (LOMA)** means an official amendment, by letter, to an effective National Flood Insurance Program map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the floodplain but is actually on natural high ground above the base flood elevation. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.
- (2) **Letter of Map Revision (LOMR)** means a revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.

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(3) **Letter of Map Revision Based on Fill (LOMR-F)** means a determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.

(4) **Conditional Letter of Map Revision (CLOMR)** means a formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

Light duty truck means any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 CFR 86.082-2 and is:

- (1) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
- (2) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
- (3) Available with special features enabling off-street or off-highway operation and use.

Limit of Moderate Wave Action (LiMWA) means the boundary line given by FEMA on coastal map studies marking the extents of Coastal A Zones (CAZ).

Light fixture means any electrically powered illuminating device, reflective surface, lamp or any similar device, permanently installed or portable, used for illumination or advertisement, including illuminated signs.

Loading and unloading area means any space or area used by any moving vehicle for the purpose of receiving, shipping and transporting goods, wares, commodities and persons.

Local Elevation Standard means a locally adopted elevation level used as the Regulatory Flood Protection Elevation (RFPE) in Shaded X and X zones or used in conjunction with the BFE and freeboard standard to mitigate flood hazards in the AE, AO, VE, as depicted on the FIRMs for Nags Head.

Local damage assessment team means a damage assessment team, required by the state division of emergency management, whose function is to assess losses to property immediately after a storm. The assessment is used to determine if the area can qualify for federal or state disaster assistance.

Local government means any county, incorporated village, town or city, or any combination of counties, incorporated villages, towns and cities, acting through a joint program pursuant to the provisions of the Act (for the purposes of Article 11, Part II, Soil Erosion and Sedimentation Control).

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Lot means a portion of a subdivision or any other parcel of land which is subject to this UDO, intended as a unit for transfer of ownership, for development or for both. The term "lot" includes the terms "plot," "parcel" or "tract."

Lot area means the total horizontal area included within lot lines.

Lot balancing is the act of grading a site utilizing existing on-site material for purposes such as providing a level building pad or vehicular areas. Lot balancing does not include the importation of fill.

Lot, corner means a lot abutting upon two streets at their intersection, provided that the interior angle at the intersection of two such streets is less than 135 degrees.

Lot coverage means that portion of the lot area, expressed as a percentage, that is covered or occupied by impervious surfaces or structures. For the purposes of determining lot coverage, the following features shall be considered impervious – any principal or accessory use or structure located above the ground including decks, parking areas, vehicular use areas, roadways, access ways, and sidewalks or walkways that prevent the infiltration of rainwater. Lot coverage is utilized to determine zoning compliance and is distinct from the amount of built upon area used in stormwater management calculations.

Lot depth means the average distance from the front lot line to the rear lot line measured in a general direction with the side lot lines of a lot.

Lot lines means the lines bounding a lot:

- (1) **Lot line, front** means the line separating a lot from the right-of-way of the street which is designated by the owner as the front street, except that where there is an access easement, that easement line shall be the front lot line, rather than the street itself.
- (2) **Lot line, rear** means the lot boundary opposite and most distant from the front lot line. In the case of a pointed or irregular lot, it shall be an imaginary line parallel to and farthest from the front lot line, not less than 30 feet long and wholly within the lot.
- (3) **Lot line, side** means a side lot line is any lot boundary line not a front lot line or rear lot line.

Lot of record means a lot which is part of a subdivision or a lot or parcel described by metes and bounds which has been legally created and recorded in the office of the Dare County Register of Deeds.

Lot width means the width of a lot at the required building setback line measured at right angles to its depth. However, within the SED-80 district, the required lot width shall be measured at the actual building line.

Low impact development is a stormwater management design framework aimed at minimizing the negative impacts of stormwater runoff by mimicking pre-development hydrology.

Low impact development solutions to reduce stormwater runoff, or the Town BMP manual means the local reference guide designed to provide information for low impact development practices and which

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can be utilized to assist with compliance for residential projects using two feet or less of fill under Article 11, Part I, Stormwater, Fill & Runoff Management. All references herein to the Town BMP manual or "Low Impact Development Solutions to Reduce Stormwater Runoff," are to the latest edition or revision.

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

Lowest floor means the lowest floor of the lowest enclosed area (including the basement). 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 enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Article 11, Part III, Flood Damage Prevention.

Lowest horizontal structural member means the lowest beam, joist, or other horizontal member that supports the building.

Lumen means the unit of measure of the quantity of light emitted by a light source, irrespective of direction.

Luminescent means any surface that is illuminated through the use of phosphorescent or luminescent paint or material.

M

Maid's quarters means an attached or detached individual dwelling unit identified as being an historic structure and listed individually in the National Register of Historic Places, a listing by the US Department of the Interior, or has preliminary been determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.

Maintained footcandles means footcandles (minimum, maximum, or average) that are calculated with an adjustment for a maintenance factor that includes dirt buildup, lamp lumen depreciation, ballast factor, etc. The system is in effect over designed initially and then over time allowed to reach a maintained footcandle level.

Major damaged structure means a structure that can be made habitable with extensive repairs. Damage may include foundation, roof structure, and major structural components. The indicator for this category is if the cost to repair is greater than ten percent and less than 50 percent of the replacement cost at the time of damage.

Manufactured home (includes double-wide and triple-wide homes) means a preassembled dwelling unit built on a chassis, with body width exceeding eight feet and body length exceeding 32 feet, designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities. The term includes units that do and do not meet HUD model standards for manufactured homes. A travel trailer is not to be considered as a manufactured home.

Commented [HW36]: Model ordinance defines manufactured home as-

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".

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

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

Marshlands means those lands, bordering on bodies of water, which are periodically subject to overflow by such bodies of water, and which lands are usually soft and wet and covered with or support the growth of "marsh grass," even though at times they may be solid, dry and firm.

Massage and bodywork therapy means systems of activity applied to the soft tissues of the human body for therapeutic, educational, or relaxation purposes. The application may include:

- (1) Pressure, friction, stroking, rocking, kneading, percussion, or passive or active stretching within the normal anatomical range of movement.
- (2) Complementary methods, including the external application of water, heat, cold, lubricants, and other topical preparations.
- (3) The use of mechanical devices that mimic or enhance actions that may possibly be done by the hands.

Massage and bodywork therapist means a person licensed by the NC Massage and Bodywork Therapy Board and conducting massage and bodywork therapy.

Massage and bodywork therapy establishment means any duly licensed site or premises in which massage and bodywork therapy is practiced. This term does not include any of the following:

- (1) On-site massage performed at the location of the customer.
- (2) Stand-alone devices, such as chairs, that are operated by the customer.
- (3) Establishments located within the confines of a hospital, nursing home, or other similar establishment or facility licensed or otherwise regulated by the NC Department of Health and Human Services.
- (4) Massage and bodywork therapy provided by a sole practitioner.
- (5) A student clinic operated by a Board-approved school or a massage and bodywork therapy program offered by community colleges in North Carolina that are accredited by the Southern Association of Colleges and Schools or massage and bodywork therapy programs

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offered by a degree or diploma granting college or university accredited by any accrediting agency that is recognized by the United States Department of Education and licensed by the North Carolina Community College System or The University of North Carolina Board of Governors or exempt from such licensure pursuant to NCGS 116-15(c).

- (6) Chiropractic physician offices that provide massage and bodywork therapy only by massage and bodywork therapists currently licensed in North Carolina.

Maximum footcandle means the maximum footcandle point calculation or measurement in a given area.

Mean high water (MHW) means 1.18 feet above the National Geodetic Vertical Datum, 1988.

Medical clinic means a building or structure or portion thereof where medical services are provided by three or more doctors or practitioners for outpatients only.

Medical office means a building or structure or portion thereof where persons receive outpatient medical examinations, treatments, and procedures from licensed practitioners. This definition shall include doctor's and dentist's offices, and the offices of any other licensed and/or certified health care providers.

Mentally or physically impaired person means a person who is a resident of this State and who requires assistance with two or more activities of daily living (bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting, and eating) as certified in writing by a physician licensed to practice in this State.

Metaphysical wellness services means hypnosis, past life regression, energy healing practices, phrenology, astrology, and intuitive readings such as psychic, palm, tarot and oracle cards for which there is no professional licensing recognized by the State of North Carolina.

Micro wireless facility means a small wireless facility that is no larger in dimension than twenty-four (24) inches in length, fifteen (15) inches in width, and twelve (12) inches in height and that has an exterior antenna, if any, no longer than eleven (11) inches.

Microbrewery means a facility for the production and packaging of malt beverages of low alcoholic content for distribution, retail, or wholesale, on or off premise.

Migrating dune means an area of unstabilized sand subject to movement under the influence of winds. Migrating dunes occur in the Nags Head Woods along the eastern boundary of the dune ridge maritime forest and along the oceanfront.

Mini-storage means a building or group of buildings in a controlled access and fenced compound that contains varying sizes of individual compartmentalized and controlled access stalls or lockers for the storage of customers' belongings.

Minimum footcandle means the minimum footcandle point calculation or measurement in a given area.

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Minor damaged structure means a structure that can be made habitable in a short period of time with minimal repairs. Damage may include doors, windows, floors, furnaces, water heaters, and other minor structural damage. An indicator for this category is if the cost to repair is ten percent or less of the replacement cost at the time of damage.

Mixed-use development means a single building containing more than one type of land use or single development of more than one building, and use, under common ownership, where the different types of land uses are in close proximity, planned as a unified complementary whole, and functionally integrated to the use of shared vehicular and pedestrian access and parking areas. Mixed use is defined by a combination of professional offices, personal services, indoor recreation facilities, retail, and/or restaurant uses in combination with residential development.

Modular unit means a factory-fabricated transportable building designed to be used by itself or to be incorporated with similar units at a building site into a modular structure. The term is intended to apply to major assemblies and does not include prefabricated panels, trusses, plumbing trees, and other prefabricated sub-elements which are to be incorporated into a structure at the site.

Monopole means a slender self-supporting communications tower consisting of a single pole.

Motel - see Hotel.

Motor lodge - see Hotel.

Motor vehicle or vehicle means all machines designed or intended to travel over land by self-propulsion or while attached to any self-propelled vehicle.

Multiple principal uses means multiple, unrelated, primary or predominate uses located within one building.

Multi-level deck platform means any deck structure, with a support structure independent of a principal or accessory structure, containing two or more elevation-separated deck platforms. This definition does not include decking customarily found in conjunction with residential dwellings when located within the CAMA Ocean Hazard Area and required to be structurally detached pursuant to 15A NCAC 07H 0.300, when such decking is in contact with the principal or accessory structure on two or more levels. (*Editor's Note: Adopted as amendment to UDO under Ordinance No. 19-09-011 on September 16, 2019, effective on October 7, 2019*)

N

Nags Head (Town of) Soil Erosion and Sedimentation Control Ordinance means Article 11, Part II of this UDO. Article 11, Part II shall also include the Act and all rules and orders adopted pursuant to the Act or this UDO (for the purposes of Article 11, Part II, Soil Erosion and Sedimentation Control).

Navigational light means a light used to guide or direct ships, boats or other types of watercraft and which may have a flashing or intermittent pattern of illumination.

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Net buildable land means that portion of any lot that does not include estuarine marsh, fresh water marsh, ponds, wetland swales or streams (as determined or defined by CAMA or the US Army Corps of Engineers).

New construction means any new development, construction, or installation that results in real property improvement or that requires any building permit, certification, or other action permitting real property improvement. The term includes the installation of factory-built or modular housing. The term does not include fences, poles, pipelines, transmission lines, advertising signs, or similar structures and improvements that do not generate the need for additional or expanded community facilities upon completion of the additions or improvements. The term excludes the renovation and repair of existing structures and accessory uses and their structures, unless such renovations and repairs and accessory uses shall cause an increase in the off-street parking requirements or a change in occupancy as occupancy is defined by the state building code. The term also excludes additions, unless such addition causes an increase in the off-street parking requirements or a change in occupancy as occupancy is defined by the state building code.

New construction means structures for which the "start of construction" commenced on or after February 3, 1975, and includes any subsequent improvements to such structures (for the purposes of Article 11, Part III, Flood Damage Prevention).

Nonconforming lot means a legally created lot which does not have required frontage on a Town-approved street or fails to meet minimum dimensional requirements for the district in which it is located.

Nonconforming sign means a legally erected sign which is not in compliance with the regulations imposed by this UDO.

Nonconforming site means an existing site which was legally developed that no longer conforms to one or more of the regulations applicable to the district in which the site is located. A site may be nonconforming due to excessive lot coverage, inadequate or nonconforming parking facilities, nonconforming outdoor lighting, inadequate buffering or other regulations, excluding signs, which are not in compliance with the provisions of this UDO. A nonconforming site may be in conjunction with nonconforming structures or nonconforming uses.

Nonconforming structure means a legally created structure that fails to meet the minimum dimensional requirements for the district in which it is located.

Nonconforming use means the use of a structure or land which does not conform with the regulations of the district in which such structure or land is situated but was previously lawful.

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

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Non-encroachment area (NEA) means the channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.

Non-profit/community outreach center means a building that is owned and operated by a non-profit entity that is exempt under section 501(c)(3) or section 501(c)(7) of the Internal Revenue Code and is occupied and used exclusively as a community center providing social and/or recreational programs but which does not provide:

- (1) Overnight accommodations; or
- (2) Any business offices, and

Specifically, this definition excludes halfway houses and rehabilitation clinics.

Non-profit/outreach center with aquatic fitness facility means a building that is occupied and used exclusively as an aquatic fitness center providing social and/or recreational programs, wellness center, health fitness programs, child and youth services, and/or public divine worship activities, but which does not provide overnight accommodations; and is owned and operated by a non-profit entity that is exempt under section 501(c)(3) or 501(c)(7) of the Internal Revenue Code. This definition specifically excludes halfway houses.

Non-profit wildlife and ecological preserve means a natural wildlife and ecological protected area with facilities intended to support the preservation of the natural environment and provide educational programming to the public.

North Carolina DEQ Stormwater Design Manual is the stormwater design manual approved by North Carolina. All references herein to the NC Stormwater Design manual are to the latest published edition or revision.

Nude model studio means any place where a person who appears in a state of nudity or displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. There is excepted from this definition any studio which is part of a school for artists who are regularly enrolled in a course of instruction in the arts, and in which the use of nude models involves less than ten percent of the course hours.

Nudity or a state of nudity means the appearance of a human bare buttock, anus, male genitals, female genitals, or female breast without a fully opaque complete covering of the breast below a point immediately above the top of the areola, or human male genitals in a discernibly turgid state even if completely and opaquely covered.

Nursing home means a facility, however named, which is advertised, announced, or maintained for the express or implied purpose of providing nursing or convalescent care for three or more persons unrelated to the licensee. A nursing home is a home for chronic or convalescent patients, who, on

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admission, are not as a rule, acutely ill and who do not usually require special facilities such as an operating room, X-ray facilities, laboratory facilities, and obstetrical facilities. A nursing home provides care for persons who have remedial ailments or other ailments, for which medical and nursing care are indicated; who, however, are not sick enough to require general hospital care. Nursing care is their primary need, but they will require continuing medical supervision.

Nuisance vehicle means a vehicle on public or private property that is determined and declared to be a health or safety hazard, a public nuisance, and unlawful, and including a vehicle found to be:

- (1) A breeding ground or harbor for mosquitoes, other insects, rats or other pests;
- (2) A point of uncontrolled growth of weeds or other noxious vegetation;
- (3) A point of collection of pools or ponds of water;
- (4) A point of concentration of quantities of gasoline, oil or other flammable or explosive materials as evidenced by odor;
- (5) One which has areas of confinement, such as trunks, hoods, etc., which cannot be operated from inside the area of confinement;
- (6) One so situated or located that there is a danger of it falling or turning over;
- (7) One which is a point of collection of garbage, food waste, animal waste, or any other rotten or putrescible matter of any kind;
- (8) One which has sharp parts thereof which are jagged or contain sharp edges of metal or glass; or
- (9) Any other vehicle specifically declared a health and safety hazard and a public nuisance by the police department or Town Manager.

O

Oath shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the terms "swear" and "sworn" shall be equivalent to the terms "affirm" and "affirmed."

Ocean beach means the area of land consisting of unconsolidated soil material that extends from the mean low water line landward to a point where either the growth of vegetation occurs; or a distinct change in slope or elevation alters the configuration of the land form, whichever is farther landward.

Ocean erodible area means the area in which there exists a substantial possibility of excessive erosion and significant shoreline fluctuation. The oceanward boundary of this area is the mean low water line. The landward extent of this area is the distance landward from the first line of stable and natural vegetation as defined in 15A NCAC 07H .0305(a)(5) to the recession line established by multiplying the long-term annual erosion rate times 90; provided that, where there has been no long-term erosion or

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the rate is less than two feet per year, this distance shall be set at 120 feet landward from the first line of stable natural vegetation. For the purposes of this UDO, the erosion rates are the long-term average based on available historical data. The current long-term average erosion rate data for each segment of the North Carolina coast is depicted on maps entitled "2011 Long-Term Average Annual Shoreline Rate Update" and approved by the Coastal Resources Commission on May 5, 2011 (except as such rates may be varied in individual contested cases or in declaratory or interpretive rulings). In all cases, the rate of shoreline change shall be no less than two feet of erosion per year. The maps are available from the UDO Administrator.

Ocean hazard area means the area consisting of the ocean erodible area and the high hazard flood area.

Oceanfront setback means a line which is measured in a landward direction from the vegetation line for the purposes of establishing the minimum required setback distance for oceanfront development as prescribed by the Coastal Area Management Act. The oceanfront setback is determined using the total floor area of a structure and the erosion rate of the property in question, as determined by the North Carolina Division of Coastal Management.

Octave means the interval of frequency between two sounds whose frequency ratio is two.

Official time standard shall mean standard time or daylight-saving time as may be in current use in the Town, whenever certain hours are named in this UDO.

Officials, departments, boards, commissions, etc., as referenced in this UDO by title only, shall be deemed to refer to officials, departments, etc. of the Town of Nags Head, North Carolina.

Open space means an unoccupied natural, grassed or landscaped space open to the sky.

Open storage means unroofed storage area.

Open vertical fixture means a lighting fixture that is an unshielded, high intensity discharge fixture with an open bottom refractor.

Operations and maintenance agreement means the owner's document that is filed with the Town at the time of the certificate of compliance which provides SCM maintenance instructions and inspection schedule.

Otherwise Protected Area (OPA) see Coastal Barrier Resources System (CBRS).

Outdoor aquatic facility means a facility where water sports are performed outdoors in a swimming pool and/or wading pool. The term does not include private swimming pools.

Outdoor place of amusement and entertainment means any place of amusement and entertainment which operates out of doors or outside a building or structure which is completely walled on all sides or not having a complete roof. Any shed or building within the terms of this UDO not completely walled in on all sides, and any tent or temporary structure or building, shall be deemed to be an outdoor place of amusement and entertainment.

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Outdoor performances and events such as fairs, festivals, musical concerts, sporting events, contests, promotional events or other types of performances or events on public or private lands that:

- (1) Represent a use or uses of land, buildings, and structures not intended to be of a permanent duration;
- (2) Are intended to or likely to attract substantial crowds, participants and/or spectators;
- (3) Are advertised and/or open to the general public; and
- (4) Are unlike the customary or usual activities generally associated with the principal use of the property where the performance or event is to be located.

Outdoor stand means an approved area where the sale of produce, hot dogs, coffee, ice cream or Italian ice, and fudge occurs from a cart or structure.

Oversized vehicle means any motor vehicle, boat or trailer, which exceeds either ten feet in width or 20 feet in length, exclusive of fixtures or accessories

Owner as applied to any property, shall include any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or a part of such property.

P

Parade means any parade, march, ceremony, show, exhibition or procession of any kind in or upon the public streets, sidewalks, alleys, parks or other public grounds or places in the Town.

Parent means an affiliate that directly, or indirectly through one or more intermediaries, controls another person (for the purposes of Article 11, Part II, Soil Erosion and Sedimentation Control). (

Park means any public land available for recreational, education, cultural or aesthetic use.

Parking, off-street means a designated vehicular storage space located outside of any dedicated public right-of-way and contained within a property boundary.

Parking, on-street means a vehicular storage space as permitted by the Town within a public right-of-way.

Parking space or stall means a designated vehicular storage space within a public or private parking area.

Participating customers means all single-family, two-family and multi-family residential customers presently being served by the Town public services department and solid waste division.

Pedicab means a non-motorized for-hire vehicle, propelled by human power, for which public patronage is solicited and for which the charges are based upon the number of miles operated or zone covered.

APPENDIX A. DEFINITIONS

Pennants means small usually multicolored, plastic or fabric flags held together by a string or cord, and generally used to attract attention to a business or site.

Permeable pavement means paving materials that absorb water or allow water to infiltrate through the paving material. Permeable pavement materials include pervious concrete, porous asphalt, permeable interlocking concrete pavers, concrete grid pavers, Turfstone TM, gravel meeting the definition of this section, and other proven technologies available as covered in the NC Best Management Practices Manual and as approved by the Town Engineer for appropriateness to the site and existing conditions. Compacted gravel shall not be considered permeable pavement.

Person means any individual, association, partnership, or corporation and includes any officer, employee, department, agency or instrumentality of the United States, the state or any political subdivision thereof.

Person conducting land-disturbing activity means any person who may be held responsible for a violation unless expressly provided otherwise by this UDO, the Act or any order adopted pursuant to this UDO or the Act. (For the purposes of Article 11, Environmental Regulations, Part II, Soil Erosion and Sedimentation Control)

Person responsible for land disturbance violation means:

- (1) The developer or other person who has or holds himself out as having financial or operational control over the land-disturbing activity; or
- (2) The landowner or person in possession or control of the land when he has, directly or indirectly, allowed the land-disturbing activity or has benefited from it, or failed to comply with any duty imposed by any provision of this UDO, the Act, or any order adopted pursuant to this chapter or the Act (for the purposes of Article 11, Part II, Soil Erosion and Sedimentation Control).

Personal property includes every species of property except real property.

Phase of grading means one of two types of grading, rough or fine (for the purposes of Article 11, Part II, Soil Erosion and Sedimentation Control).

Picket line means one or more persons formed together for the purpose of making known any position or promotion of such persons, or of or on behalf of any organization, group, corporation or class of persons.

Pier means a wharf, deck, quay, or other structure allowing access to water for private recreational and/or commercial boating, swimming, diving, fishing and transportation. The term pier includes docks.

Pier, commercial fishing means a privately, jointly, or publicly owned structure used for recreational or commercial activity where a user fee is required or the use of the pier involves goods which are introduced into commerce.

APPENDIX A. DEFINITIONS

Pier, private means a privately-owned structure used specifically for recreational and/or fishing-related activities that is for the exclusive use of the owner.

Place of amusement and entertainment means any site, location, lot, building or structure of any description whatsoever, whether indoors or outdoors, at which entertainment or amusement is provided to or for the general public or private membership, whether free or for charge or donation. The term shall include, but not be limited to, the following:

- (1) Pool and billiard halls;
- (2) Dance halls;
- (3) Carnivals;
- (4) Circuses;
- (5) Itinerant shows or exhibitions of any kind;
- (6) Coffee houses;
- (7) Cocktail lounges;
- (8) Nightclubs;
- (9) Beer halls;
- (10) Amusement parks and pavilions;
- (11) Bowling alleys;
- (12) Golf courses, miniature and carpet golf courses;
- (13) Adult entertainment houses and membership clubs.

Plan means an erosion and sedimentation control plan (for the purposes of Article 11, Environmental Regulations, Part II, Soil Erosion and Sedimentation Control).

Plat, final means a drawing, in final form, showing a proposed subdivision, containing all information or detail required by law and by this UDO and which complies with NCGS 39-32.1, 39-32.2 and 47-30, to be presented to the Planning Board for approval, and which, if approved, may be duly filed or recorded by the applicant in the office of the Dare County Register of Deeds.

Plat, preliminary means a drawing clearly marked "preliminary plat" showing the features of a proposed subdivision as specified in Article 10, Part V, Subdivision Regulations, submitted to the Planning Board for the purpose of consideration prior to submission of the plat in final form, and in sufficient detail to clearly illustrate the layout of the proposed subdivision.

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Pond means a small body of standing water with rooted plants growing across it (or at least capable of supporting plants all the way across). In Nags Head Woods, ponds often exhibit moderate seasonal variations in water depth.

Post-development surface elevation means the finished or final land surface grades recorded at the completion of construction activities.

Pre-development surface elevation means the land surface grades existing prior to any land disturbing or grading activities.

Post-FIRM means construction or other development for which the start of construction occurred on or after insert date of community's first FIRM (OPTIONAL), the effective date of the initial Flood Insurance Rate Map.

Commented [HW37]: Verify Date

Pre-FIRM means construction or other development for which the start of construction occurred before insert date of community's first FIRM (OPTIONAL), the effective date of the initial Flood Insurance Rate Map.

Commented [HW38]: Verify Date

Preliminary sketch means a sketch of a proposed subdivision, showing the information specified in Section 4.22, Initial Conference; Preliminary Sketch, which is to enable the subdivider to reach a general understanding as to the form of the layout and objectives of this UDO.

Primary dune means the first mound of sand located landward of the ocean beach having an elevation equal to the mean flood level (in a storm having a one percent chance of being equaled or exceeded in any given year) for the area plus six feet. The primary dune extends landward to the lowest elevation in the depression landward of that same mound of sand (commonly referred to as the "dune trough").

Primary frontal dune (PFD) 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 (for the purposes of Article 11, Part III, Flood Damage Prevention).

Principally above ground means that at least 51 percent of the actual cash value of the structure is above ground (for the purposes of Article 11, Part III, Flood Damage Prevention).

Private club (non-profit) means a noncommercial club, owned and operated by a non-profit legal entity composed of and with membership restricted to residents and owners of lots or dwellings in the residential development containing the private club.

Property means all real property subject to UDO regulations and restrictions and zoning boundaries by the Town.

Public safety and/or nuisance means anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free

APPENDIX A. DEFINITIONS

passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal or basin (for the purposes of Article 11, Part III, Flood Damage Prevention).

Public trust beach area means the area adjacent to the Atlantic Ocean that is subject to public trust rights. This area is in constant flux due to the action of wind, waves, tides, and storms and includes the wet sand area of the beach that is subject to regular flooding by tides, i.e., state owned property seaward of the mean high water mark, and the dry sand area of the beach that is subject to occasional flooding by tides, including wind tides other than those resulting from a hurricane or tropical storm. Natural indicators of the landward extent of the public trust beach area include, but are not limited to, the first line of stable, natural vegetation; the toe of the frontal dune; and the storm trash line.

Public water supply well field means a well or series of wells operated by a governmental entity to provide water for its citizens.

Q

Quasi-judicial decision means those decisions that require the finding of facts and the application of standards that involve judgment and discretion. Examples include conditional use permits and variances.

R

Real estate rental management facility means a building containing those uses, including but not limited to, administrative offices and warehouse/storage areas for the convenience, maintenance, housekeeping and service of rental homes and properties.

Real property includes lands, tenements and hereditaments.

Recessed or flush-mounted means a fixture that is mounted above the ceiling with the opening, lens, or cover of the fixture recessed or level with the ceiling surface, and all light emitted is below the horizontal plane.

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

Redevelopment means any development activity that physically alters an existing developed site.

Reference level is:

(1) The top of the lowest floor for structures reference level is the bottom of the lowest floor or the bottom of the lowest attendant utility including ductwork, whichever is lower, with only

Commented [HW39]: Model ordinance note-

(Alternative acceptable language for Reference Level) "Reference Level" is the bottom of the lowest horizontal structural member of the lowest floor for structures within all Special Flood Hazard Areas.

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Flood resistant materials located below the reference level within special flood hazard areas designated as Zone A, AE or ,AH, AO, A99, or

(2) The reference level is the bottom of the lowest horizontal structural member of the lowest floor for structures within special flood hazard areas designated as Zone VE.

(3) For structures within Zones Shaded X or X, the reference level is the bottom of the lowest floor or the bottom of the lowest attendant utility including ductwork whichever is lower with only flood resistant materials located below the reference level.

Reflective means any light that is reflected light back towards its source in intensity many times greater than would be reflected by a white painted surface. ReflectORIZED materials may include, but are not limited to reflective sheeting, glass beads and glass or plastic reflectors and shall also include reflective elements that sparkle in the sunlight or that contain luminous paint that glows in the dark.

Regulatory flood protection elevation means the "base flood elevation" plus the "freeboard". In "special flood hazard areas" where base flood elevations (BFE) have been determined, this elevation shall be the BFE plus one foot of freeboard. ~~In "special flood hazard areas" where no BFE has been established, this elevation shall be at least two feet above the highest adjacent grade.~~ OR the "Local Elevation Standard" for those areas where base flood elevations have been determined on the FIRM; the base flood depth above the highest adjacent grade or "Local Elevation Standard" for those areas identified as AO zones of the FIRM, or the "Local Elevation Standard" for those areas identified as Shaded X or X zones on the FIRM.

In Nags Head the RFPE is as defined:

In VE zones, the RFPE is the Base Flood Elevation as designated on the effective FIRM plus 1 foot of freeboard.

In AE zones, the RFPE is the Base Flood Elevation as designated on the effective FIRM plus 3 feet of freeboard OR an elevation to or above 8 feet NAVD 1988, whichever is greater.

In AO zones, the RFPE is the designated base flood depth on the effective FIRM above the highest natural adjacent grade plus 3 feet of freeboard OR an elevation to or above 8 feet NAVD 1988, whichever is greatest.

In Shaded X and X zones, the RFPE is 8 feet NAVD 1988 OR the natural grade elevation if the natural grade is greater than 8 feet NAVD 1988.

In Shaded X and X zones, the RFPE is 2' above natural grade if the ground elevation is 8' NAVD 1988 or less, or 8' NAVD 1988 whichever is greater.

LES-

- Shaded X or X and AE- 10' – limit enclosures 300' or less
- All flood zones east of 12 and 1243- 12', 18" free of obstruction, no enclosures

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Model ordinance language-
Regulatory Flood Protection Elevation" means the "Base Flood Elevation" plus the "Freeboard". In "Special Flood Hazard Areas" where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus Insert freeboard [four (4) feet (Four feet is the state recommended freeboard)] feet freeboard). In "Special Flood Hazard Areas" where no BFE has been established, this elevation shall be at least Insert feet [Four (4) feet is a state-recommended elevation, two (2) feet is a state-recommended minimum] feet above the highest adjacent grade.

Commented [HW41]: DUCK-

For the Town of Duck, the RFPE is as follows:

- (1) In VE zones, the RFPE is the Base Flood Elevation as designated on the effective FIRM plus 2 feet of freeboard.
- (2) In AE zones, the RFPE is the Base Flood Elevation as designated on the effective FIRM plus 3 feet of freeboard OR an elevation to above 10 feet NAVD 1988, whichever is greater.
- (3) In AO zones, the RFPE is the designated base flood depth on the effective FIRM above the highest natural adjacent grade OR an elevation to or above 10 feet NAVD 1988, whichever is greatest.
- (4) In Shaded X and X zones, the RFPE is 10 feet NAVD 1988 OR the natural grade elevation if the natural grade is greater than 10 feet NAVD 1988.

For unincorporated Dare County the RFPE is as follows:

In VE zones, the RFPE is the Base Flood Elevation as designated on the effective FIRM plus 1 foot of freeboard.

In AE zones, the RFPE is the Base Flood Elevation as designated on the effective FIRM plus 3 feet of freeboard OR an elevation to or above 8 feet NAVD 1988, whichever is greater.

In AO zones, the RFPE is the designated base flood depth on the effective FIRM above the highest natural adjacent grade plus 3 feet of freeboard OR an elevation to or above 8 feet NAVD 1988, whichever is greatest.

In Shaded X and X zones, the RFPE is 8 feet NAVD 1988 OR the natural grade elevation if the natural grade is greater than 8 feet NAVD 1988.

Commented [HW42]: Staff to determine

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APPENDIX A. DEFINITIONS

Reinforced turf means a turf or grassed surface which is reinforced through an underlying grid, honeycomb or other reinforcement structure which holds up under light automobile traffic and parking use while providing a porous, vegetated medium that allows stormwater to infiltrate.

Religious complex means a church (a building primarily used for public divine worship) or a church and any related structures including a parsonage, fellowship halls, educational buildings, youth centers, recreational facilities (which include playgrounds), day care centers, parochial schools or similar structures or areas located on a single site.

Remedy a violation means to bring the structure or other development into compliance with state and 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 this article, or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development (for the purposes of Article 11, Part III, Flood Damage Prevention).

Reservation means a reservation of land which does not involve any transfer of property rights. It simply involves a retention of property rights by the subdivider.

Residential group development means the use of a site for occupancy by groups of people not defined as a family, on a weekly or longer basis. Typical uses include fraternity or sorority houses, dormitories, residence halls, boarding/lodging houses, convents, and monasteries.

Restaurant means an establishment engaged in the service of food and/or beverages to patrons seated inside a building. A restaurant site may contain more than one principal restaurant building, or one principal restaurant building in combination with another principal drive-in restaurant, drive-through restaurant, or takeout restaurant building.

Restaurant, drive-in means an establishment whose principal business is the serving of prepared food, desserts and/or beverages to a customer, either within a motor vehicle parked upon the premises or at other facilities on the premises outside the restaurant building.

Restaurant, drive-through means an establishment where drive lane facilities are provided for the serving of prepared food, frozen desserts or beverages directly to a customer in a motor vehicle by a means which eliminates the need for the customer to exit the motor vehicle.

Restaurant, neighborhood means a restaurant situated and designed to serve a small client base fronting on NC 12 comprised of less than 1,000 square feet of indoor customer service area.

Restaurant, sit-down means an establishment that sells food and beverages in a ready-to-consume state primarily to persons who are seated within the building or outside on the premises.

Restaurant, takeout means an establishment engaged in the preparation of food and/or beverages which are delivered or picked up and consumed by patrons off premises.

APPENDIX A. DEFINITIONS

Retail, general means establishments that provide goods directly to the consumer where such goods are available for immediate purchase and removal from the premises by the purchaser.

Ridgeline forest means a type of maritime forest in which the pruning effect of salt mist is moderated by distance from the ocean source. The forest canopy is dominated by various evergreen oaks (live, laurel, water) and an understory sub-canopy of dogwood, muscle wood, hop hornbeam and holly. In the Nags Head Woods, the dune ridge maritime forest typically occupies the highest dunes along a major north-south oriented dune ridge near the eastern boundary of the district.

Right-of-way means each of the following which have been, or are hereafter, dedicated to the public and maintained by any public authority or by others and located within the Town, including without limitation, the surface and space within, above and below any real property in which the Town has an interest in law or equity, whether held in fee, or other estate or interest, or as a trustee for the public, including, but not limited to, any public street, boulevard, road, highway, freeway, lane, alley, court, sidewalk, parkway, swale, river, tunnel, viaduct, bridge, park, or any other place, area, easements, rights-of-way and similar public property and areas, or real property owned by or under the control of the Town.

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

Roanoke Sound dune ridge means the western ridges of the westernmost north-to-south oriented dune. This dune ridge forms a natural barrier between the high ground of the dune ridge and the lower terrain to the west. For the purpose of this section, the Roanoke Sound dune ridge is located in the area northward of the northwest boundary of Parcel 13, Tax Map 186, as shown on Tax Map 185 and 186, and generally west of the Nags Head Woods Road, and extends northward to the Town's northern limits.

Roof line means the top plate or roof panel of a building or structure.

S

Salt marsh means a flat bed of salt-resistant grasses, sedges and/or rushes that is periodically flooded by salt or brackish water. In Nags Head Woods, salt marsh extends in an irregular band along the foot of the westernmost forested dunes westerly to the edge of the estuary. Characteristic plants include cattails, giant cordgrass and black needle rush.

Salvage yard means any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to, vehicles, appliances and related machinery (for the purposes of Article 11, Part III, Flood Damage Prevention).

Sand dunes means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

School means any state-accredited public or non-profit educational institution including primary and secondary schools, both public and private.

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Search ring means the area within which a wireless support facility or wireless facility must be located in order to meet service objectives of the wireless service provider using the wireless facility or wireless support structure.

Secondary Structure means a structure that features habitable conditioned space above the RFPE located on the same parcel as a primary use structure. A secondary structure is not an accessory structure as defined in this section. A secondary structure is subject to the same standards as a primary use structure.

Sediment means solid particulate matter, both mineral and organic, that has been or is being transported by water, air, gravity or ice from its site of origin (for the purposes of Article 11, Part II, Soil Erosion and Sedimentation Control).

Sedimentation means the process by which sediment resulting from accelerated erosion has been or is being transported off the site of the land-disturbing activity or into a lake or natural watercourse (for the purposes of Article 11, Part II, Soil Erosion and Sedimentation Control).

Semi-nude means a state of dress in which clothing covers no more than the human bare buttock, anus, male genitals, female genitals, or female breast without a fully opaque complete covering of the breast below a point immediately above the top of the areola, or human male genitals in a discernibly turgid state even if completely and opaquely covered.

Sexual encounter center means a business or commercial enterprise that, as one of its business purposes, offers for any form of consideration:

- (1) Physical contact by customers in the form of wrestling or tumbling between persons of the opposite sex; or
- (2) Activities between male and female persons, or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity.

Sexually oriented business means a business which offers its customers or patrons any device, activity or demonstration depicting specified sexual activities, or which is intended to appeal to sexual interests, titillation or arousal of the customer or patron. A sexually oriented business shall include an adult establishment as defined in NCGS 14-202.10(2) and, in addition, without limitation: adult arcade, adult bookstore, adult video store, adult cabaret, adult media center, adult live entertainment business, adult motel, adult motion picture theater, adult mini-motion picture theater, adult theater, adult movie studio for the purpose making pornographic films, adult escort agency, nude model studio, and sexual encounter center.

Sexually oriented business activities means those activities usually provided for, promoted, or offered by a sexually oriented business, whether or not, as the principal business purpose or as a sideline or

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accessory business purpose, and whether or not in connection with or on the same premises with a business which is not a sexually oriented business.

Sexually oriented devices as defined in NCGS 14-202.10(9) which is incorporated in this definition by reference.

Shaded X Zone means areas of moderate flood hazard shown on the FIRM and are the areas between the limits of the base flood and the 0.2% annual chance for flood. Also commonly referred to as the 500-year flood.

Shared driveway means a driveway shared by two (2) adjacent property owners that is privately-owned and maintained.

Shear wall means 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.

Shooting Range, Police means an area designed for the safe discharge and use of firearms for the purpose of law enforcement training.

Shopping Center means a single, commercial structure which includes or is designed to include two or more establishments with a combined floor area of at least 10,000 square feet planned for a single or contiguous lot.

Short-term rental means the rental of residential property for vacation, leisure, recreation, or other purposes for fewer than thirty (30) days by a person who has a permanent residence to which he/she intends to return.

Short-term rental, partial house means a resident occupied single-family dwelling that consists of the rental of up to two guest rooms for vacation, leisure, recreation, or other purposes for fewer than thirty (30) days. The partial house short-term rental should be subordinate and incidental to the principal residential use of the dwelling.

Short-term rental, whole house means the rental of an entire single-family dwelling to a group operating as one housekeeping unit for vacation, leisure, recreation, or other purposes for fewer than thirty (30) days.

Shrubs means woody plants with several permanent stems instead of a single trunk.

Sidewalks shall include any portion of a street, between the curb line and the adjacent property line intended for the use of pedestrians.

Sign means any surface, fabric or device bearing lettered, pictorial or sculptured matter designed to convey information visually and exposed to public view, or any structures, including billboard or poster panel, designed to carry visual information. Municipal public works of art are not considered signage.

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Sign area means the area of signs composed, in whole or in part, of freestanding letters, devices or sculptured matter not mounted on a measurable surface shall be construed to be the area of the least square, rectangle or circle that will enclose the letters, devices and/or sculptured matter. The area of a double-faced sign shall be the area of one face of the sign, provided that the two faces are of the same size and are parallel to one another with no more than 24 inches between each sign face.

Sign, bulletin board means a sign used to announce meetings or programs to be held on the premises of a church, school, auditorium, library, museum, community recreation center or similar noncommercial places of public assembly.

Sign, commercial means a sign which directs attention to a business, profession or industry located upon the premises where the sign is displayed, to type of products sold, manufactured or assembled, and/or to service or entertainment offered on said premises; but not a sign pertaining to the preceding if such activity is only minor and incidental to the principal use of the premises. Prior to the issuance of a certificate of completion a commercial sign may be erected on a premises provided a site plan has been approved by the Town and the required building permit(s) has been issued.

Sign, commercial flag means a sign made of fabric or other flexible material and displayed as a flag on a flag pole having a commercial message. Flag signs shall not exceed 24 square feet in area and 14 feet in height and shall be allowed only on freestanding flag poles.

Sign, digital means any sign featuring electronic display or moving images created by incandescent, LCD, plasma, LED or projected images for any purposes other than traffic control devices. This definition is intended to include any sign containing incandescent lights or exposed light bulbs used as a message or reader board, or to project images. This definition does not include LED technology used only for the purpose of illuminating a structural sign face.

Sign, noncommercial means a sign that contains no commercial advertising or statements, logos, designs or trademarks designed or intended to promote or produce financial gain other than donations for charitable organizations such as groups which are tax exempt pursuant to the Internal Revenue Code.

Sign, flag (non-advertising, non-informational) means a piece of fabric or other flexible material attached to a freestanding flagpole.

Sign, outdoor advertising (and structure) means a sign and structure which directs attention to a business, commodity, service or entertainment conducted, sold, or offered:

- (1) Only elsewhere than upon the premises where the sign is displayed; or
- (2) As a minor or incidental activity upon the premises where the sign is displayed.

Sign, permanent means a sign attached or affixed to a building, window, or structure, or to the ground in a manner that enables the sign to resist environmental loads, such as wind, and that precludes ready removal or movement of the sign and whose intended use appears to be indefinite.

APPENDIX A. DEFINITIONS

Sign, temporary means a type of non-permanent sign located on private property that is generally displayed for a limited period of time in conjunction with a specific activity or event occurring at the property.

Siltation means sediment resulting from accelerated erosion, which is settleable or removable by properly designed, constructed and maintained control measures; and which has been transported from its point of origin within the site of a land-disturbing activity; and which has been deposited or is in suspension in water (for the purposes of Article 11, Part II, Soil Erosion and Sedimentation Control).

Site means the area or parcel of land on which a business or residence is located and operated. A site may be one or more subdivided lots, unsubdivided parcels, tracts, or areas of land which join and are being developed under a common scheme of development.

Site element means improvements to the existing land form for the purposes of development to include buildings, pavement, decks, landscaping, pools or other accessory structures.

Site plan means a plan provided that reflects existing and proposed conditions on a site that is intended for construction. This may include but is not limited to topography, structures or additions, grading, drainage, erosion control measures, trees to be saved or planted to comply with the applicable standards of this UDO as well as other requirements of the Town Code of Ordinances.

- (1) **Site plan, major** means all site plans not meeting the requirements for a minor site plan.
- (2) **Site plan, minor** includes the following: increases in lot coverage or building floor area not greater than 1,000 square feet, changes to stormwater management measures, landscape buffering, vegetation preservation area, signage, or site lighting for existing development.

Site specific development plan means a plan which has been submitted to the Town by a landowner describing with certainty the type and intensity of use for a specific parcel or parcels of property. Such site specific development plan shall be presented to the Town as specified and subject to all provisions of Section 3.8, application for building permits for conditional uses.

Skate park facility means a facility for the use of skateboards, roller skates, and inline roller skates.

Small fishing skiff means a rental skiff, used for fishing, 16 feet or less in length, powered by either electric or four-cycle engine of 25 horsepower or less.

Small wireless facility means a wireless facility that meets both of the following qualifications:

- (1) Each antenna is located inside an enclosure of no more than six (6) cubic volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements, if enclosed, could fit within an enclosure of no more than six (6) cubic feet.
- (2) All other wireless equipment associated with the facility has a cumulative volume of no more than twenty-eight (28) cubic feet. For purposes of this subdivision, the following types of ancillary equipment are not included in the calculation of equipment volume:

APPENDIX A. DEFINITIONS

electric meters, concealment elements, communications demarcation boxes, ground based enclosures, grounding equipment, power transfer switches, cut-off switches, vertical cable runs for the connection of power and other services, and other support services.

Soft play means indoor juvenile entertainment that features physical interaction with inflated, textile play structures, such as bouncing chambers and ball-crawling pits, and other similar play apparatus.

Soil erosion and sedimentation control plan means a plan designed by the Soil Conservation Service or a comparable organization that will ensure the stabilization and subsequent revegetation of all areas that have been disturbed to the extent that bare land has become exposed.

Solar energy facility means a solar collector or other device or structural design feature of a structure that relies upon sunshine as an energy source and is capable of collecting, distributing, and storing (if appropriate to the technology) the sun's radiant energy for a beneficial use.

Solid waste disposal facility means, as defined in NCGS 130A-290(a)(35), any facility involved in the disposal of solid waste (for the purposes of Article 11, Part III, Flood Damage Prevention).

Solid waste disposal site means, as defined in NCGS 130A-290(a)(36), any place to which solid wastes are disposed of by incineration, sanitary landfill, or any other method (for the purposes of Article 11, Part III, Flood Damage Prevention).

Special flood hazard area (SFHA) means the land in the floodplain subject to a one percent or greater chance of being flooded in any given year, as determined in Article 11, Part III, Flood Damage Prevention.

Specified anatomical areas as defined in NCGS 14-202.10(10) which is incorporated in this definition by reference.

Specified sexual activities means as defined in NCGS 14-202.10(11) which is incorporated in this definition by reference.

Sport-climbing wall means an artificial attempt to recreate the characteristics of a rock-climbing face. They are usually incorporated into existing internal or external walls but can be a freestanding structure. The purpose of climbing walls is to allow basic climbing instruction and sport climbing. They allow climbers to experience the same faceholds, cracks, overhangs and other features one might expect to find at a natural climbing area.

Standing means the following persons who shall have standing to file a petition or appeal under this UDO:

- (1) Any person meeting any of the following criteria:
 - (a) Has an ownership interest in the property that is the subject of the decision being appealed, a leasehold interest in the property that is the subject of the decision

APPENDIX A. DEFINITIONS

being appealed, or an interest created by easement, restriction, or covenant in the property that is the subject of the decision being appealed.

- (b) Has an option or contract to purchase the property that is the subject of the decision being appealed.
 - (c) Was an applicant before the decision-making board whose decision is being appealed.
- (2) Any other person who will suffer special damages as the result of the decision being appealed.
- (3) An incorporated or unincorporated association to which owners or lessees of property in a designated area belong by virtue of their owning or leasing property in that area, or an association otherwise organized to protect and foster the interest of the particular neighborhood or local area, so long as at least one of the members of the association would have standing as an individual to challenge the decision being appealed, and the association was not created in response to the particular development or issue that is the subject of the appeal.
- (4) A Town whose decision-making board has made a decision that the Board of Commissioners believes improperly grants a variance or is otherwise inconsistent with the proper interpretation of an ordinance adopted by the Board of Commissioners.

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, unless a lesser period of time is required, 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 (for the purposes of Article 11, Part III, Flood Damage Prevention).

Static Line means the vegetation line that existed within one year prior to the onset of project construction for a large-scale beach fill project. Once established, this shall be the reference line for measuring oceanfront setbacks in all locations where it is landward of the first line of stable natural vegetation. This line is established in coordination with the Division of Coastal Management and is depicted on published maps for the community that has conducted the large-scale beach fill project.

APPENDIX A. DEFINITIONS

Storm event means any natural weather event causing damage and destruction of property. A storm event may include, but not be limited to, hurricanes, tropical storms, northeasters, erosion, flood, tornadoes, severe thunderstorms, fire, waterspouts, and ice or snow storms.

Storm drainage facilities means the system of inlets, conduits, channels, ditches and appurtenances which serve to collect and convey stormwater through and from a given drainage area (for the purposes of Article 11, Part II, Soil Erosion and Sedimentation Control).

Stormwater Control Measure or SCM, also known as Best Management Practices or BMP means a permanent structural device that is designed, constructed, and maintained to remove pollutants from stormwater runoff by promoting settling or filtration; or to mimic the natural hydrologic cycle by promoting filtration, evapo-transpiration, post-filtration discharge, reuse of stormwater, or a combination thereof.

Stormwater management system refers to a drainage network or series of best management practices working together as part of a comprehensive approach to handling stormwater.

Stormwater retrofit means implementation of stormwater management for an existing site, which previously had no stormwater management measures in place, measures inadequate to meet the stormwater management requirements of this UDO, or measures inadequate to meet other stormwater management goals or requirements.

Stormwater runoff means the flow of surface water resulting from precipitation and distinct from runoff created by human activity such as pumping or draining. (For the purposes of Article 11, Environmental Regulations, Part II, Soil Erosion and Sedimentation Control)

Street includes any public way, road, highway, street, avenue, boulevard, parkway, alley, lane, viaduct, bridge, and the approaches thereto within the Town and shall mean the entire width of the right-of-way between abutting property lines.

Street, collector means a street which serves or is designed to serve as a traffic-way for a neighborhood or as a feeder to a major street from local access streets. Collector streets collect traffic from 100 to 400 dwelling units.

Street, environmental means a local street intended to serve primarily as a direct access to residentially zoned properties in environmentally sensitive areas with a projected low traffic count, on which through traffic is discouraged and which is designed to serve no more than 50 dwelling units. An environmental street shall be a cul-de-sac, a loop street less than 2,000 feet in length or a street that does not connect with more than one major street, unless otherwise required by Town Code Chapter 36, Streets, Sidewalks, & Other Public Places. An environmental street is only allowed within 100 feet of estuarine waters, within a maritime forest, a residential subdivision street located wholly or partially within the CAMA Fresh Pond area of environmental concern (AEC). A street location within an environmentally sensitive area may be selected only if no other feasible location exists within the proposed development.

APPENDIX A. DEFINITIONS

Street, local access means a street intended to serve primarily as a direct access to abutting properties, and on which through traffic is discouraged. A local access street is a cul-de-sac, a loop street less than 2,500 feet in length, or a street less than one mile in length which does not connect major streets. A local access street does not collect traffic from more than 100 dwelling units.

Street, marginal access means a local access street which parallels and is immediately adjacent to a major street or highway and which provides access to the properties abutting it and separates the abutting properties from the major street or highway right-of-way.

Street, major means a street which serves or is designed to serve heavy flows of traffic and which is used primarily as a route for traffic between communities or other heavy traffic-generating areas. Specifically, the term includes any state-maintained highway.

Street, sub collector means existing streets for which the right-of-way is less than 60 feet.

Structure means anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

Structure means a walled and roofed building, a manufactured home, or a gas or liquid, or liquefied gas storage tank that is principally above ground (for the purposes of Article 11, Part III, Flood Damage Prevention).

Structure, accessory (appurtenant structure) means a structure 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.

Structure, midpoint is defined as the halfway point of the principal structure measured from front to rear on the property, including decks.

Structure highlighting means:

- (1) Exposed or channel neon, argon, krypton or similar gas tube lighting, not utilized as a part of permitted signage, that directs attention to a building, or structure;
- (2) Any unshielded light source, or light source that illuminates a translucent or opaque two- or three-dimensional surface, or object, that is not part of a permitted sign, that directs attention to a building or structure.

Subdivider means any person who shall lay out any subdivision or part thereof, as defined in this section, either for himself or others.

Subdivision means all divisions of a tract or parcel of land into two or more lots, building sites or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations of this UDO:

Commented [HW47]: Flood ordinance references building definition to see the definition of structure. Town ordinance does not.

Commented [HW48]: Model ordinance also lists this language-

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.

Should we include?

Dare County also included the following language-
For floodplain management purposes, accessory structures are considered structures used for parking and storage only. The definition used for floodplain management purposes may vary from similar definitions found in the Dare County Zoning Ordinance.

APPENDIX A. DEFINITIONS

- (1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the municipality as shown in this UDO.
- (2) The division of land into parcels greater than ten acres where no street right-of-way dedication is involved.
- (3) The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors.
- (4) The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the municipality as shown in this UDO.
- (5) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.

Subdivision, major means any subdivision not classified as a minor subdivision including, but not limited to, subdivisions of five or more lots, or any size subdivision requiring any new street or extension of municipal facilities.

Subdivision, minor means any subdivision containing not more than four lots fronting on an existing street, not involving any new street or road or the extension of municipal facilities, not adversely affecting the development of the remainder of the parcel or adjoining property and not in conflict with any provision or portion of the master plan, official map, or this UDO.

Subsidiary means an affiliate that is directly, or indirectly through one or more intermediaries, controlled by another person (for the purposes of Article 11, Part II, Soil Erosion and Sedimentation Control).

Substantial damage means damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See definition of substantial improvement. ***[CRS communities are eligible for up to 20 CRS points for adopting OPTIONAL Text for Substantial Damage that could include one or more of the following higher standards:]***

- 1.) *By choosing a timeframe that includes cumulative damages sustained over a period of time exceeding one year period. (5 or 10 year period recommended)*
- 2.) *By choosing a percent damaged that is less than 50% of the market value of the structure (CRS recommends 30 %.)*
- 3.) *By adding the following text for eligibility for Increased Cost of Compliance (ICC) benefits for repetitive losses: 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. (Strongly Recommended)*

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Substantial improvement means any combination of repairs, reconstruction, rehabilitation, addition or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any ~~project of improvement of a structure to~~ correction of existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to ensure safe living conditions; or
- (2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure ~~and the alteration is approved by variance issued pursuant to Article 4 Section E of this ordinance.~~

[CRS communities are eligible for up to 20 CRS points for adopting OPTIONAL Text for Substantial Damage that could include one or more of the following higher standards:]

- 1.) By choosing a timeframe that includes cumulative damages sustained over a period of time exceeding one-year period. (5 or 10-year period recommended)*
- 2.) By choosing a percent improved that is less than 50% of the market value of the structure (CRS recommends 30 %.)*

Substantial modification (wireless facility) means the mounting of a proposed wireless facility on a wireless support structure that substantially changes the physical dimensions of the support structure. A mounting is presumed to be a substantial modification if it meets any one or more of the criteria listed below. The burden is on the local government to demonstrate that a mounting that does not meet the listed criteria constitutes a substantial change to the physical dimensions of the wireless support structure.

- (1) Increasing the existing vertical height of the structure by the greater of (i) more than ten percent (10%) or (ii) the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet.
- (2) Except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, adding an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of the wireless support structure the greater of (i) more than twenty (20) feet or (ii) more than the width of the wireless support structure at the level of the appurtenance.
- (3) Increasing the square footage of the existing equipment compound by more than 2,500 square feet.

Surveyor means a person licensed as a land surveyor by the state.

Commented [HW49]: Verify Reference .

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Swimming pool means a structure, whether above or below grade level, designed to hold water more than 30 inches deep to be used for recreational purposes.

T

Technical bulletin and technical fact sheet mean a FEMA publication that provides guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at Section 60.3. The bulletins and fact sheets are intended for use primarily by State and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations. 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. (OPTIONAL)

Temperature controlled means having the temperature regulated by a heating and/or cooling system, built-in or appliance.

Temporary emergency, construction, or repair residence means a subordinate residence that is: located on the same lot as a single-family dwelling made uninhabitable by fire, flood, or other natural disaster and occupied by the persons displaced by such disaster, or (ii) located on the same lot as a residence that is under construction or undergoing substantial repairs or reconstruction and occupied by the persons intending to live in such permanent residence when the work is completed.

Temporary structure or building means any structure or building intended for temporary use, or which is not permanently anchored or attached to a permanent foundation.

Ten-year storm means the rainfall of an intensity expected to be equaled or exceeded, on the average, once in ten years, and of a duration which will produce the maximum peak rate of runoff, from the watershed of interest under average antecedent wetness conditions (for the purposes of Article 11, Part II, Soil Erosion and Sedimentation Control).

Tenant means one who resides on or has the temporary use or occupancy of real property owned by another person. In the case of residential property, the term "tenant" shall be considered to mean any individual actually residing at the residential location, whether such person is listed on a lease or not.

Top plate means the point at which the structural wall framing, and the structural roof framing join together at the top of the uppermost habitable floor. When a building is designed with top plates at more than one horizontal level, the uppermost plate is the one referred to and regulated by this UDO.

Commented [HW50]: Optional in model but already adopted in UDO.

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Tour boat means a vessel used to transport passengers for passive nature or recreational enjoyment from a shore-based site to a destination or attraction and returning to the same shore-based site without embarking or disembarking passengers enroute. A tour boat does not include charter boat, guide boat, or water taxi boat.

Town means the Town of Nags Head, North Carolina as it is now, or may in the future be, constituted.

Town Administrator means a person designated by the Town Manager to represent the Town in all business with the grantee.

Town right-of-way means a right-of-way owned, leased, or operated by the Town, including any public street or alley that is not part of the State highway system.

Town utility pole means a pole owned by a Town located in a Town right-of-way that provides lighting, traffic control, or similar function.

Townhouse means a single-family dwelling on its own individual lot but connected on two sides, by means of a common wall for at least ten feet of its length, to two other single-family dwellings or an end dwelling of a row of such dwellings.

Tract means all contiguous land and bodies of water being disturbed or to be disturbed as a unit, regardless of ownership (for the purposes of Article 11, Part II, Soil Erosion and Sedimentation Control).

Trade association means an unincorporated or incorporated association of members of a particular profession or trade formed for the advancement of the trade or the betterment of its members in the trade.

Trade association office means a building or portion of a building wherein an unincorporated or incorporated association of members of a particular profession perform noncommercial, predominantly administrative and/or clerical activities, educational, and/or training activities and meetings necessary for the advancement of the trade or the betterment of its members in the trade.

Trade center means a structure containing two or more individual units, primarily devoted to service and wholesale operations and the storage of materials for off-site work.

Trailer includes any of the following:

- (1) **Travel trailer** means a vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation uses, and, when factory equipped for the roads, it shall have a body width not exceeding eight feet and a body length not exceeding 32 feet.
- (2) **Pickup coach** means a structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation.
- (3) **Motor home** means a portable, temporary dwelling to be used for travel, recreation, and vacation, constructed as an integral part of a self-propelled vehicle.

APPENDIX A. DEFINITIONS

- (4) **Camping trailer** means a folding structure of canvas or other material mounted on wheels and designed for travel, recreation and vacation use.

Trailer park means a parcel or tract of land under single ownership which has been planned and improved for open-air camping or the temporary placement of trailers as a service to the traveling public.

Transient occupancy means occupancy by the same individual or owner for a combined period of no greater than 30 days in any single calendar year.

Tree means a woody perennial plant with one main stem or trunk which develops many branches, usually at some height above the ground.

Tree removal means removal of a tree or portion of a tree or any act which causes a tree to die within a period of two years including, but not limited to, damage inflicted upon the root system by machinery, storage of materials and soil compaction; changing the natural grade above the root system or around the trunk; damage inflicted on the tree permitting infection or pest infestation; excessive pruning; or paving with concrete, asphalt or other impervious material within such proximity as to be harmful to the tree.

Twenty-five year storm means the stormwater runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in 25 years, and of a duration which will produce the maximum peak rate of runoff, from the watershed of interest under average antecedent wetness conditions (for the purposes of Article 11, Part II, Soil Erosion and Sedimentation Control).

U

Uncovered means the removal of ground cover from, on or above the soil surface (for the purposes of Article 11, Part II, Soil Erosion and Sedimentation Control).

Undertaken means the initiating of any activity or phase of activity which results or will result in a change in the ground cover or topography of a tract of land (for the purposes of Article 11, Part II, Soil Erosion and Sedimentation Control).

Use means:

- (1) Any purpose for which a building or other structure or a tract of land may be designed, arranged, maintained or occupied; or
- (2) Any activity, occupation, business or operation carried on in a building or other structure or on a tract of land.

Use, accessory means a building, structure or use which meets all of the following criteria:

APPENDIX A. DEFINITIONS

- (1) It is clearly incidental to and customarily found in connection with a principal building or use;
- (2) It is subordinate to and serves a principal building or a principal use;
- (3) It is subordinate in area, extent or purpose to the principal building or principal use served;
- (4) It contributes to the comfort, convenience or needs of occupants, or business in the principal building or the principal use served;
- (5) It is located on the same lot as the principal building or use served; and
- (6) Is not a sexually oriented business or a sexually oriented business activity.

Use, conditional means a use that would not be appropriate generally or without restriction throughout a particular zoning district but which, if controlled as to number, area, location or relation to the neighborhood, would preserve the intent of this chapter to promote the public health, safety, morals and general welfare. Specific provisions are made for conditional uses which may be permitted in certain zones and the procedures for application are set out in Section 3.8, Conditional Use Permits of this UDO.

Utility pole means a structure that is designed for and used to carry lines, cables, wires, lighting facilities, or small wireless facilities for telephone, cable television, electricity, lighting, or wireless services.

V

Variance means a relaxation of the terms of this UDO where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this UDO would result in unnecessary and undue hardship.

Vegetation line means the first line of stable natural vegetation or the static line, as defined by CAMA, which shall be used as the reference point for measuring oceanfront setbacks. In cases where the static line is landward of the first line of stable natural vegetation, the static line shall be used for the measurement. In areas where there is no stable natural vegetation present and a static line has not been established, this line shall be established by connecting or extending the lines from the nearest adjacent vegetation on either side of the site and by extrapolating (by either on-ground observation or by aerial photographic interpretation) to establish the line.

Velocity means the average velocity of flow through the cross section of the main channel at the peak flow of the storm of interest. The cross section of the main channel shall be that area defined by the geometry of the channel plus the area of flow below the flood height defined by vertical lines at the

Commented [HW51]: Model ordinance defines variance as –

Variance- is a grant of relief from the requirements of this ordinance.

APPENDIX A. DEFINITIONS

main channel banks. Overload flows are not to be included for the purpose of computing velocity of flow (for the purposes of Article 11, Part II, Soil Erosion and Sedimentation Control).

Vessel means a vessel as defined in NCGS 76A-2.

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 Article 11, Part III is presumed to be in violation until such time as that documentation is provided (for the purposes of Article 11, Part III, Flood Damage Prevention).

W

Water surface elevation (WSE) means the height, in relation to NAVD 1988, of floods of various magnitudes and frequencies in coastal or riverine floodplains (for the purposes of Article 11, Part III, Flood Damage Prevention).

Watercourse means a lake, river, creek, stream, wash, channel or other topographic feature on or over which water flows at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur (for the purposes of Article 11, Part III, Flood Damage Prevention).

Watercraft, non-powered means an apparatus including, but not limited to, sailboat, canoe, kayak, windsurfer, stand-up paddle board, pedal boat, which does not have a motor or engine designed to propel such craft or apparatus.

Watercraft, personal means a small vessel that uses an outboard or propeller-driven motor, or an inboard motor powering a water jet pump, as its primary source of motive power and which is designed to be operated by a person sitting, standing, or kneeling on, or being towed behind the vessel, rather than in the conventional manner of sitting or standing inside the vessel.

Watercraft, powered means an apparatus including, but not limited to, fishing skiff, fishing boat, guide boat, designed for use on water, including trailers therefor, and motors or engines designed to propel such craft or apparatus.

Waste means surplus materials resulting from onsite construction and disposed of at other locations (for the purposes of Article 11, Part II, Soil Erosion and Sedimentation Control).

Wetlands means areas that are inundated or saturated by an accumulation of surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

Wetland swales means seasonally flooded or water-saturated depressions located between drier adjacent dune ridges. The vegetation cover includes a tree canopy. The general aspect of a swale greatly resembles that of a forested swamp, of which it may be considered a subunit. In the Nags Head Woods, dominant wetland swale vegetation includes sweet gum, black gum, red maple, buttonbush and cattails. Swales may become flooded seasonally or following heavy rainfall.

APPENDIX A. DEFINITIONS

Wind energy means kinetic energy present in wind motion that can be converted to mechanical energy for driving pumps, mills, and electric power generators.

Wind energy facility, rooftop means no more than two commercially manufactured roof-mounted systems per site, attached to either principal or accessory structures, designed to supplement other electricity sources as an accessory use to existing principal buildings or facilities, wherein the power generated is used primarily for on-site consumption having a total rated capacity of ten kW or less. The structural, mechanical, and electrical installation of such facilities shall conform to all applicable local, state and federal code and permitting requirements.

Wind energy facility, small means a single system designed to supplement other electricity sources as an accessory use to existing principal buildings or facilities, wherein the power generated is used primarily for on-site consumption. A small wind energy conversion system consists of a single wind turbine, a tower, and associated control or conversion electronics, which has a total rated capacity of 20 kW or less.

Wind energy facility, vertical axis means a system where the main rotor shaft is set vertically, and the main components are located at the base of the turbine. They are designed to supplement other electricity sources as an accessory use to existing principal buildings or facilities, wherein power generated is used primarily for on-site consumption. A vertical axis wind energy facility consists of a single wind turbine, a tower, and associated control or conversion electronics.

Wireless facility means equipment at a fixed location that enables wireless communications between use equipment and a communications network, including (i) equipment associated with wireless communications and (ii) radio transceivers, antennas, wires, coaxial or fiber optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term includes small wireless facilities. The term shall not include any of the following:

- (1) The structure of improvements on, under, within, or adjacent to which the equipment is collocated.
- (2) Wireline backhaul facilities.
- (3) Coaxial or fiber optic cable that is between wireless structures or utility poles or Town utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

Wireless infrastructure provider means any person with a certificate to provide telecommunications service in the State who builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures for small wireless facilities but that does not provide wireless services.

Wireless provider means a wireless infrastructure provider or a wireless services provider.

Wireless services means any services, using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public using wireless facilities.

APPENDIX A. DEFINITIONS

Wireless services provider means a person who provides wireless services.

Wireless services structure means a new or existing structure, such as a monopole, lattice tower, or guyed tower that is designed to support or capable of supporting wireless facilities. A utility pole or a Town utility pole is not a wireless support structure.

Working days (soil erosion and sedimentation control) means days exclusive of Saturday and Sunday during which weather conditions or soil conditions permit land-disturbing activity to be undertaken (for the purposes of Article 11, Part II, Soil Erosion and Sedimentation Control).

X

X Zone means the areas of minimal flood hazard shown on the FIRM which are areas outside of the Special Flood Hazards Areas and higher than the elevation of the 0.2% annual flood chance. Also referred to as Unshaded X zone.

Y

Yard means a required open space, unoccupied and unobstructed by any structure or portion of a structure from 12 inches above the general ground level of the graded lot upward, provided that, fences, walls, poles, posts and other customary yard accessories, ornaments and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility or any other requirement of this UDO. Further, customary accessory buildings or structures, including pools and pool surrounds, may be located in any rear or side yard no closer than five feet to any property line and subject to other limitations of this UDO. For lots of record which front on access easements, yard and lot depth measurements shall be made from the edge of the easement rather than from the lot line.

- (1) **Yard, front** means a yard extending between side lot lines across the front of a lot adjoining the public street. Depth of required front yard shall be measured at right angles to a straight line joining the foremost points of the side lot lines. The foremost point of the side lot line, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding. Front and rear yard lines shall be essentially parallel.
- (2) **Yard, rear** means a yard extending across the rear of the lot between side lot lines. Depth of a required rear yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the rear lot line.
- (3) **Yard, side** means a yard extending from the rear line of the required front yard to the rear yard. Width of a required side yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the side lot line.

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Z

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

Zoning districts means those districts depicted on the official zoning map and described in Article 6 Zoning Districts of this UDO.

Zoning permit means a permit issued by the UDO Administrator that authorizes the recipient to make use of property in accordance with the requirements of this UDO.



Town of Nags Head

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MEMORANDUM

TO: Board of Commissioners
FROM: Andy Garman, Deputy Town Manager
David Morton, Chief Building Inspector
Holly White, Principal Planner
DATE: February 15, 2018
SUBJECT: Update on the Preliminary Flood Maps

In preparation for the upcoming workshop on the preliminary Flood Insurance Rate Maps (FIRM), staff has compiled information to assist the Board in its discussion. The goal of this workshop would be to update the Board on the status of the preliminary FIRM map adoption process and gain input and direction on the possible adoption options. This memo highlights major milestones of this process thus far. In addition to the memo, there are several important maps and documents that will help to frame the discussion for the workshop. These include:

- Attachment 1- Board of Commissioners Resolution dated March 1, 2017-
On March 1st, 2017, the Board of Commissioners approved a resolution requesting that FEMA revise the models used to generate the FIRM Maps and consider all appropriate sources of flooding to better and more accurately reflect the risk from flooding and storm surge.
- Attachment 2- Comment letter on the Preliminary Flood Maps for the Town of Nags Head dated October 4, 2017-
The Board of Commissioners reviewed and approved a letter summarizing the town's comments and concerns on the preliminary flood maps. This letter provides insight and establishes a foundation for development of alternative options for adoption of the preliminary flood maps.
- Attachment 3- Tables-
These tables provide a comparison of regulatory options for adoption of the new flood maps and discuss the advantages and disadvantages of each.
- Attachment 4- Maps- These maps are best viewed digitally by allowing the viewer to zoom in to specific areas of the town.
 - A. 2012 Digital Elevation Model with 1' Contours Map-
This map reflects 1' ground elevation contours for the town and can be helpful in comparing existing ground elevations to the preliminary flood zone boundaries.

B. Proposed Flood Zone Boundary Changes Map-

This map reflects the adopted 2006 Flood Zones in red and green hatching as well as the preliminary flood zones in solid colors.

C. Comparison Map-

This map displays several different items. These include:

- Current AE Flood Zone- The current AE flood zone is shown in black hatching.
- Adoption Option 3- If Option 3 is selected; the local elevation standard would regulate properties in an AE and X flood zone at 8' and below. Everything in blue reflects elevations at 8' or below which would be regulated under Option 3.
- Adoption Option 4- If Option 4 is selected, the local elevation standard would regulate properties in AE and X flood zone at the 10' elevation and below. Again, everything in blue on the map reflects the 8' elevation. Additionally, the 8-10' elevation contours are shown in green and yellow. Therefore, everything shown in blue, green, and yellow would be regulated in Option 4.
- Matthew Flooding- The thick red line is a representative example of the area inundated with flood water during Hurricane Matthew in the northern portion of town. The flood height observed was approximately 10'. This line also correlates with both the 10' elevation contour and the 2006 AE flood line.
- Hurricane Irene Damage- Properties shown in pink experienced damage during Irene. The number, shown within the property boundaries, represents the depth of flooding recorded inside the heated living space or enclosure of the home.

The preliminary Flood Insurance Rate Maps (FIRM) released in June of 2016 revealed that many areas of the town have been proposed to be removed from the Special Flood Hazard Area. Additionally, the Base Flood Elevations have been significantly reduced in areas remaining in the Special Flood Hazard Area. Soon after the preliminary maps were made available, town staff began working with Dare County and the other towns to hold community meetings, review, and discuss concerns with the preliminary maps. After review of the preliminary maps and additional research to compare historical records, both staff and the Board of Commissioners felt that these maps underrepresented the actual flood risk observed during previous flood events for certain parts of the town. If adopted "as is" (i.e. without the addition of higher regulatory standards) construction will occur that will be subject to routine flooding. Those property owners who choose to forego flood insurance in these areas will be unprotected against future loss.

In addition to the required community meetings and notifications outlined below in the Flood Insurance Rate Map Process & Community Involvement section, the town consulted with several other resources to better understand how the maps were developed and what options were available for adoption.

On February 6, 2017, Spencer Rogers with NC Sea Grant was invited to speak to the Nags Head Board of Commissioners and the community about his review of and concerns with the preliminary flood maps. Mr. Rogers indicated that the coastal model used by FEMA to develop Flood Insurance Rate Maps has inherent flaws which are reflected in the Special Flood Hazard Areas and Base Flood Elevations shown on the preliminary maps. Mr. Rogers explained that the modeling process is highly quantitative and dependent on simulations. This reduces the ability to make inferences from historical storm and storm gauge records. The key to improving

coastal flood maps lies in revising the coastal flood models that are used to calculate the areas subject to flood inundation as well as Base Flood Elevations. The modeling process also needs to better address estimates of storm return period and consider areas of shallow flooding.

In September 2017, Dr. Rick Luettich, Director of the UNC Center for Natural Hazards Resilience, made a presentation to the Nags Head Board of Commissioners describing the modeling process used to develop the preliminary flood maps. Dr. Luettich has completed further analysis of the preliminary flood maps using data from a new gauge that was installed in Hatteras in 2011. Based on his research and analysis, Dr. Luettich is concerned that the selection of historical storms utilized in the first phase of the preliminary mapping process does not adequately describe what communities in the northern beaches (Hatteras north) are likely to encounter, especially along the soundside. Dr. Luettich indicated that this has resulted in the low BFE's and reduced Special Flood Hazard Area acreage as shown on the preliminary flood maps. Staff would encourage you to review the video of Mr. Luettich's presentation prior to the workshop at the following link: https://www.youtube.com/watch?v=EnL-4_ishmA. Mr. Luettich's presentation starts at the 1:21 minute point in the video.

In October 2017, the Town submitted a letter outlining concerns about the preliminary FIRMs and does not anticipate changes to the maps based on feedback received from state officials. At this point, the Town is evaluating the options it has to protect the community if the maps are adopted as is. The Town must adopt the maps to continue to participate in the National Flood Insurance program, which makes federally backed flood insurance and disaster relief available to communities. The Town also may consider adopting higher regulatory standards to address the concerns with the preliminary FIRMs.

Possible Adoption Options

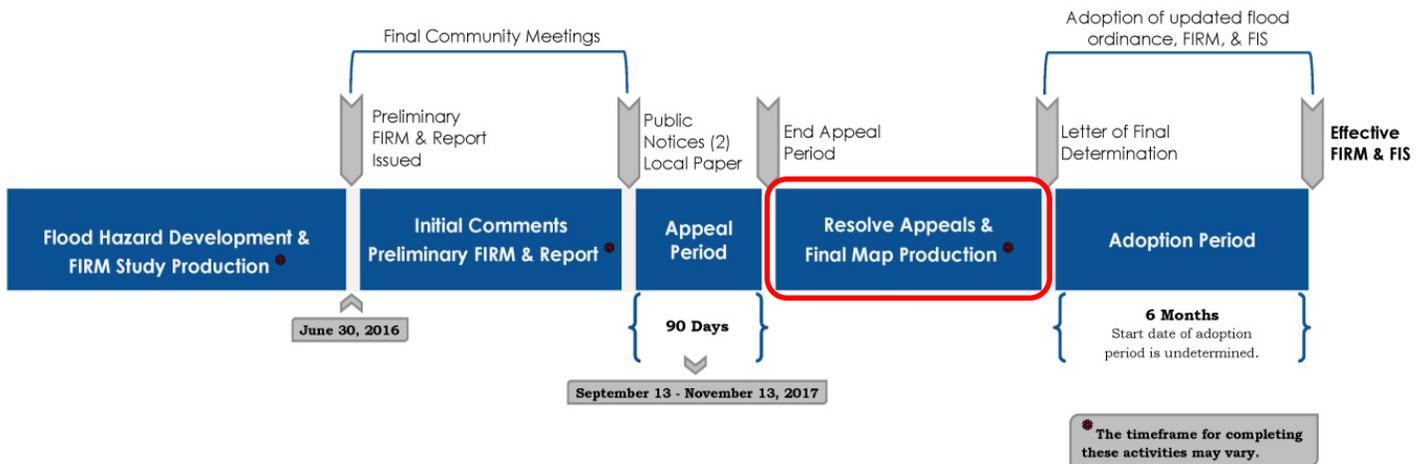
Based on all the previous research and information collected, the town has several possible options for adoption including:

1. Adopt the proposed flood maps without any additional higher regulatory standards. This would remove a significant number of properties from the Special Flood Hazard Area at which time they would no longer be required to carry flood insurance or meet any minimum regulatory requirements.
2. Adopt the proposed maps for flood insurance purposes, but continue to regulate based on the current (2006) flood maps.
3. The Dare County Towns and the County have been working as a group for several months to explore ways to provide consistency with administering the new flood maps. All communities recognize that the proposed maps do not reflect the actual risk of flooding. The working group has developed a proposal which would do the following:
 - A. Adopt the draft FIRM for flood insurance purposes.
 - B. Adopt a local elevation standard for the entire town that would be greater than what is shown on the maps:
 - For non-oceanfront areas (west of NC 12 or SR 1243), a minimum elevation of eight feet would be required for all new construction or substantial improvements.
 - East of 12/1243 – There would be a minimum elevation of 12' and VE construction requirements would apply.

4. Adopt modified version of option 3.
 - A. Adopt the draft FIRM for flood insurance purposes.
 - B. Adopt a local elevation standard:
 - For non-oceanfront areas (west of NC 12 or SR 1243), a minimum elevation of ten feet would be required for all new construction or substantial improvements.
 - East of 12/1243 – There would be a minimum elevation of 12' and VE construction requirements would apply.

The tables shown in Attachment 3, outline the advantages and disadvantages for each option.

Flood Insurance Rate Map Process & Community Involvement



Preliminary Flood Insurance Rate Maps (FIRM) maps were issued June 30, 2016 for Dare County and its municipalities. Since that time, there has been a general public viewing period. In November 2016 the Board of Commissioners discussed options for either appealing the information on the maps and/or creating a higher regulatory standard to protect Nags Head properties. The Board suggested that the town conduct its own public outreach on the proposed maps and receive community feedback prior to taking any action. This outreach included hosting a Community Meeting on December 14, 2016 on the new flood maps to provide an overview of the new maps as well as the information comparing the new flood maps to areas damaged in recent storms. Following the meeting, people were given the opportunity to participate in a survey. Approximately 15 people attended the meeting. Additionally, staff developed a video to reflect the messaging made at the Community Meeting that has been made available on the website. Citizens were encouraged to watch the video and then participate in the survey. Approximately 59 people participated in the survey.

In January of 2017, Dare County and the NC Floodplain Mapping program hosted a series of three community meetings throughout Dare County. These meetings were held:

- January 10th- Kill Devil Hills Town Hall
- January 11th- Dare County Board of Commissioners Meeting Room, Manteo
- January 12th- Fesseden Center, Buxton

A 90-day appeal period began September 13th 2017 and closed November 13th 2017. In October 2017, the town submitted a letter outlining concerns and comments on the Preliminary Flood Maps. The Dare County preliminary maps are currently in the resolution and final map

production period. There is not a set amount of time required for this portion of the process. The length of this time can be determined by the length of time it takes for the NC Floodplain Mapping program to finalize any appeals and finalize map production. Once this is complete, the NC Floodplain Mapping Program will issue a Letter of Final Determination which establishes the final flood hazard data and the effective date of the new Flood Insurance Rate Maps (FIRM) and Flood Insurance Study (FIS) report. After a six month period, the FIRM and FIS become effective. During the six month waiting period for adoption, Nags Head will need to hold a public hearing to adopt the new FIRMs, FIS, and an updated ordinance.

Next Steps:

Based on the information provided and discussion at the upcoming meeting, staff would request direction from the Board on their preference of possible adoption options. Once a desired direction has been determined, staff can continue work to implement this through continued participation in the Dare County Planners group and through the ordinance rewrite.

Attachments:

- Attachment 1- Board of Commissioners Resolution dated March 1, 2017
- Attachment 2- Comment letter on the Preliminary Flood Maps for the Town of Nags Head dated October 4, 2017
- Attachment 3- Tables
- Attachment 4- Maps
 - A. 2012 Digital Elevation Model with 1' Contours Map
 - B. Proposed Flood Zone Boundary Changes Map
 - C. Comparison Map



**RESOLUTION REQUESTING THAT THE FEDERAL EMERGENCY MANAGEMENT AGENCY
REVISE THE COASTAL FLOODPLAIN MAPPING MODEL AND CONSIDER SHALLOW FLOODING
AND OTHER SOURCES OF FLOOD RISK AS PART OF THE PROCESS TO UPDATE
FLOOD INSURANCE RATE MAPS**

WHEREAS, the Town of Nags Head has been a member of the National Flood Insurance Program since 1972; AND

WHEREAS, the Town of Nags Head strongly believes that the National Flood Insurance Program, through the use of Flood Insurance Rate Maps and associated regulations, has been one of the primary and most effective ways to minimize flood damage to properties within the Town and communicate flood risk to the general public; AND

WHEREAS, the Town of Nags Head received preliminary Flood Insurance Rate Maps on June 30, 2016 as part of the North Carolina Floodplain Mapping Program's most recent effort to update flood maps in partnership with the Federal Emergency Management Agency (FEMA); AND

WHEREAS, the Town has compared the proposed Special Flood Hazard Areas and associated Base Flood Elevations to previous maps as well as local historical storm records and documented flooding; AND

WHEREAS, a large portion of the Town has been removed from the Special Flood Hazard Area and the remaining non-VE zone Special Flood Hazard Areas have a Base Flood Elevation of 4 feet above mean sea level, which is generally lower than the land surface elevations in much of the Town; AND

WHEREAS, based on this analysis, the Town has determined that the preliminary Flood Insurance Rate Maps underrepresent the flood risk for a significant portion of the Town, including areas flooded and/or damaged in Hurricanes Isabel, Irene, Matthew as well as Tropical Storm Beryl; AND

WHEREAS, the preliminary maps, if adopted without modification, would allow new construction and/or improvements to existing buildings that would be at risk of flooding from storms of similar intensity and/or duration as the aforementioned events; AND

WHEREAS, buildings constructed outside of the Special Flood Hazard Area are not grandfathered for flood insurance purposes and, if later mapped into a flood zone, may realize significant flood insurance premium increases if not constructed in compliance with new flood damage prevention regulations; AND

WHEREAS, the Town has consulted with North Carolina Emergency Management, the North Carolina Floodplain Mapping Program, NC Sea Grant and conducted other research to collect information on how the maps were developed including the models and analyses used to develop Special Flood Hazard Areas and associated Base Flood Elevations; AND

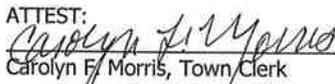
WHEREAS, the Town believes that the coastal models used by FEMA to develop Flood Insurance Rate Maps has inherent flaws which are reflected in the Special Flood Hazard Areas and Base Flood Elevations shown on the preliminary maps; AND

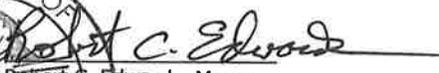
WHEREAS, the modeling process is highly quantitative and dependent on simulations which reduces the ability to make inferences from historical storm and storm gage records; AND

WHEREAS, the key to improving coastal flood maps lies in improving the coastal flood models that are used to calculate the areas subject to flood inundation, Base Flood Elevations, as well as improving estimates of storm return period and consideration of areas of shallow flooding.

NOW, THEREFORE BE IT RESOLVED that the Nags Head Board of Commissioners calls upon our Federal and State representatives to request that the Federal Emergency Management Agency revise the models used to generate the Flood Insurance Rate Maps and consider all appropriate sources of flooding to better and more accurately reflect the risk from flooding and storm surge, particularly in coastal communities.

This the 1st day of March 2017.

ATTEST:

Carolyn F. Morris, Town Clerk


Robert C. Edwards, Mayor
Town of Nags Head




Robert C. Edwards
Mayor

Susie Walters
Mayor Pro Tem

Cliff Ogburn
Town Manager

Town of Nags Head

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M. Renée Cahoon
Commissioner

John Ratzenberger
Commissioner

Marvin Demers
Commissioner

October 4, 2017

Mr. John K. Dorman
Program Director
North Carolina Floodplain Mapping Program
4105 Reedy Creek Road
Raleigh, North Carolina 27607

Luis Rodriguez, Chief
Engineering Management Branch
Federal Insurance and Mitigation Administration
FEMA
500 C Street SW Room 423
Washington, DC 20472

RE: Comments on the Preliminary Flood Maps for the Town of Nags Head

Dear Mr. Dorman,

The Town of Nags Head has reviewed the Preliminary Flood Insurance Rate Maps that were released for Dare County in June of 2016. As you are aware, many areas of the town have been proposed to be removed from the Special Flood Hazard Area. Additionally, the Base Flood Elevations have been significantly reduced in areas remaining in the Special Flood Hazard Area. The town has compared the preliminary Special Flood Hazard Areas and Base Flood Elevations to our historical records of storm surge and rainfall flooding as well as flood damage. Based on this comparison, the Nags Head Board of Commissioners believes that these maps underrepresent the actual flood risk observed during previous flood events for certain parts of the town. If adopted "as is" (i.e. without the addition of higher regulatory standards) construction will occur in the town that will be subject to routine flooding. Those property owners who choose to forego flood insurance in these areas will be unprotected.

The Town of Nags Head strongly believes that the National Flood Insurance Program, through the use of Flood Insurance Rate Maps and associated regulations, has been one of the primary and most effective ways to minimize flood damage to properties within the town and communicate flood risk to the general public. The flood maps are often the primary source of information people use to evaluate risk when making real estate purchases or

planning property improvements. To date, the National Flood Insurance Program has served to limit significant damage that would have otherwise occurred without these preventative measures. This has largely been due to gradual improvements in the floodplain mapping program. The preliminary maps represent a departure from previous map revisions, particularly with respect to the current maps which were adopted in 2006. This is a policy decision that will reintroduce risk into the town and represents a step backwards in our collective efforts to protect property. As a town and regulatory agency, we believe it is our responsibility to protect property owners from these risks, particularly since many property owners are from other areas of the country and may not be familiar with local conditions. Therefore, we provide the following comments for your consideration:

1. On March 1, 2017, the town adopted a resolution outlining our initial concerns with the flood maps and the modeling process used to develop the maps. Please incorporate the attached resolution as part of the town's official comments.

2. Reduction of Special Flood Hazard Areas (SFHA) and Base Flood Elevations (BFE)

The preliminary maps rezone large areas of the town from the AE and VE flood zones to unregulated Shaded X zones. In addition to the reduction in overall acreage of the Special Flood Hazard Area, Base Flood Elevations (BFE's) in all flood zones are reduced significantly. In AE flood zones, BFE's will be reduced from a range of 9-11 feet on the 2006 Flood Maps to 4-5 feet on the preliminary flood maps. In some cases, VE flood zones from the 2006 flood maps will become AO flood zones or Shaded X flood zones on the preliminary maps.

During Hurricane Irene, the town documented soundside flooding with flood heights reaching properties as high as seven feet above mean sea level. Many structures along the sound were damaged, and post-storm inspections revealed flood heights within structures between one and three feet. The average ground elevation in these same areas ranges between four and six feet above mean sea level. Fortunately, in most cases only ground floor unheated enclosures were flooded due to the fact that these homes were constructed in accordance with existing or previous flood damage regulations. The preliminary flood maps place these areas either in an AE flood zone with a BFE of four feet or within a Shaded X flood zone. Since many of these areas would no longer be regulated under the new maps, new structures could be positioned at existing grade and existing enclosures could be converted to heated space. (See Maps 1-5).

Further, in the northern portion of town, flooding associated with rainfall from hurricane Matthew was documented up to 3.5 feet within structures. This area is currently in the AE flood zone with a BFE of 10 feet. The extent of the floodwater surface elevations were documented between 10.0' msl and 11.5' msl (See Map 6). Topographic grades in this area generally range between five and eight feet. On the preliminary flood maps, this entire area will now be in a Shaded X flood zone. Many of the structures in this area are elevated with limited unheated storage beneath the structure. If the preliminary maps are adopted, enclosures could be converted to heated space. If this occurs on a widespread basis, the damage estimates from future storms such as Matthew will be exponentially higher. Please

note in section 4 below that Matthew is not the only historic event to cause flooding in this area.

3. Natural Topography

The natural topography of the barrier island creates a low-lying “trough” between the maritime forest zone west of US 158 and the primary beach and foredunes in the vicinity of NC 12. In general, the maritime ridge serves as the breakpoint for overland surface runoff and subsurface groundwater flow between the Atlantic Ocean and the Roanoke Sound. A majority of the developed properties exist east of the maritime ridge and are concentrated in the lower lying areas between the beach and maritime forest zones. With the general eastern direction of flow, runoff tends to accumulate in the lower elevations in the developed areas, creating a “bowl” like effect which leads to localized flooding by way of elevated groundwater conditions, surface runoff, or a combination of the two. When the town experiences frequent, intense and prolonged rainfall events, as observed during Hurricane Matthew in 2016 and during the summer of 2017, the ground becomes saturated, prohibiting any further infiltration from occurring. This exacerbates flooding in these low lying areas resulting in widespread impacts to structures, roadways, and septic systems.

As mentioned above, frequent, intense and prolonged rainfall events can elevate the surrounding shallow surficial aquifer, saturating the sandy soils and restricting infiltration, the town’s primary means of managing flooding and runoff. Where available, what does not infiltrate is conveyed through 55 miles of the town’s network of open channels and storm pipes to five ocean outfall discharge points and twelve soundside discharge points. The outfall discharges, which are strategically located at low elevations within the town’s drainage basins, are maintained by the North Carolina Department of Transportation (NCDOT) and were installed in the early 1960’s in response to the Ash Wednesday Storm. The outfalls were originally constructed to provide a mechanism for draining ocean overwash events when the storm surge from the ocean overtopped the dunes.

According to the document “Guidance for Flood Risk Analysis and Mapping, Shallow Flooding Analyses and Mapping, November 2016” published by FEMA, “Shallow flooding can occur as the result of several meteorological and watershed conditions. However, there are two broad classifications of shallow flooding into which almost all individual cases can be assigned — ponding and sheet runoff. Ponding is the result of runoff or flows collecting in a depression that may have no outlet, subterranean outlets, rim outlets or manmade outlets such as culverts or pumping stations. Impoundments behind manmade obstructions (e.g., levees, road fill, railroad grades, canal banks, or similar structures) are included in this type of shallow flooding as long as they are not backwater from a defined channel or do not exceed 3.0 feet in depth.” The town understands that shallow flooding studies are not typically completed as part of the coastal floodplain mapping process. Since it is clear that our local conditions reveal problems associated with shallow flooding, the town would request a shallow flooding study be conducted in areas where this “bowl” like effect is occurring as part of the mapping process (See Map 6).

4. Chronic Flooding

The town has seen an increase in chronic flooding. The increase in occurrences of “extreme” rainfall events has led to extended periods of inundation in developed low-lying areas beyond what could be considered nuisance flooding. This has been evidenced by recent rainfall events. Flooding in the coastal environment is not only caused by soundside and ocean surge events, but also from frequent, intense and prolonged rainfall events.

The following is a list of the most notable, recent storms that have impacted Nags Head with varying levels of surge and rainfall flooding. Of the 17 documented events causing significant damage in the town, eight flooding events were caused by excessive amounts of rainfall both related to a storm event as well as extended periods of intense rainfall. Of the nine remaining flooding events, seven events were ocean surge, and two were soundside surge events.

Year	Event	Source of Flooding
1962	Ash Wednesday Storm	ocean overwash event
1991	Halloween Storm	ocean overwash event
1992	July/August	extended rainfall pattern created flooding
1993	March storm	soundside storm surge event
2000	July/August	extended rainfall pattern created flooding
2003	Hurricane Isabel	ocean overwash event
2004	July/August	extended rainfall pattern created flooding
2006 (September)	Tropical Storm Ernesto	ocean surge event
2009 (November)	Veteran’s Day Storm (Nor’easter)	ocean overwash event
2011	Hurricane Irene	soundside storm surge event created extensive flooding town wide for properties adjacent to the sound

Year	Event	Source of Flooding
2012	July/August	extended rainfall pattern created flooding
2012 (October)	Hurricane Sandy	ocean overwash event
2014	Hurricane Arthur	soundside storm surge event
2015	Tropical Storm Joaquin	rainfall associated with the storm resulted in flooding throughout the town
2016 (September)	Tropical Storm Hermine	rainfall associated with the storm resulted in flooding throughout the town
2016 (October)	Hurricane Matthew	rainfall associated with the storm resulted in flooding throughout the town
2017	July to September	extended rainfall pattern created flooding

More recently, Hurricane Matthew delivered record amounts of rainfall throughout Nags Head in October 2016. Rainfall measurements recorded range between 11.7 inches to 13.7 inches across the Town of Nags Head, most of which occurred during a six hour period between 10 pm on October 8, 2016 and 4 am October 9, 2016. Peak flood water levels measured in the low-lying areas were documented as much as 3.5 feet deep. Significant portions of NC 12, and to a smaller extent US 158, were flooded creating conditions where public health and safety were endangered. Flood depths ranging between one and three feet remained for several days. Approximately 600 homes were impacted with a significant number of impacted properties residing within an area that will be converted from an AE flood zone to an unregulated Shaded X flood zone on the preliminary maps. Floodwater moved through the town’s stormwater infrastructure system but could not flow out of the NCDOT outfall pipes because of the exceptionally elevated tailwater conditions associated with storm surge and higher than normal tide. This situation prevented floodwater from being transported to the ocean and sound via the outfall pipes and created extensive town wide flooding.

Between July 2017 and August 2017, an exceptional amount of rainfall occurred and the time interval can be derived from the North Ridge Weather station located in the north section of the Town of Nags Head. For the Period between July 2, 2017 and July 16, 2017, three separate significant rainfall events occurred; a 25-yr rainfall event, a 50-yr rainfall, and a 200-yr event (see attached tabular rainfall records and associative recurrence interval, North Ridge July Rainfall Totals). Cumulatively, when combined with other rainfall occurrences and extended over a 47-day time period, this equates to an approximate 200-yr recurrence interval. The

rainfall amount during this period accounts for approximately one-half of the annual average rainfall for the town. These circumstances were similar to conditions experienced in the Fall of 2016 when approximately one-half of the annual average rainfall occurred over the course of a 45-day period. Again, flood depths ranged between one and three feet and approximately 300 homes were impacted, with a significant number of impacted properties being removed from the Special Flood Hazard Area on the preliminary maps.

The town would request that a more comprehensive approach be employed by the state and through FEMA modeling in determining flood risk when creating flood maps. The Town of Nags Head and other coastal communities are impacted by flooding from rainfall as frequently as surge type events. FEMA models and the state mapping process should better account for these rainfall events coupled with the high groundwater table.

5. Updates to FEMA Model

Spencer Rogers, with NC Sea Grant, made a presentation to the town in February of 2017. Based on his presentation and research, the town believes that the coastal model used by FEMA to develop Flood Insurance Rate Maps has inherent flaws which are reflected in the Special Flood Hazard Areas and Base Flood Elevations shown on the preliminary maps. Mr. Rogers explained that the modeling process is highly quantitative and dependent on simulations. This reduces the ability to make inferences from historical storm and storm gauge records. The key to improving coastal flood maps lies in revising the coastal flood models that are used to calculate the areas subject to flood inundation as well as Base Flood Elevations. The modeling process also needs to better address estimates of storm return period and consider areas of shallow flooding. Mr. Rogers indicated that these concerns are further noted in the document, "Mapping the Zone: Improving Flood Map Accuracy" produced by the Committee on FEMA Flood Maps and National Research Council of the National Academies. The town would request that the FEMA models be updated based on the research of Spencer Rogers and the documentation provided in Mapping the Zone: Improving Flood Map accuracy.

6. Storm Selection

In September of 2017, Dr. Rick Luettich, Director of the UNC Center for Natural Hazards Resilience, made a presentation to the Nags Head Board of Commissioners describing the modeling process used to develop the preliminary flood maps. Dr. Luettich has completed further analysis of the preliminary flood maps using data from a new gauge that was installed in Hatteras in 2011. Based on his research and analysis, Dr. Luettich is concerned that the selection of historical storms utilized in the first phase of the preliminary mapping process does not adequately describe what communities in the northern beaches (Hatteras north) are likely to encounter, especially along the soundside. Dr. Luettich indicated that this has resulted in the low BFE's and reduced Special Flood Hazard Area acreage as shown on the preliminary flood maps. The town would request that additional storms be included in the mapping process to reflect recent storm tracks, such as Hurricane Irene, that have caused damage along soundside portions of our community.

7. Other Issues

- Street addressing on the FRIS webpage - The Flood Risk Information System (FRIS) webpage is not able to correctly locate addresses. Some searches yield addresses that are off by several numbers. In other cases, the addresses identified do not exist in the town's addressing system. Because the addressing does not work on the FRIS site, it is difficult and often impossible for users to find an address. Users often call town staff to help them locate properties. Town staff are having to use a combination of the Dare County GIS site as well as the FRIS webpage to provide information. The town requests that this function be fixed.
- Map Legend - The legend on the maps, created by the FRIS webpage, uses the technical description of the Shaded X Zone - 0.2% of the annual flood hazard, but with no accompanying label of the Shaded X Zone on the final product. The X Zones are not labeled. Individuals not familiar with flood map terminology find this confusing since the legend does not convey the appropriate information. The town requests that the legend options on the map output be revised to include the Shaded X and X Zone labels.
- Local Government Involvement- The preliminary flood maps for Dare County include the unincorporated areas of the county and the six municipal areas of Manteo, Nags Head, Kill Devil Hills, Kitty Hawk, Southern Shores, and Duck. Dare County staff often serves as the liaison with the towns during the map development and review process. In an effort to better facilitate input from all localities, the town requests that staff and elected officials of all Dare County government agencies be engaged prior to and during the initial stages of future mapping processes. Such engagement would enable local officials to share recent issues related to flooding and clearly identify problem flooding areas. Additionally, more frequent updates early on in the mapping process could prevent the omission of relevant flooding data.

8. Conclusion

As a small barrier beach municipality, we are vulnerable to flooding both from storm surge and rainfall. The effects of sea-level rise and climate change further complicate and exacerbate the effects of flooding. The town is committed to developing policies as well as completing planning and infrastructure projects to proactively mitigate the effects of flooding. This is evidenced by the adoption of a Comprehensive Plan (July 2017) that will implement policies on flooding and coastal resiliency as well as the commitment of funding for a Stormwater Masterplan and Decentralized Wastewater Management Plan update. Further, the town is working with Dare County and other municipalities to develop higher regulatory flood damage prevention standards for future development in conjunction with the preliminary maps.

Based on the town's historical, first-hand knowledge of repetitive flooding events, it is difficult for the town to support the preliminary maps that would allow future construction that is more vulnerable to flooding than what exists presently. After consultation with NCEM staff, NC Sea Grant, and the UNC Center for Natural Hazards Research, the town would like the North Carolina Floodplain Mapping Program and FEMA to address mapping issues associated with the modeling process including the evaluation of storms utilized as the basis for subsequent phases of the mapping process. The town would also request that consideration be given to a shallow flooding study as suggested in this letter.

Again, if the preliminary maps are adopted, this would allow new development to be constructed in areas subject to known flood risk without the benefit of construction techniques designed to mitigate flood damage. Although the preliminary maps should positively affect insurance rates for many property owners in the town, there is a concern that property owners may cancel flood insurance coverage because they are no longer in a flood zone. Then, if flood maps are updated in the future to reflect expanded Special Flood Hazard Areas or higher BFE's, these property owners may become non-conforming and subsequently face costly insurance rate increases.

On behalf of the Town of Nags Head Board of Commissioners, please accept the above comments and concerns. The town has direct experience with the destructive nature of flooding and to the importance of mitigating flood hazards. We look forward to your response to these comments on the preliminary flood maps.

Sincerely,

Robert Edwards, Mayor
Town of Nags Head

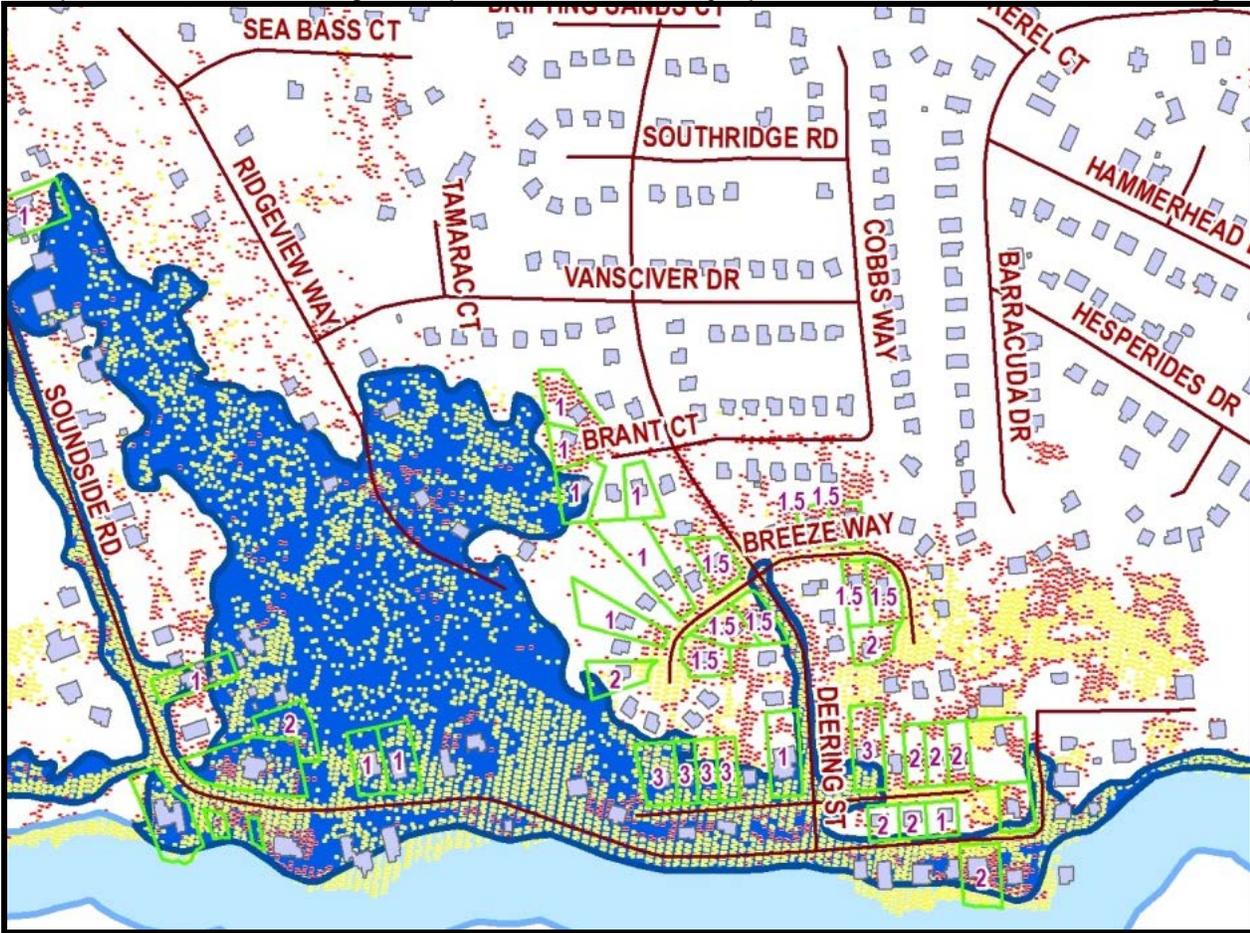
Attachments:

- Resolution adopted by Nags Head Board of Commissioners – March 1, 2017
- Maps 1 - 6
- Tabular rainfall records and associative recurrence interval, North Ridge

cc: Cliff Ogburn, Town Manager
Dare County Board of Commissioners
Robert Outten, Dare County
Chris Layton, Town of Duck
Peter Rascoe, Town of Southern Shores
Andy Stewart, Town of Kitty Hawk
Debbi Diaz, Town of Kill Devil Hills
Kermit Skinner, Town of Manteo

Map 1

Comparison of Irene Damaged Properties to Preliminary Special Flood Hazard Areas (Southridge)



- Damaged Property (Irene) (Number indicates documented flood height in building)
- AE, BFE 4
- AE, BFE 5
- AO
- VE
- 4-5' msl
- Below 4' msl

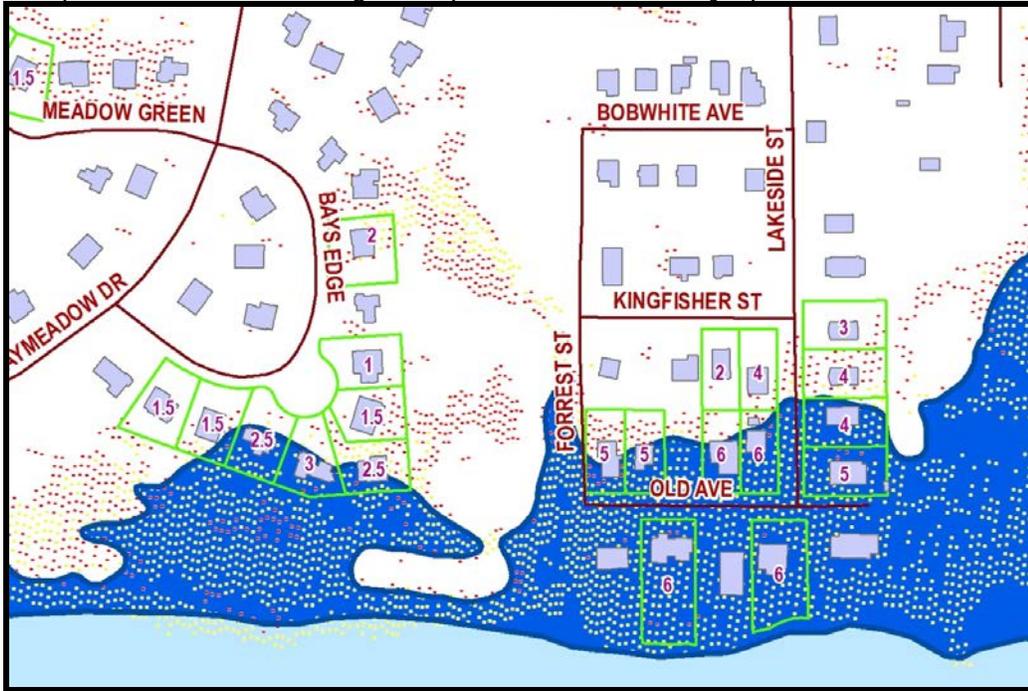
Map 2
Comparison of Irene Damaged Properties to Preliminary Special Flood Hazard Areas
(Old Nags Head Cove)



-  Damaged Property (Irene) (Number indicates documented flood height in building)
-  AE, BFE 4
-  AE, BFE 5
-  AO
-  VE
-  4-5' msl
-  Below 4' msl

Map 3

Comparison of Irene Damaged Properties to Preliminary Special Flood Hazard Areas (Roanoke Shores)



- Damaged Property (Irene) (Number indicates documented flood height in building)
- AE, BFE 4
- AE, BFE 5
- AO
- VE
- 4-5' msl
- Below 4' msl

Map 4

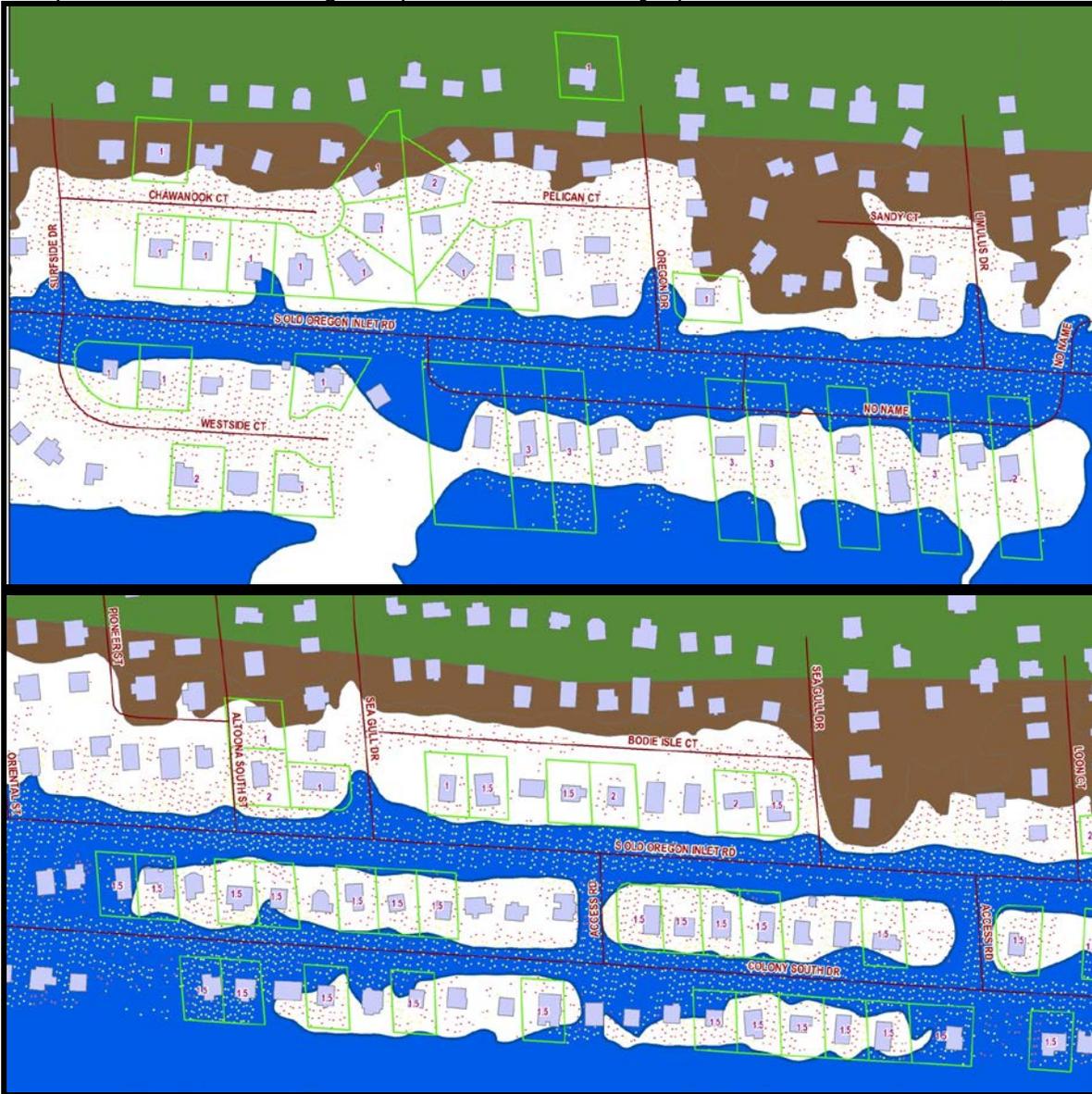
Comparison of Irene Damaged Properties to Preliminary Special Flood Hazard Areas (Pond Island)



-  Damaged Property (Irene) (Number indicates documented flood height in building)
-  AE, BFE 4
-  AE, BFE 5
-  AO
-  VE
-  4-5' msl
-  Below 4' msl

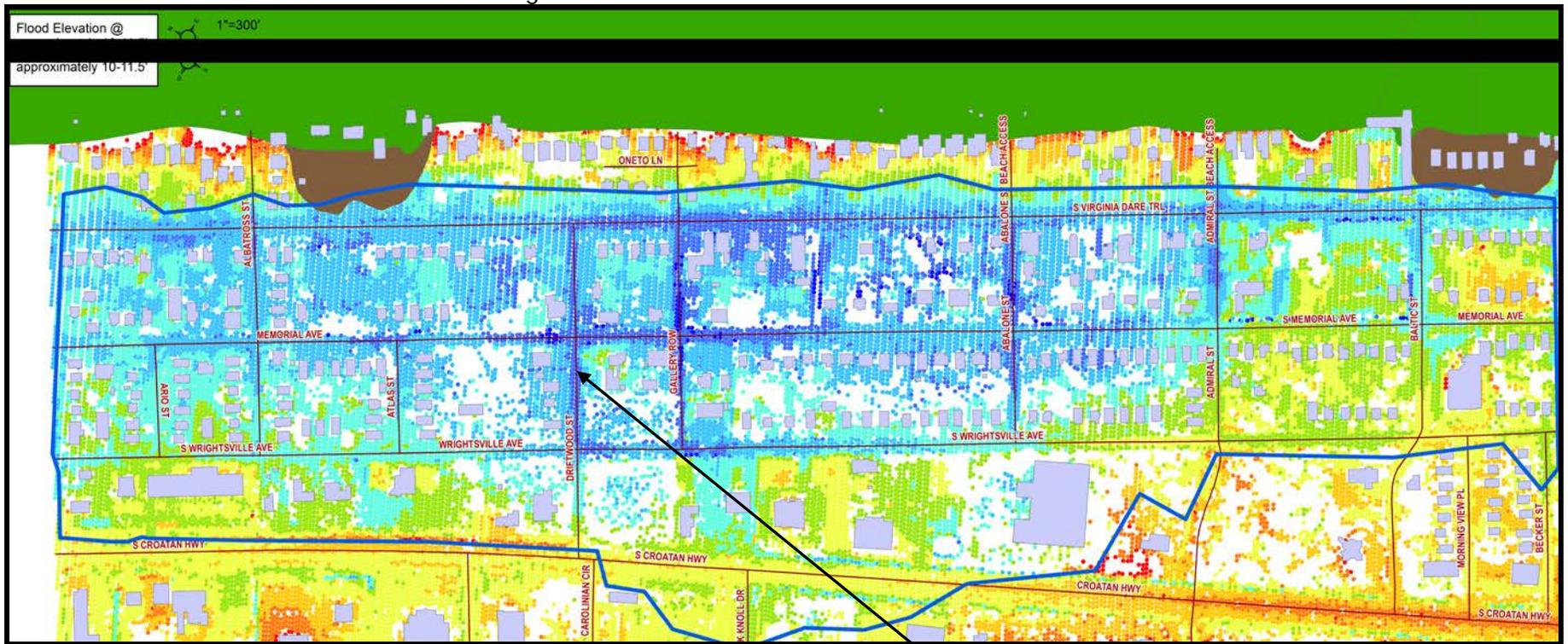
Map 5

Comparison of Irene Damage Properties to Preliminary Special Flood Hazard Areas (South Nags Head)



- Damaged Property (Irene) (Number indicates documented flood height in building)
- AE, BFE 4
- AE, BFE 5
- AO
- VE
- 4-5' msl
- Below 4' msl

Map 6
Hurricane Matthew Inundation Area – North Nags Head



- Elevation above msl
- 12.000001 - 13.000000
 - 11.000001 - 12.000000
 - 10.000001 - 11.000000
 - 9.000001 - 10.000000
 - 8.000001 - 9.000000
 - 7.000001 - 8.000000
 - 6.000001 - 7.000000
 - 5.000001 - 6.000000
 - -4.510000 - 5.000000



Comparison of Regulatory Options for Adoption of New Flood Maps

Town of Nags Head Board of Commissioners – February 21, 2018

Option	Advantage	Disadvantage
<p>1. Adopt the proposed flood maps without any additional higher regulatory standards. This would remove a significant number of properties from the Special Flood Hazard Area at which time they would no longer be required to carry flood insurance or meet any minimum regulatory requirements.</p>	<ul style="list-style-type: none"> a. Easy to administer. b. Reduction of number of properties in the flood zone as well as lower BFE's. c. Many properties would be able to make improvements that they previously could not make (i.e. ground floor enclosures, lateral additions at-grade). d. There may be a reduction in the practice of filling lots to meet minimum flood elevations. e. Property owners may no longer have to pay for flood insurance or may pay lower premiums. 	<ul style="list-style-type: none"> a. Maps do not represent accurate risk. The FEMA Coastal Model for flooding does not take in to account rainfall. Refer to Comment Letter on the Preliminary Flood Maps dated October 4, 2017. b. Allows new development, and potentially additions, to be constructed in areas subject to known flood risk without the benefit of construction techniques designed to mitigate flood damage. c. Communicates to existing and future property owners the perception that known flood areas are not at risk for flooding d. While the new maps should positively affect insurance rates for many property owners, property owners may cancel flood insurance coverage because they are no longer in a flood zone. Then, if flood maps are updated in the future to reflect expanded Special Flood Hazard Areas (SFHA's) or higher BFE's, these property owners may become non-conforming, subsequently face costly insurance rate increases, and be exposed to greater risk and loss (if allowed to increase the size of the home). e. Correlation to CRS- CRS points are based on the area of land within the flood zone. A reduction in the total area located in a flood zone could impact our CRS score negatively.

Comparison of Regulatory Options for Adoption of New Flood Maps

Town of Nags Head Board of Commissioners – February 21, 2018

Option	Advantage	Disadvantage
<p>2. Adopt the proposed maps for flood insurance purposes, but continue to regulate based on the current (2006) flood maps.</p>	<p>a. Adoption of preliminary maps will result in reduction of number of properties in the flood zone as well as lower BFE's. Ultimately this results in lower insurance premiums for property owners.</p> <p>b. Adopting option 2 would allow property owners to experience a decrease in flood insurance premiums, but still allow the town to regulate using the 2006 maps which better addresses flood risk than option 1.</p> <p>c. The current maps appear to accurately reflect risk and may even overemphasize risk in some area (i.e. Causeway in VE zone).</p> <p>d. Regulating to the old maps would allow the town to maintain status quo on the current process and ordinances.</p>	<p>a. While adopting this option would allow property owners flood insurance relief, they would still have to meet regulatory standards for new construction, additions, and substantial damage/improvement.</p> <p>b. When compared to options 3 and 4, this option would not allow the town to standardize, to the extent possible, the model flood ordinance and overall procedures that are currently being considered by the County and the other Dare County towns.</p>

Comparison of Regulatory Options for Adoption of New Flood Maps

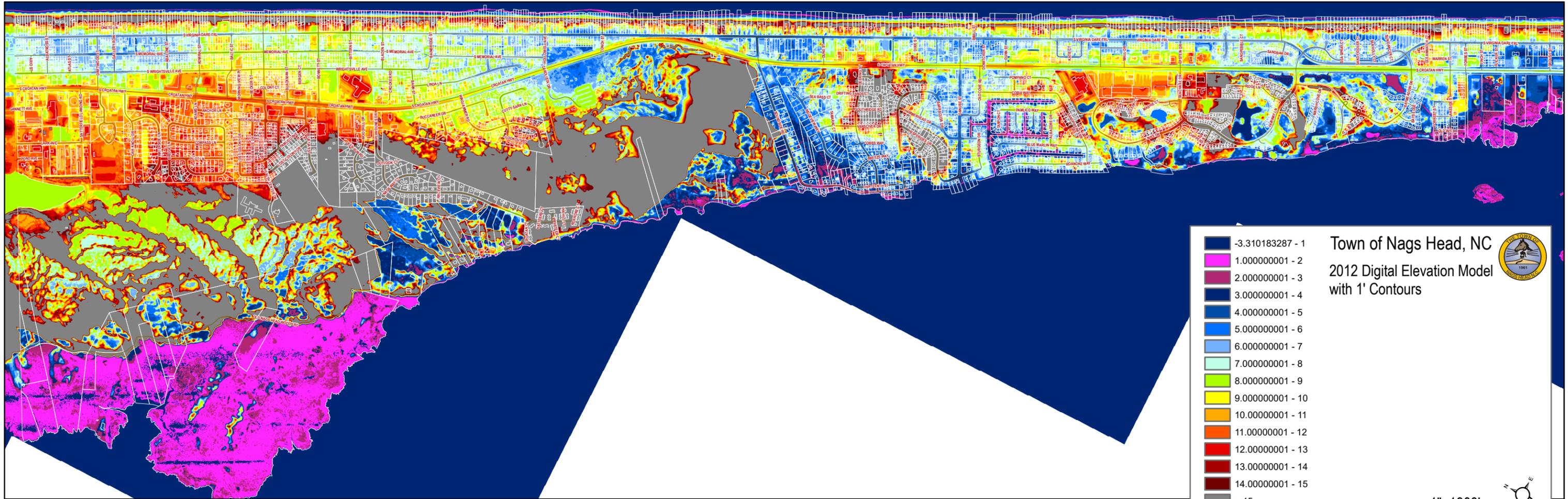
Town of Nags Head Board of Commissioners – February 21, 2018

Option	Advantage	Disadvantage
<p>3. The Dare County Towns and the County have been working as a group for several months to explore ways to provide consistency with administering the new flood maps. All communities recognize that the proposed maps do not reflect the actual risk of flooding. The working group has developed a proposal which would do the following:</p> <p>A. Adopt the draft FIRM for flood insurance purposes.</p> <p>B. Adopt a local elevation standard for the entire town that would be greater than what is shown on the maps:</p> <ul style="list-style-type: none"> • For non-oceanfront areas (west of NC 12 or SR 1243, a minimum elevation of eight feet would be required for all new construction or substantial improvements. • East of 12/1243 – There would be a minimum elevation of 12' and VE construction requirements would apply. 	<p>a. Adoption of preliminary maps will result in reduction of number of properties in the flood zone as well as lower BFE's. Ultimately this results in lower insurance premiums for property owners.</p> <p>b. Adopting option 3 would allow property owners to experience a decrease in flood insurance premiums, but still allow the town to regulate using a local elevation standard that is based on known flooding risk.</p> <p>c. Allows the town to regulate based on a common local elevation standard that has been developed through input from Dare County, all Dare County municipalities, and the building/insurance communities. If adopted by all municipalities, this would create a consistent base flood elevation (BFE) requirement.</p>	<p>a. While adopting this option would allow property owners flood insurance relief, they would still have to meet regulatory standards for new construction, additions, and substantial damage/improvement avoiding increased risk and loss to the homeowner (as described in Option 1- Disadvantage(d))</p> <p>b. Based on research and knowledge of historical flooding in Nags Head, an 8' local elevation requirement would not adequately protect property from historical storms. The most recent example is Matthew, which had flood heights of 10'. In the northern part of town between the highways, many properties are between 5 and 9 feet above sea level. The town may see many of the existing enclosure converted to heated space which would cause greater property damage in future similar storms. Adopting this option would also result in a 2-3' reduction in the minimum flood elevations based on our current maps.</p> <p>c. May require elevation certificates in areas formerly shown as X zones.</p> <p>d. While the new maps should positively affect insurance rates for many property owners, property owners may cancel flood insurance coverage because they are no longer in a flood zone. Then, if flood maps are updated in the future to reflect expanded Special Flood Hazard Areas (SFHA's) or higher BFE's, these property owners may become non-conforming, subsequently face costly insurance rate increases, and be exposed to greater risk and loss (if allowed to increase the size of the home).</p>

Comparison of Regulatory Options for Adoption of New Flood Maps

Town of Nags Head Board of Commissioners – February 21, 2018

Option	Advantage	Disadvantage
<p>4. Adopt modified version of option 3.</p> <p>A. Adopt the draft FIRM for flood insurance purposes.</p> <p>B. Adopt a local elevation standard:</p> <ul style="list-style-type: none"> • For non-oceanfront areas (west of NC 12 or SR 1243, a minimum elevation of ten feet would be required for all new construction or substantial improvements. • East of 12/1243 – There would be a minimum elevation of 12' and VE construction requirements would apply. 	<p>a. The town is proactively regulating based on known historical risk.</p> <p>b. Adoption of preliminary maps will result in reduction of number of properties in the flood zone as well as lower BFE's. Ultimately this results in lower insurance premiums for property owners.</p> <p>c. Adopting option 4 would allow property owners to experience a decrease in flood insurance premiums, but still allow the town to regulate using a local elevation standard that is based on known flooding risk.</p> <p>d. Even though the town's local elevation standard would be higher than the other towns as well as the county, the model flood damage prevention ordinance, the terminology, and standards would be consistent between the town and the rest of the county.</p> <p>e. Based on research and knowledge of historical flooding, a 10' local elevation requirement, applied to the preliminary flood maps, in an X and AE flood zone would adequately protect property.</p> <p>f. Avoid future loss and risk to property owners for new construction, additions, and substantial damage/improvement situations.</p> <p>g. Properties on the causeway would no longer be regulated to VE zone standards.</p>	<p>a. While adopting this option would allow property owners flood insurance relief, they would still have to meet regulatory standards for new construction, additions, and substantial damage/improvement avoiding increased risk and loss to the homeowner (as described in Option 1- Disadvantage(d))</p> <p>b. May regulate properties that are currently in an X zone since there are a few properties below 10 feet that are not in a flood zone now.</p> <p>c. Would eliminate one foot of freeboard in the portions of the town that are currently shown as AE 10.</p> <p>d. May require elevation certificates in areas formerly shown as X zones.</p>

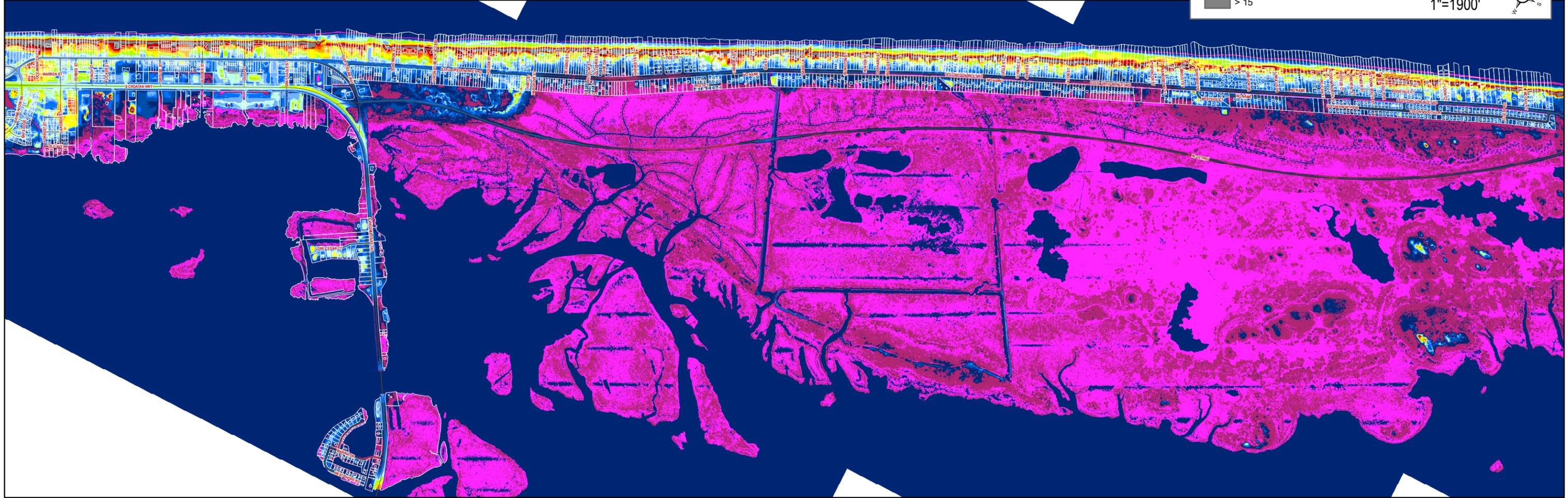


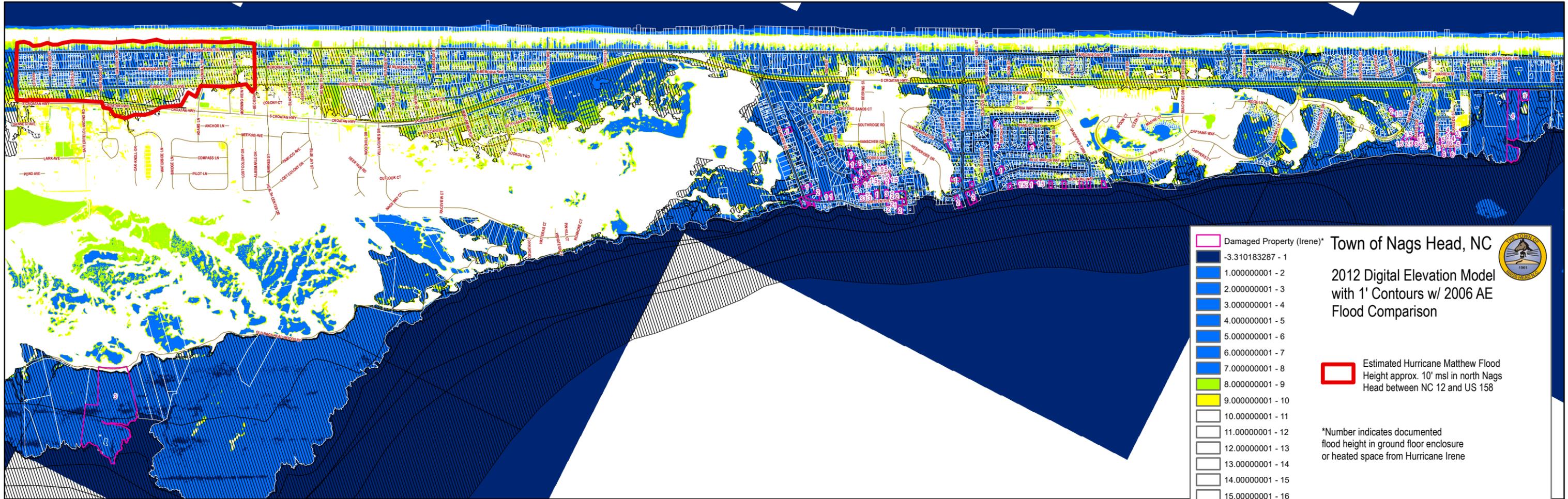
Town of Nags Head, NC
2012 Digital Elevation Model
with 1' Contours



█	-3.310183287 - 1
█	1.000000001 - 2
█	2.000000001 - 3
█	3.000000001 - 4
█	4.000000001 - 5
█	5.000000001 - 6
█	6.000000001 - 7
█	7.000000001 - 8
█	8.000000001 - 9
█	9.000000001 - 10
█	10.00000001 - 11
█	11.00000001 - 12
█	12.00000001 - 13
█	13.00000001 - 14
█	14.00000001 - 15
█	> 15

1"=1900'





	Damaged Property (Irene)*
	-3.310183287 - 1
	1.000000001 - 2
	2.000000001 - 3
	3.000000001 - 4
	4.000000001 - 5
	5.000000001 - 6
	6.000000001 - 7
	7.000000001 - 8
	8.000000001 - 9
	9.000000001 - 10
	10.000000001 - 11
	11.000000001 - 12
	12.000000001 - 13
	13.000000001 - 14
	14.000000001 - 15
	15.000000001 - 16

Current AE Flood Zone (2006)

AE

1"=1900'






Flood Map Workshop

February 21, 2018

Flood Map Revisions

- New preliminary flood maps released for Dare County – June 30, 2016
- Last update September 20, 2006

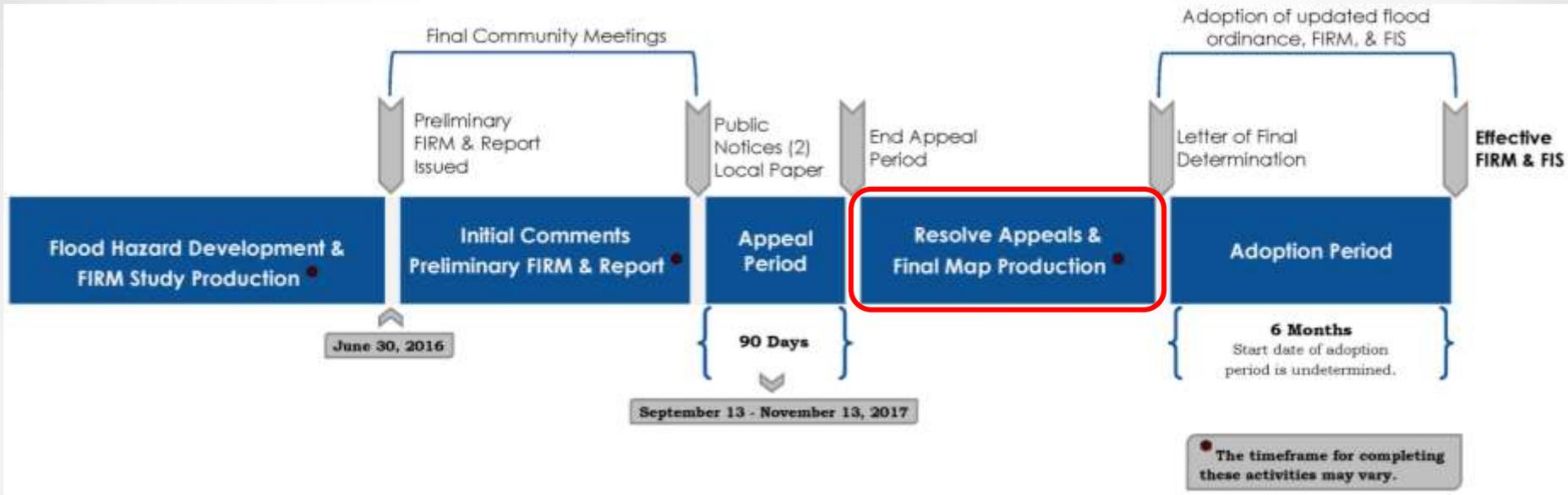
Nags Head Specific Information-

www.nagsheadnc.gov/floodmaps

NC Floodplain Mapping- Digital FIRMs

<http://fris.nc.gov/fris/>

Timeline



- Current phase- Resolve Appeals & Final Map Production
 - No set amount of time.
- Important anticipated dates-
 - Letter of final determination- August 2018
 - Effective FIRM & FIS- February 2019

Important Milestone Recap

Date	Event
July 2016- Present	Monthly meetings with Dare County Planners Group
December 2016	Town of Nags Head- Community Informational Meeting
December 2016- April 2017	Development of informational video and survey
January 2017	Joint Community Meetings in Dare Co. (3 locations)
February 2017	Presentation- Spencer Rogers
March 2017	BOC Adopted Resolution
September 2017	Presentation- Rick Luettich
October 2017	Comment Letter on Preliminary FIRMs
February 2018	BOC Workshop

Important Terms

- **Flood Insurance Rate Map (FIRM)**
 - A digitally-produced FIRM, whether viewed in hardcopy or in digital form
 - All FIRMs produced by the North Carolina Floodplain Mapping Program are digital FIRMs <http://fris.nc.gov/fris/>
- **Flood Insurance Study (FIS)**
 - Details the examination, evaluation, and determination of flood hazard areas
 - FIRMs are part of the FIS
- **Special Flood Hazard Area (SFHA)**
 - The 1% annual chance floodplain, where NFIP regulations must be enforced by the community as a condition of participation in the NFIP
- **Base Flood Elevation (BFE)**
 - In areas where these are established, this is the minimum elevation above mean sea level that the first floor (AE) or the bottom of lowest horizontal member (VE) of a structure must be elevated
- **Freeboard**
 - Extra measure of protection above BFE. Nags Head has adopted a 1' freeboard.

Flood Zones

VE and AE zones have established BFE's that require minimum elevation above sea level for construction

1% Annual Chance of
Flooding or 100 year flood

- **VE** – Velocity zone, impacts from stillwater base flood elevation + 3' waves
- **AE** – impacts from stillwater base flood elevation only 1% annual chance flooding
- **AO** – areas of shallow flooding associated with low lying topography & sheet flow, no BFE, minimum elevation is required above highest adjacent grade
- **X** – Non-regulatory flood zone, no construction requirements, still subject to 0.2% annual chance of flooding

Major Changes to Preliminary FIRMs

- Primary frontal dune has been established and used in modeling of storm surge
- Reduction of surge impacts, overland waves, and stillwater elevations
- Fewer VE zone properties
- Fewer AE zone properties, particularly west of NC 12
- Removal of causeway properties from VE zone
- Base flood elevations reduced in AE zone; most new BFE's are 4 or 5, formerly 8-10.
- Addition of AO zones west of primary frontal dune

Concerns

- Underrepresented Risk-
 - Removal of many areas known to flood from SFHA and reduction in BFE's
- Adoption of preliminary FIRM as is would allow construction that would be at risk for flooding.
 - If future maps changed, may not be eligible for flood insurance
- FEMA model
 - Coastal flood model does not account for rainfall or shallow flooding
 - Better address storm return periods
 - Other issues noted in "Mapping the Zone: Improving Flood Map Accuracy"
- Storm Selection
 - Additional storms need to be included in mapping process to reflect recent storm tracks that have caused Soundside flooding

Comparison Map



Town of Nags Head, NC Proposed Flood Zone Boundary Changes

2006 Flood Zones

- AE
- VE

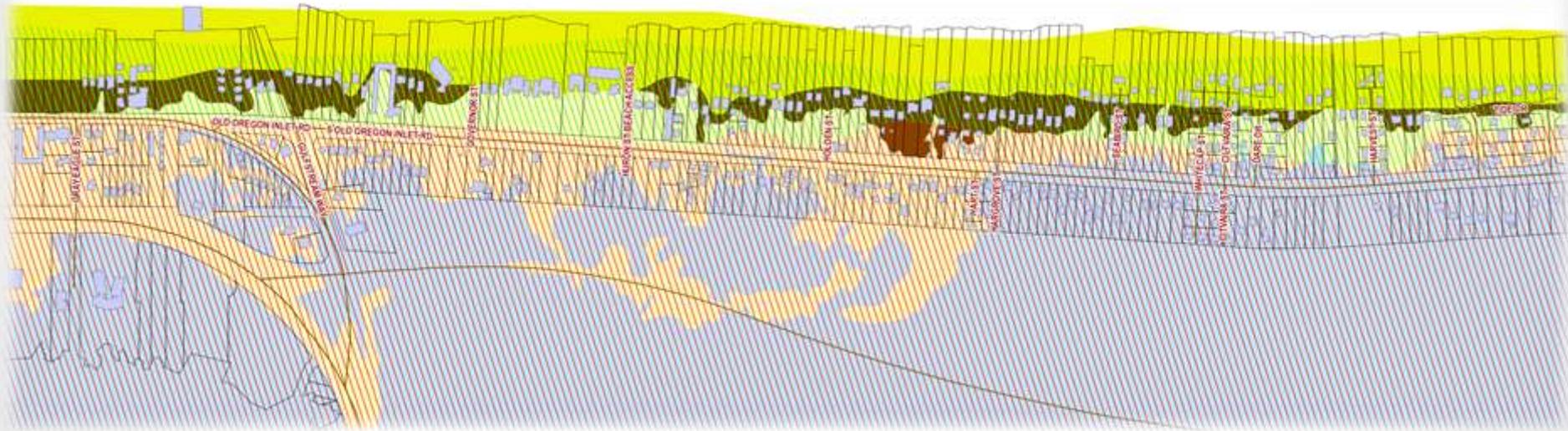
Proposed 2016 Flood Zones

- X
- AE
- AO
- VE

Comparison Map

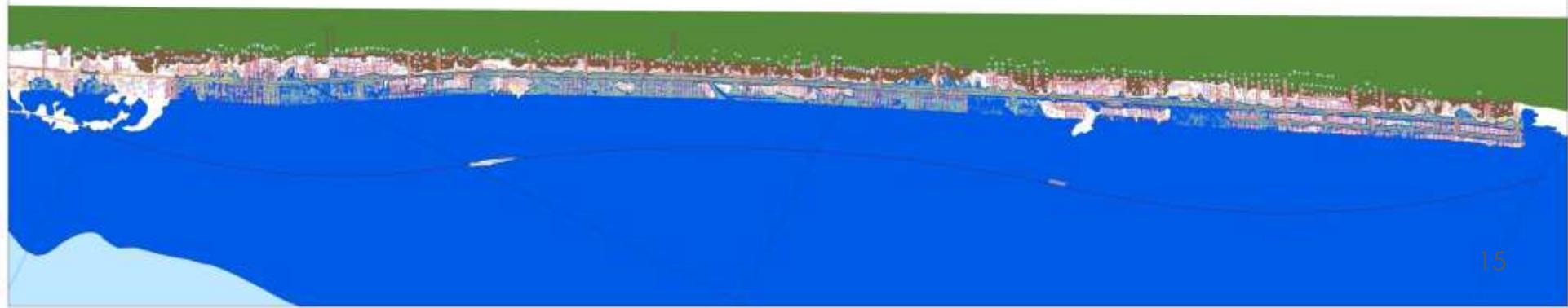
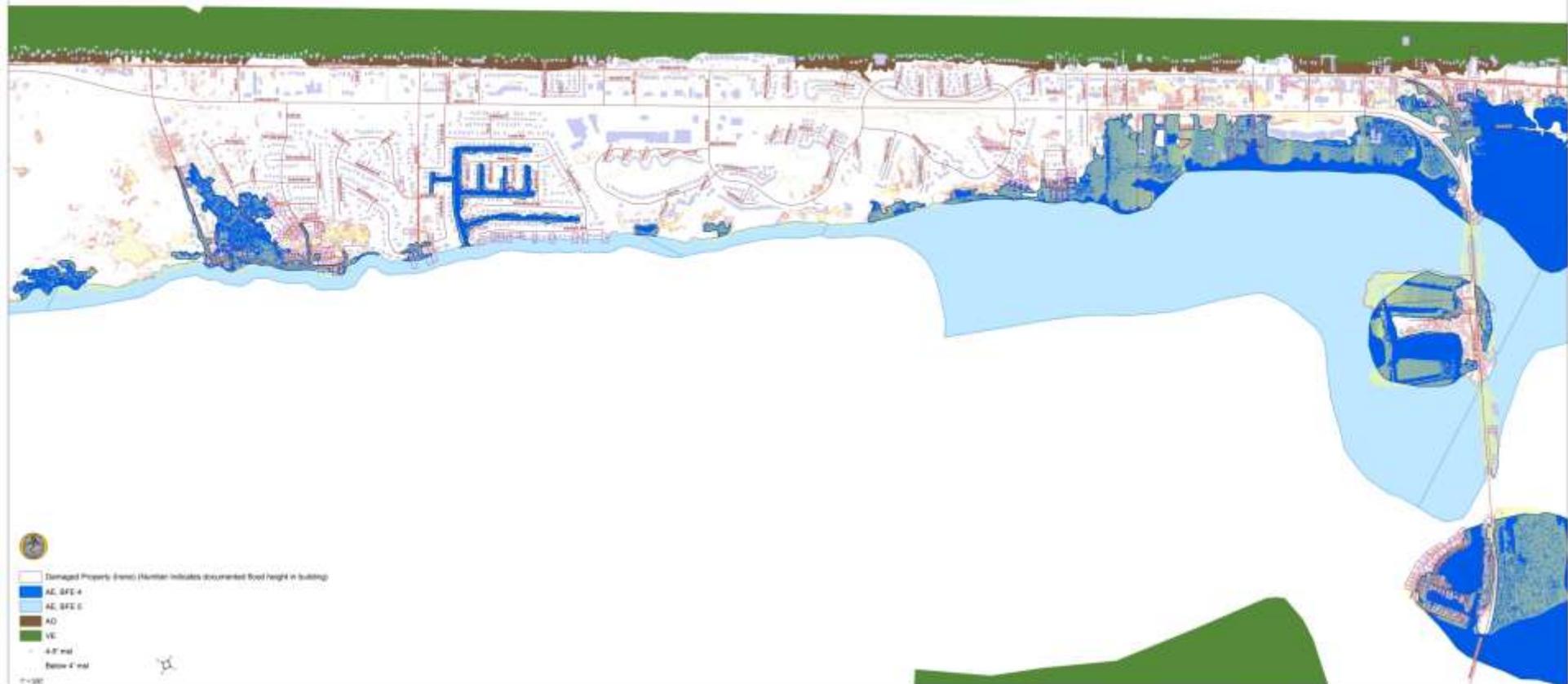


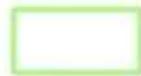
Comparison Map



Flood Analysis Recent Storms

Hurricane Irene



 Damaged Property (Irene) (Number indicates documented flood height in building)

 AE, BFE 4

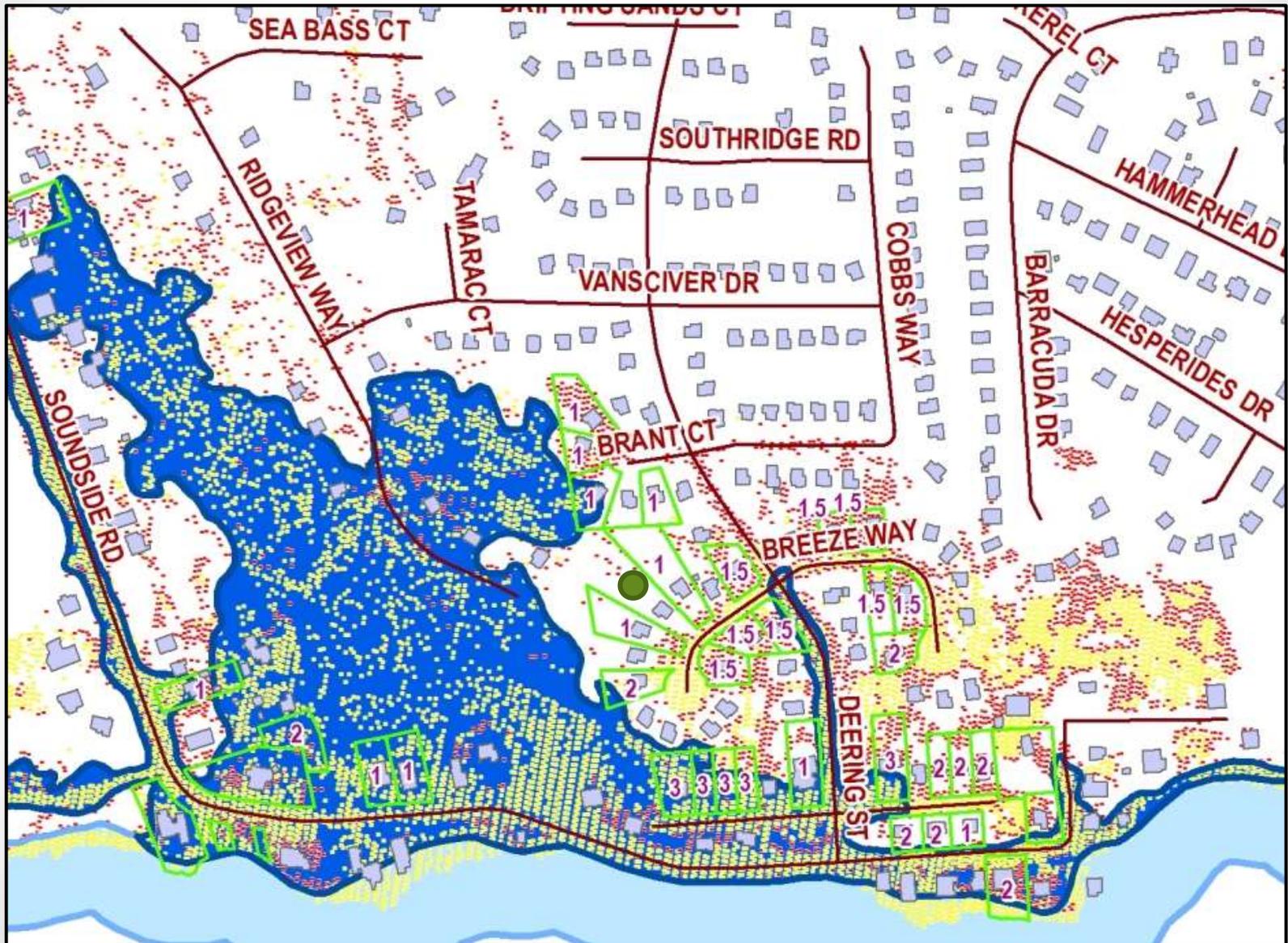
 AE, BFE 5

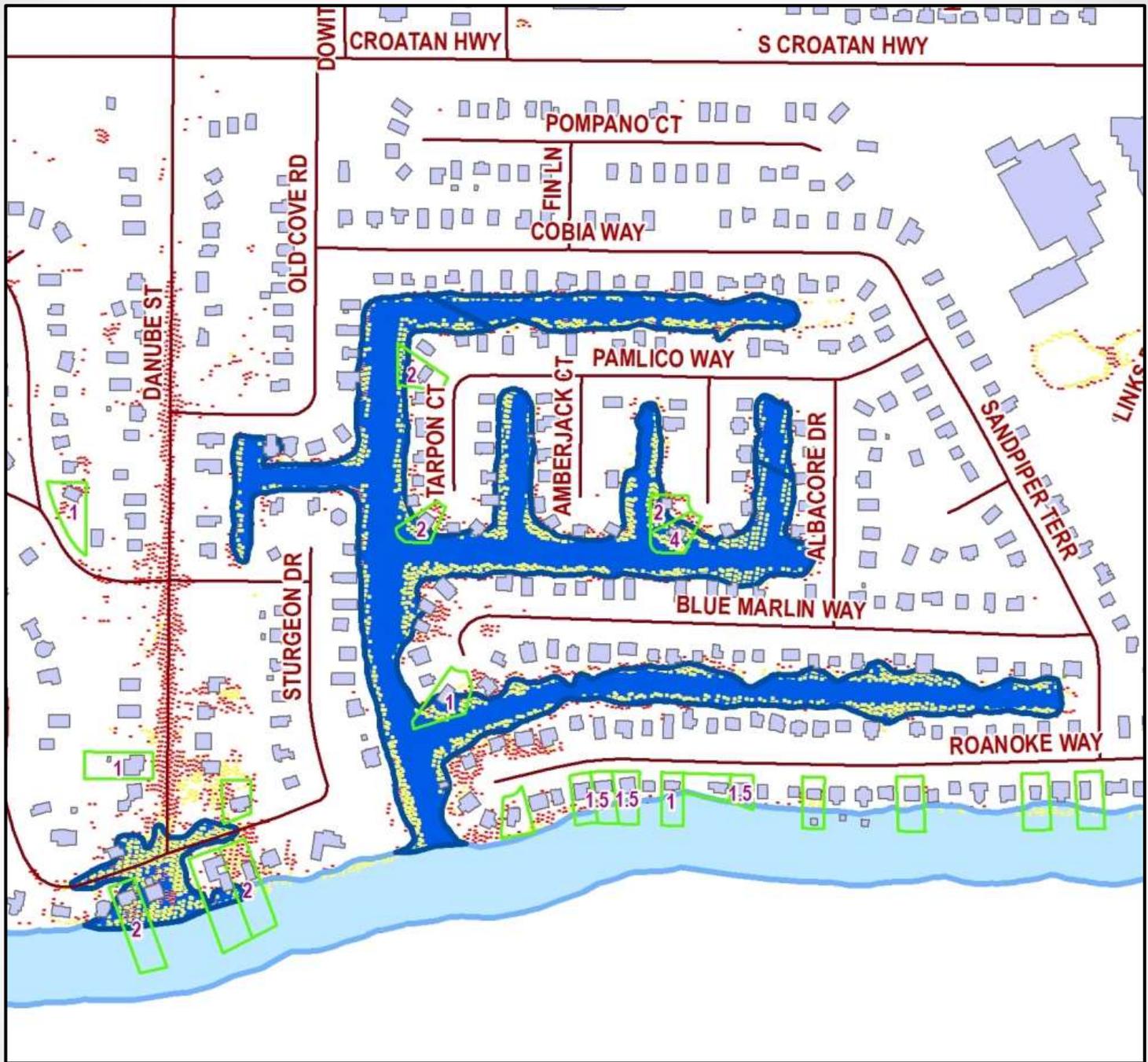
 AO

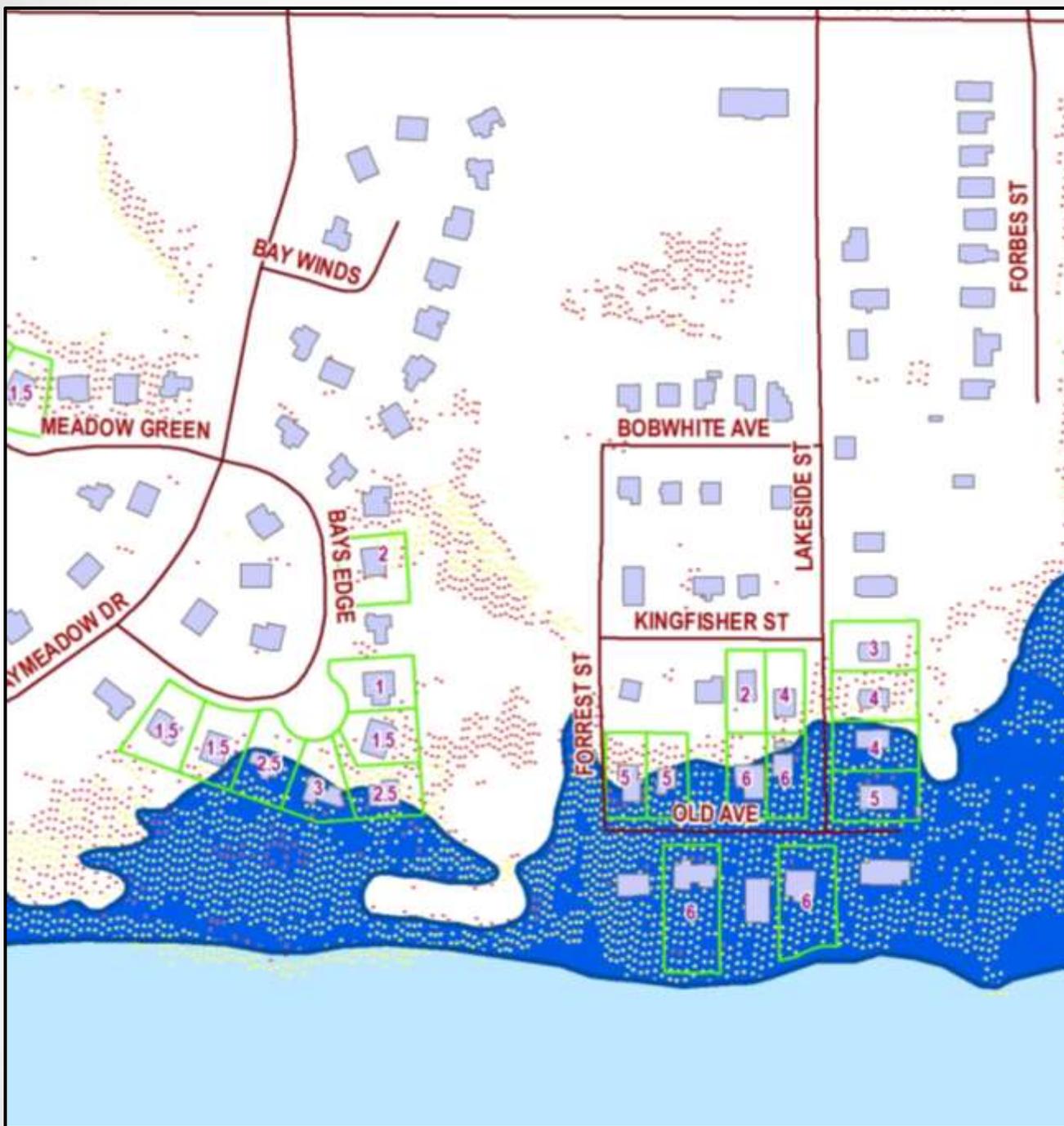
 VE

• 4-5' msl

• Below 4' msl



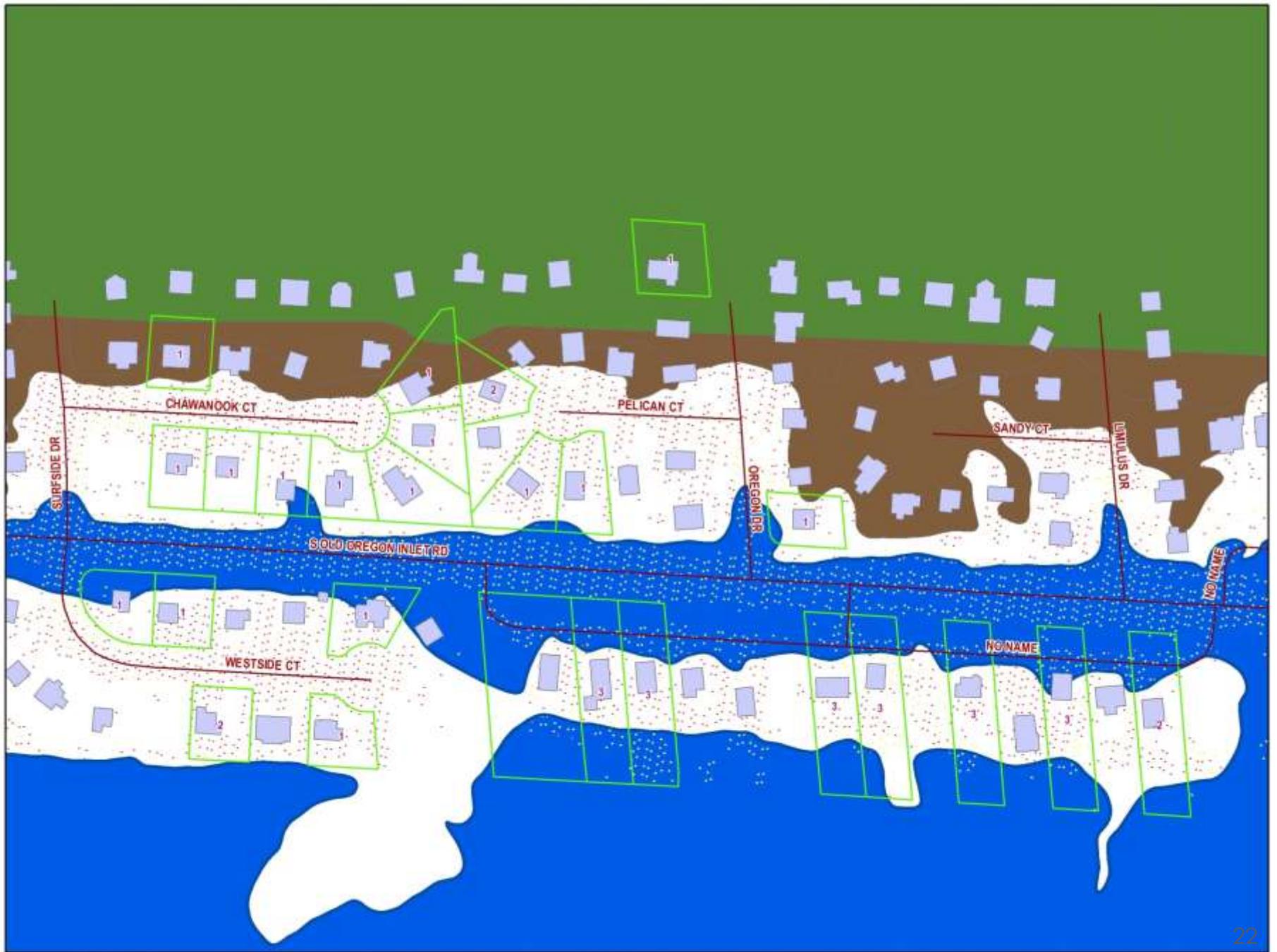




Homes outside proposed flood zone; grade elevations between four and five feet; 3-4' water noted in building









Flood Analysis Recent Storms

Hurricane Matthew

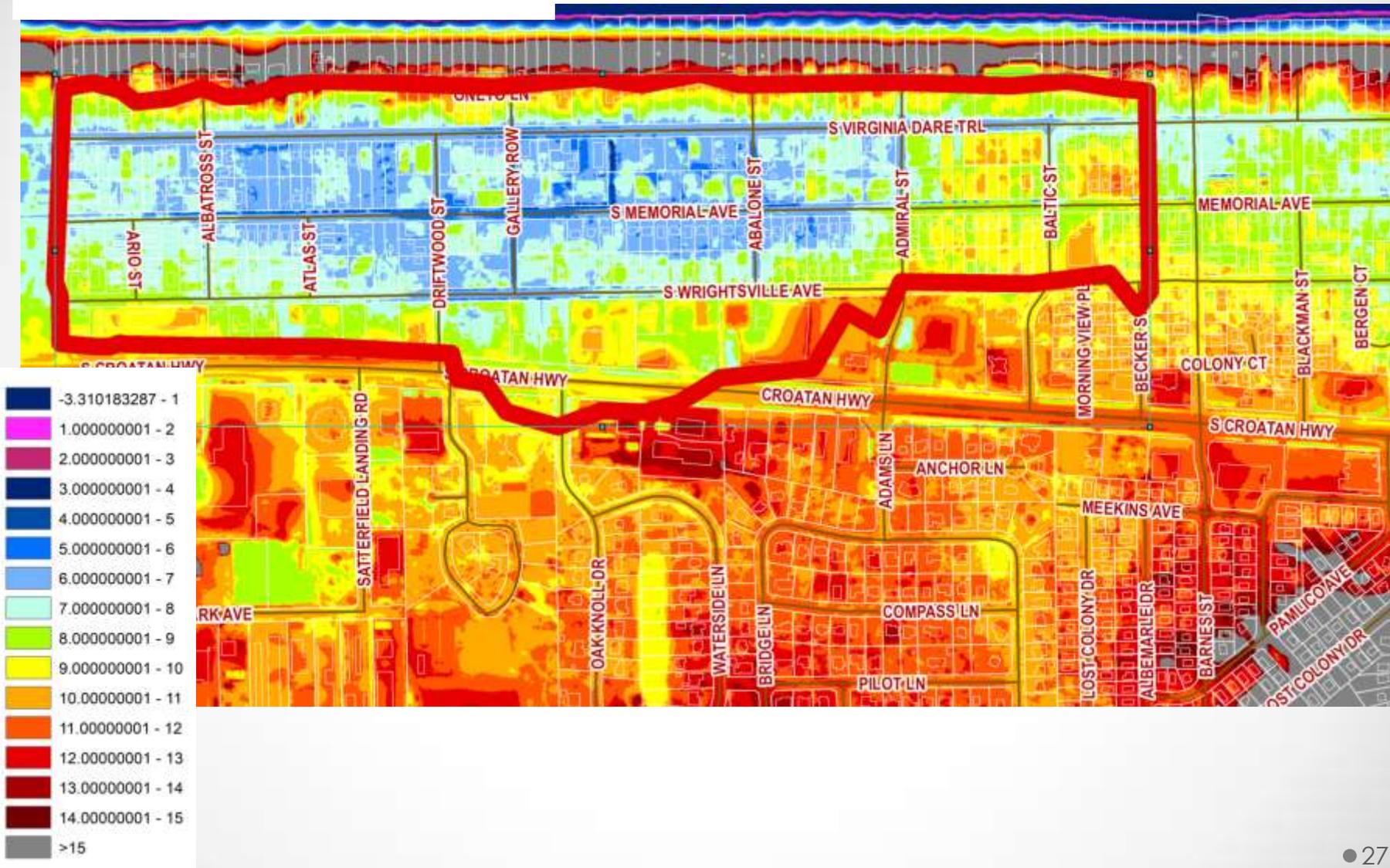




© Matt Lusk Photography



Estimated Hurricane Matthew Flood
Height approx. 10' msl in north Nags
Head between NC 12 and US 158



Planners Group

- Mission-
 - Work with local planners and stakeholders to develop a local elevation standard for areas transitioning to an X zone or where BFE's were being lowered.
 - Develop group outreach and messaging with the Dare County municipalities to encourage people to keep flood insurance even though maps are changing
 - Low Risk is not No Risk
- Meeting since-
 - June 2016 for flood maps
 - July 2017/ monthly- CRS and local elevation standard

Implementation & Compliance of LES

How we apply standard to AO, AE, and X flood zones.

- Local elevation standard and freeboard
 - AE and X- Meet LES or 3' Freeboard, whichever is greater
- Free of obstruction
- EC or Finished Construction Certificates in X Zone
- Conversion of existing ground floor enclosures that will transition in X flood zones
- Flood Resistant Materials
- Additions/lateral additions
 - X Zone
- Measurements-
 - where we measure for elevation certificates. i.e. top of bottom floor, bottom of floor joist, etc.

Adoption Alternatives

Option 1:

Adopt the proposed flood maps without any additional higher regulatory standards.

Option 1:

Adopt the proposed flood maps without any additional higher regulatory standards. This would remove a significant number of properties from the Special Flood Hazard Area at which time they would no longer be required to carry flood insurance or meet any minimum regulatory requirements.

Pros:

- a. Easy to administer.
- b. Reduction of number of properties in the flood zone as well as lower BFE's.
- c. Many properties would be able to make improvements that they previously could not make (i.e. ground floor enclosures, lateral additions at-grade).
- d. There may be a reduction in the practice of filling lots to meet minimum flood elevations.
- e. Property owners may no longer have to pay for flood insurance or may pay lower premiums.

Cons:

- a. **Maps do not represent accurate risk. The FEMA Coastal Model for flooding does not take in to account rainfall. Refer to Comment Letter on the Preliminary Flood Maps dated October 4, 2017.**
- b. Allows new development, and potentially additions, to be constructed in areas subject to known flood risk without the benefit of construction techniques designed to mitigate flood damage.
- c. Communicates to existing and future property owners the perception that known flood areas are not at risk for flooding
- d. While the new maps should positively affect insurance rates for many property owners, property owners may cancel flood insurance coverage because they are no longer in a flood zone. Then, if flood maps are updated in the future to reflect expanded Special Flood Hazard Areas (SFHA's) or higher BFE's, these property owners may become non-conforming, subsequently face costly insurance rate increases, and be exposed to greater risk and loss (if allowed to increase the size of the home).
- e. Correlation to CRS- CRS points are based on the area of land within the flood zone. A reduction in the total area located in a flood zone could impact our CRS score negatively.

Adoption Alternatives

Option 2:

Adopt the proposed maps for flood insurance purposes, but continue to regulate based on the current (2006) flood maps.

<p>Option 2:</p> <p>Adopt the proposed maps for flood insurance purposes, but continue to regulate based on the current (2006) flood maps.</p>	<p>Pros:</p> <ul style="list-style-type: none"> a. Adoption of preliminary maps will result in reduction of number of properties in the flood zone as well as lower BFE's. Ultimately this results in lower insurance premiums for property owners. b. Adopting option 2 would allow property owners to experience a decrease in flood insurance premiums, but still allow the town to regulate using the 2006 maps which better addresses flood risk than option 1. c. The current maps appear to accurately reflect risk and may even overemphasize risk in some area (i.e. Causeway in VE zone). d. Regulating to the old maps would allow the town to maintain status quo on the current process and ordinances. 	<p>Cons:</p> <ul style="list-style-type: none"> a. While adopting this option would allow property owners flood insurance relief, they would still have to meet regulatory standards for new construction, additions, and substantial damage/improvement. b. When compared to options 3 and 4, this option would not allow the town to standardize, to the extent possible, the model flood ordinance and overall procedures that are currently being considered by the County and the other Dare County towns.
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Adoption Alternatives

Option 3:

Local Elevation Standard 8'

(The Dare County Towns and the County Proposal):

A. *Adopt the draft FIRM for flood insurance purposes.*

B. *Adopt a local elevation standard for the entire town that would be greater than what is shown on the maps:*

- *For non-oceanfront areas (west of NC 12 or SR 1243), a minimum elevation of eight feet would be required for all new construction or substantial improvements.*

- *East of 12/1243 – There would be a minimum elevation of 12' and VE construction requirements would apply.*

Option 3:

The Dare County Towns and the County have been working as a group to develop higher regulatory standards in addition to the maps. The working group has developed a proposal which would do the following:

- A. Adopt the draft FIRM for flood insurance purposes.
- B. Adopt a local elevation standard for the entire town that would be greater than what is shown on the maps:
- For non-oceanfront areas (west of NC 12 or SR 1243, a minimum elevation of eight feet would be required for all new construction or substantial improvements.
- East of 12/1243 – There would be a minimum elevation of 12' and VE construction requirements would apply.

Pros:

- a. Adoption of preliminary maps will result in reduction of number of properties in the flood zone as well as lower BFE's. Ultimately this results in lower insurance premiums for property owners.
- b. Adopting option 3 would allow property owners to experience a decrease in flood insurance premiums, but still allow the town to regulate using a local elevation standard that is based on known flooding risk.
- c. Allows the town to regulate based on a common local elevation standard that has been developed through input from Dare County, all Dare County municipalities, and the building/insurance communities. If adopted by all municipalities, this would create a consistent base flood elevation (BFE) requirement.

Cons:

- a. While adopting this option would allow property owners flood insurance relief, they would still have to meet regulatory standards for new construction, additions, and substantial damage/improvement avoiding increased risk and loss to the homeowner (as described in Option 1- Disadvantage(d))
- b. **Based on research and knowledge of historical flooding in Nags Head, an 8' local elevation requirement would not adequately protect property from historical storms. The most recent example is Matthew, which had flood heights of 10'. In the northern part of town between the highways, many properties are between 5 and 9 feet above sea level. The town may see many of the existing enclosure converted to heated space which would cause greater property damage in future similar storms. Adopting this option would also result in a 2-3' reduction in the minimum flood elevations based on our current maps.**
- c. May require elevation certificates in areas formerly shown as X zones.
- d. While the new maps should positively affect insurance rates for many property owners, property owners may cancel flood insurance coverage because they are no longer in a flood zone. Then, if flood maps are updated in the future to reflect expanded Special Flood Hazard Areas (SFHA's) or higher BFE's, these property owners may become non-conforming, subsequently face costly insurance rate increases.

Adoption Alternatives

Option 4:

Local Elevation Standard 10'

- A. *Adopt the draft FIRM for flood insurance purposes.*
- B. *Adopt a local elevation standard:*
 - *For non-oceanfront areas (west of NC 12 or SR 1243), a minimum elevation of ten feet would be required for all new construction or substantial improvements.*
 - *East of 12/1243 – There would be a minimum elevation of 12' and VE construction requirements would apply.*

Option 4:

Adopt modified version of option 3.

A. Adopt the draft FIRM for flood insurance purposes.

B. Adopt a local elevation standard:

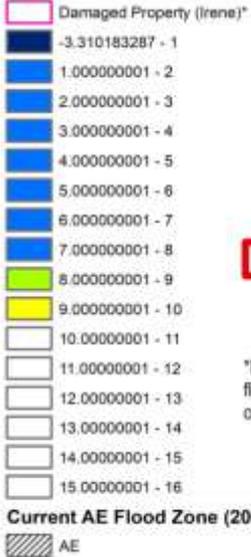
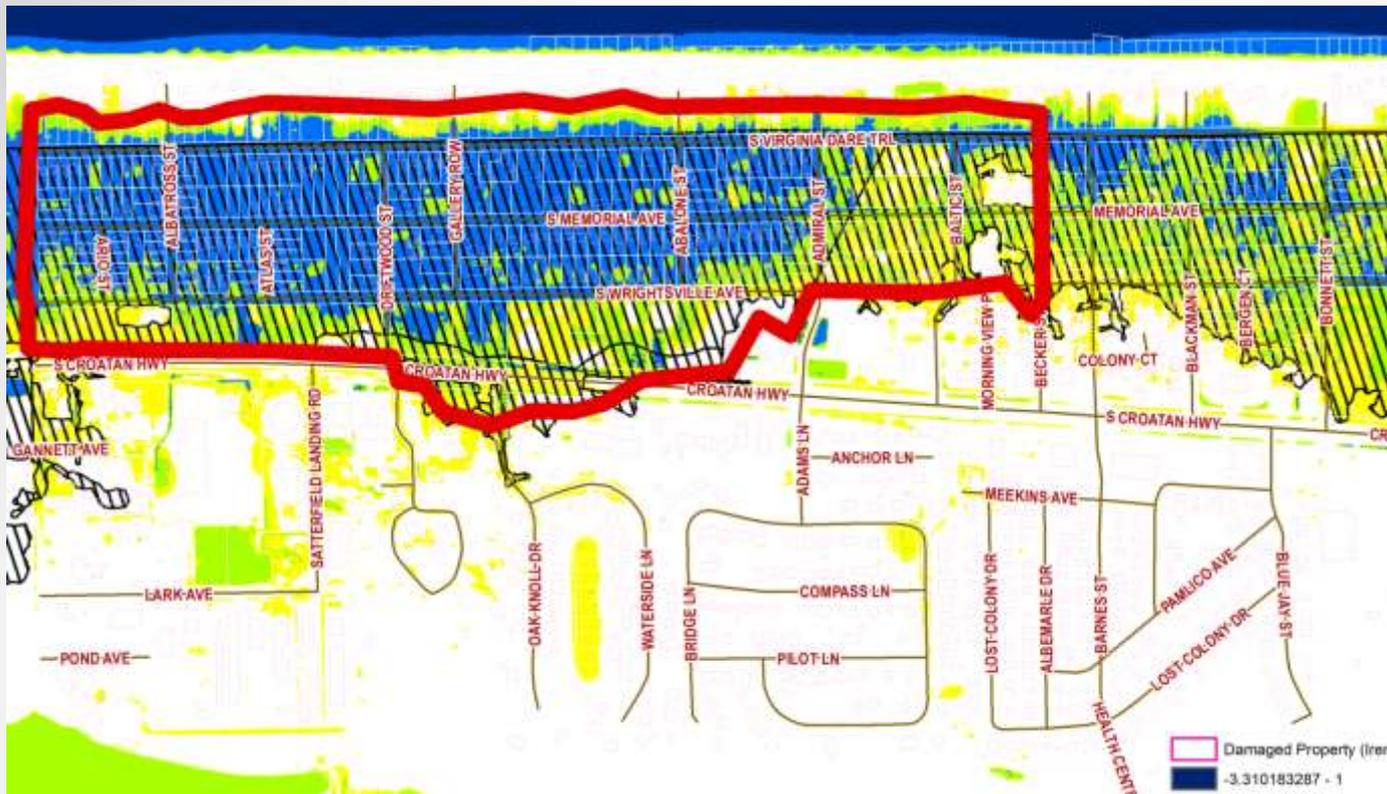
- For non-oceanfront areas (west of NC 12 or SR 1243, a minimum elevation of ten feet would be required for all new construction or substantial improvements.
- East of 12/1243 – There would be a minimum elevation of 12' and VE construction requirements would apply.

Pros:

- a. The town is proactively regulating based on known historical risk.
- b. Adoption of preliminary maps will result in reduction of number of properties in the flood zone as well as lower BFE's. Ultimately this results in lower insurance premiums for property owners.
- c. Adopting option 4 would allow property owners to experience a decrease in flood insurance premiums, but still allow the town to regulate using a local elevation standard that is based on known flooding risk.
- d. Even though the town's local elevation standard would be higher than the other towns as well as the county, the model flood damage prevention ordinance, the terminology, and standards would be consistent between the town and the rest of the county.
- e. **Based on research and knowledge of historical flooding, a 10' local elevation requirement, applied to the preliminary flood maps, in an X and AE flood zone would adequately protect property. Consistent with current BFE's which have been effective.**
- f. Avoid future loss and risk to property owners for new construction, additions, and substantial damage/improvement situations.
- g. Properties on the causeway would no longer be regulated to VE zone standards.

Cons:

- a. While adopting this option would allow property owners flood insurance relief, they would still have to meet regulatory standards for new construction, additions, and substantial damage/improvement avoiding increased risk and loss to the homeowner (as described in Option 1-Disadvantage(d))
- b. May regulate properties that are currently in an X zone since there are a few properties below 10 feet that are not in a flood zone now.
- c. Would eliminate one foot of freeboard in the portions of the town that are currently shown as AE 10.
- d. May require elevation certificates in areas formerly shown as X zones.



Town of Nags Head, NC
 2012 Digital Elevation Model
 with 1' Contours w/ 2006 AE
 Flood Comparison



Estimated Hurricane Matthew Flood Height approx. 10' msl in north Nags Head between NC 12 and US 158

*Number indicates documented flood height in ground floor enclosure or heated space from Hurricane Irene

1"=1900'



Current Higher Standards

- 1' Freeboard- V & AE
- 18" Free of Obstruction
- Enclosures-
 - No enclosures in V
 - Limited to 300' AE
- Elevation Certificates-
 - Require 2-
 - After 1st floor established
 - Final
 - Only required to have final

Timeline



- Current phase- Resolve Appeals & Final Map Production
 - No set amount of time.
- Important anticipated dates-
 - Letter of final determination- August 2018
 - Effective FIRM & FIS- February 2019

Next Steps

- Direction on desired adoption option
- Continue to work toward map adoption and ordinance implementation
- Continued participation in Dare County Planners Group
- Board will make specific decisions regarding flood ordinance during six month compliance period (adoption period)

Staff Contacts

- Chief Building Inspector/Floodplain Administrator David Morton (252.449.6043) or david.morton@nagsheadnc.gov
- Senior Building Inspector Steve Szymanski (252.449.2005) or steve.szymanski@nagsheadnc.gov
- Principal Planner Holly White (252.449.6041) or holly.white@nagsheadnc.gov
- Deputy Town Manager Andy Garman (252.449.2006) or andy.garman@nagsheadnc.gov
- Deputy Planning Director Kelly Wyatt (252.449.6042) or kelly.wyatt@nagsheadnc.gov

	Dare	Manteo	NH	KDH	KH	SS	Duck
ELEVATION OPTIONS							
Freeboard in VE Zone	1 ft	NA	NA	NA	1 ft	2 feet	2 feet
Free obstruction in VE zone	NO	NO	18 inches	1 ft east of NC 12	NO	NO	2 ft
Freeboard in AE, AO, AH Zones	3 ft or up to 8 ft	1 ft	NA	3 ft or up to 8 ft	AE 3 ft or up to 8 ft AH – 1 ft	2 ft	3 feet
Reference level for AE, AO, AH – bottom of lowest floor with flood resistant materials below RL **Need diagrams	YES	YES	YES	YES	YES	YES	YES
X ZONE OPTIONS							
Use of Local Elevation Standard in Shaded X and X Zones	YES- 8 feet	YES-# TBD	Yes- 10'	YES – 8 feet	YES – 8 feet	YES – 8 Feet	10 ft
Use of vents in Shaded X and X zones	YES	YES	YES	YES	YES	YES	YES
Finished Construction EC in Shaded X and X zones	YES	YES	YES	YES	YES	YES	YES
PAS restrictions for enclosures below LES	YES	YES	YES	YES	YES	YES	YES
Free of obstruction along oceanfront	NO	NO	18 inches	1 ft east of NC 12	NO	NO	2 ft up to extent of OEA
Flood resistant materials in enclosure areas below RFPE	Up to LES	Up to LES	Up to LES	Full Enclosure	Full Enclosure	Full Enclosure	Up to LES
Conversions of enclosures	NO	NO	NO	NO	NO	NO	NO
Remodeling of existing structure at same level of existing (no increase in footprint)	YES	YES	YES	YES	YES	YES	YES
Laterals additions	At same level	At same level	Greater than 10% of total floor area meet LES	At same level	At same level	At same level	must meet LES
Apply SD/SI Regulations if structure is below LES	NO	NO	NO	NO	NO	NO	Yes
Reference level for LES – bottom of lowest floor with flood resistant materials below RL	YES	YES	YES	YES	YES	YES	YES

MATRIX OF TENTATIVE FLOOD REGULATIONS/LOCAL ELEVATION STANDARDS – SUBJECT TO CHANGE

ARTICLE 11. ENVIRONMENTAL REGULATIONS

provided by this section. To receive this credit, each measure shall individually account for a minimum of 15 percent of the project's overall storage volume.

11.5.3. Standards for Grading and Fill.

Residential lots may be graded and filled, subject to the requirements of this section, to create a level area for site improvements and to achieve positive drainage away from structures; such grading and filling activities shall avoid creating or exacerbating runoff conditions onto abutting properties. Where sections 11.5.3.2. through 11.5.3.7., inclusive of any subsections, establish standards for grading or fill, such grading and fill shall only be as allowed by section 11.5.3.1. and such subsections.

11.5.3.1. The following standards shall limit grading or filling within specific zones as designated on the most recent flood insurance rate maps (i.e. FIRM), except where the standards of Article 11, Part III, Flood Damage Prevention, including the subparts thereof, are more stringent.

11.5.3.1.1. Within VE Zones associated with the Atlantic Ocean, the addition of landscape fill is permitted up to two feet above the pre-development surface grade or up to base flood elevation, whichever is lower. The fill footprint shall not exceed ten percent (10%) of the lot area (see Article 8, District Development Standards), excluding the footprint of the active drainfield and septic system as approved by the health department in accordance with the septic permit; lot area is defined as that portion of the lot landward of the first line of stable vegetation as defined by CAMA. All grading and fill activities must comply with guidance provided in FEMA Technical Bulletin #5. No bulkheads are allowed within VE Zones associated with the Atlantic Ocean.

11.5.3.1.2. Within VE Zones associated with the Roanoke Sound, the addition of landscape fill is permitted, but shall not exceed the base flood elevation. The fill footprint may not exceed 50 percent (50%) of the total developable lot area (Article 8, District Development Standards) as defined by CAMA, excluding the footprint of the active drainfield and septic system as approved by the health department in accordance with the septic permit, and backfill used as part of a CAMA approved estuarine bulkhead and placed within 25 feet of the bulkhead structure.

11.5.3.1.3. Within all other Flood Zones, including AE and X, fill shall not be permitted to exceed the base flood elevation except in cases where it is placed directly beneath a slab that is designed to meet the regulatory flood protection elevation as defined in Appendix A, Definitions. In these instances, fill may exceed the base flood elevation by up to 12 inches to support a turn-down or thickened edge slab or beneath a slab that is supported by a ring-wall style foundation. Fill placed above the base flood elevation shall not extend beyond the outside edge of the slab.

11.5.3.1.3.1. In areas in which there is no base flood, the height of fill for the wastewater system only shall be allowed to exceed two feet to achieve the minimum required elevation as indicated on a wastewater permit issued by the

ARTICLE 11. ENVIRONMENTAL REGULATIONS

Dare County Health Department; such permit and/or approved plans shall identify the grade from which the required elevation is established.

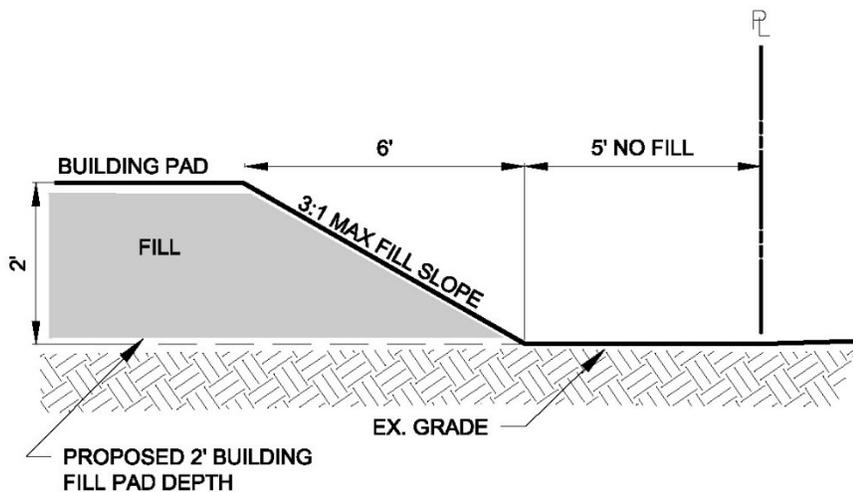
11.5.3.2. Fill areas shall be limited to the principal building and its accessory structures, driveway/parking areas, wastewater systems, and fill slopes extending beyond each improvement. Fill slopes shall not exceed a maximum of 3:1.

11.5.3.3. Fill shall not increase the property elevation underneath any individual improvement by more than two feet, except as authorized or limited by 11.5.3.4. and 11.5.3.5. Elevation shall be determined and measured based on the average pre-disturbance elevation beneath the corners of the subject improvement.

11.5.3.4. Fill that is placed directly beneath the building as part of the building foundation (i.e. ringwall/stem wall construction) shall not be counted against the fill height limitation as long as the finished grade does not exceed the regulatory flood protection elevation.

11.5.3.5. In instances where the Dare County Health Department has required more than two feet of fill for the installation of the wastewater system, the height of fill for the wastewater system only shall be allowed to exceed two feet to achieve the minimum required elevation as indicated on the wastewater system permit.

11.5.2.8, 11.5.3.6. Fill shall not be placed within five feet of a property line, except for the grading of driveway entrances, such that runoff from a fill slope is not "pitched" onto adjoining properties. A maximum of a 3:1 horizontal to vertical fill slope shall be maintained. Setback The setback area may be used to accommodate an approved stormwater control measure. (See diagram below.)



Setback Requirement Where Fill is Used

ARTICLE 11. ENVIRONMENTAL REGULATIONS

1 11.5.3.6.1. The five-foot setback requirement may be varied or waived, as approved by
2 the UDO Administrator, under the following circumstances:

3 ~~11.5.2.9.11.5.3.6.1.1. The five-foot setback requirement may be varied or~~
4 ~~waived as~~ As part of a multi-lot development of contiguous properties, or
5 between adjacent properties, if and only if a dedicated easement is established
6 to accommodate a shared drainage swale or other SCM along a common
7 property line between adjacent properties as approved by the UDO
8 Administrator;

9 11.5.3.6.1.2. The setback requirement may be reduced to no-less-than one foot
10 if a maximum of a 5:1 horizontal to vertical fill slope is maintained and an SCM is
11 installed which results in no increase in runoff onto adjacent properties; or

12 11.5.3.6.1.3. The setback may be eliminated if an abutting property has a
13 consistently higher elevation along a common property line and fill is to be
14 added to match the existing elevation of the abutting property; in no case shall
15 the grade of the subject property exceed that of the abutting property.

16 ~~11.5.2.10.11.5.3.7.~~ 11.5.3.7. The construction and use of bulkheads, walls, and other structural controls
17 to retain the placement of fill on property shall only be permitted, as follows:

18 ~~11.5.2.10.1.11.5.3.7.1.~~ 11.5.3.7.1. In the immediate area of the on-site sewage disposal system as
19 approved by the Dare County Health Department for the installation of such system, ~~or;~~

20 ~~11.5.2.10.2.11.5.3.7.2.~~ 11.5.3.7.2. Where retaining walls are used to stabilize or contain existing
21 natural grade when a driveway, walkway, or other improvement is cut into a lot at an
22 elevation lower than existing natural grade~~In those areas of the property where the~~
23 ~~naturally occurring slope exceeds 3:1 or greater in steepness, or;~~

24 ~~11.5.2.10.3.11.5.3.7.3.~~ 11.5.3.7.3. In those areas of where a retaining wall is necessary to achieve a
25 five-foot setback of fill from an adjacent property boundary. Retaining walls used on fill
26 slopes shall not be tiered, shall not retain more than two feet of fill, and shall not exceed
27 two feet in maximum height from final grade; ~~or~~

28 11.5.3.7.4. When bulkheads are utilized for the purpose of shoreline protection.

29 ~~11.5.2.11.~~ The allowable depth or elevations for fill are in subsection 11.5.3 of this section.

30 ~~11.5.3. Standard for Depth or Elevation of Fill.~~

31 ~~Any residential or duplex development or redevelopment which utilizes fill shall be limited to the~~
32 ~~following standards according to the zone as designated on the most recent flood insurance rate~~
33 ~~maps or FIRM.~~

34 ~~11.5.3.1. Within the Oceanfront V-Zone.~~

ARTICLE 11. ENVIRONMENTAL REGULATIONS

~~11.5.3.1.1. Addition of landscape fill is permitted up to two feet above the pre-development surface grade or up to base flood elevation, whichever is lower;~~

~~11.5.3.1.2. Fill footprint may not exceed ten (10) percent of the lot area (see Article 8 District Development Standards), excluding the footprint of the active drainfield and septic system as approved by the health department in accordance with the septic permit. Lot area is defined as that portion of the lot landward of the first line of stable vegetation as defined by CAMA;~~

~~11.5.3.1.3. No bulkheads are allowed;~~

~~11.5.3.1.4. All grading and fill activities must comply with guidance provided in FEMA Technical Bulletin #5.~~

~~11.5.3.2. Within the Estuarine V Zone.~~

~~11.5.3.2.1. Addition of fill is permitted but shall not exceed the base flood elevation.~~

~~11.5.3.2.2. Fill footprint may not exceed 50 percent of the total developable lot area (Article 8 District Development Standards) as defined by CAMA, excluding:~~

~~11.5.3.2.2.1. The footprint of the active drainfield and septic system as approved by the health department in accordance with the septic permit; and~~

~~11.5.3.2.2.2. Backfill used as part of a CAMA-approved estuarine bulkhead and placed within 25 feet of the bulkhead structure.~~

~~11.5.3.3. All Other Flood Zones (including AE and X).~~

~~11.5.3.3.1. Fill shall not be permitted to exceed base flood elevation except in cases where it is placed directly beneath a slab that is designed to meet the regulatory flood protection elevation as defined in Appendix A Definitions. In these instances, fill may exceed the base flood elevation by up to 12 inches to support a turn-down or thickened edge slab or beneath a slab that is supported by a ring-wall style foundation. Fill placed above the base flood elevation shall not extend beyond the outside edge of the slab. In areas in which there is no base flood, fill shall not exceed the amount required for wastewater permits required by the Dare County Health Department, or two feet above pre-development surface elevation, whichever is higher.~~

11.5.4. Plan Submittal, Review and Approval for Residential or Duplex Development on Individual Lots.

It is the responsibility of an applicant to provide sufficient information in the plan so that the Town or its agents may reasonably evaluate the environmental characteristics of the affected areas, the potential and predicted impacts of the proposed activity on area surface waters, and the effectiveness and acceptability of those measures proposed by the applicant for reducing adverse impacts. The applicant shall provide, as necessary, maps, tables, photographs, narrative descriptions and explanations to demonstrate compliance with the Town's stormwater management standards.

Town of Nags Head

Telephone: 252-441-7016

FAX: 252-441-4290

Planning and Development 2020 Submittal Dates					
	Tech. Review ¹	Planning Board	Board of Commissioners	Board of Adjustment ²	
Submittal Date	Meeting Date	Meeting Date	Meeting Date	Meeting Date	Deadline
December 19, 2019	January 7, 2020	January 21, 2020	February 5, 2020	January 9, 2020	December 10, 2019
January 16, 2020	February 4, 2020	February 18, 2020	March 4, 2020	February 13, 2020	January 7, 2020
February 13, 2020	March 3, 2020	March 17, 2020	April 1, 2020	March 12, 2020	February 11, 2020
March 19, 2020	April 7, 2020	April 14, 2020	May 6, 2020	April 9, 2020	March 10, 2020
April 16, 2020	May 5, 2020	May 19, 2020	June 3, 2020	May 14, 2020	April 14, 2020
May 14, 2020	June 2, 2020	June 16, 2020	July 1, 2020	June 11, 2020	May 12, 2020
June 18, 2020	July 7, 2020	July 21, 2020	August 5, 2020	July 9, 2020	June 9, 2020
July 16, 2020	August 4, 2020	August 18, 2020	September 2, 2020	August 13, 2020	July 14, 2020
August 13, 2020	September 1, 2020	September 15, 2020	October 7, 2020	September 10, 2020	August 11, 2020
September 17, 2020	October 6, 2020	October 20, 2020	November 4, 2020	October 8, 2020	September 8, 2020
October 15, 2020	November 3, 2020	November 17, 2020	December 2, 2020	November 12, 2020	October 13, 2020
November 12, 2020	December 1, 2020	December 15, 2020	January 6, 2021	December 10, 2020	November 10, 2020
December 17, 2020	January 5, 2021	January 19, 2021	February 3, 2021	January 14, 2021	December 15, 2020
January 14, 2021	February 2, 2021	February 16, 2021	March 3, 2021	February 11, 2021	January 12, 2021
Board of Commissioner Submittal/Meeting Dates may be obtained from Carolyn Morris, Town Clerk at 252-441-5508.					
* Planning Board Items are due by 1 PM on submittal date: site plan check-in takes about 15 minutes.					
* Digital version of submittal is required in addition to required paper copies.					
¹ Tentative dates - meetings subject to cancellation/change					
² Meetings scheduled as necessary					



MEMORANDUM

Town of Nags Head

Planning & Development Department

To: Planning Board

From: Michael Zehner, Director of Planning & Development
Kelly Wyatt, Deputy Director of Planning & Development

Date: February 13, 2020

Subject: Continued consideration of a text amendment to the Unified Development Ordinance submitted by a property owner to expand the principal sale items from outdoor stands to include reservations and tickets for events/activities.

OVERVIEW

As the Planning Board is aware, this proposed text amendment (the applicant for the amendment is Kate Creef, Assistant General Manager, on behalf of Outlets Nags Head) was discussed preliminarily at the Board's January 21, 2020 meeting. At that time, the proposal was to amend the UDO to allow "outdoor kiosks" for the sale of tickets and reservations for on-site and off-site recreational facilities. Mrs. Creef had explained to the Board that a vendor had approached the Outlets about the idea of having a kiosk located on the property to allow patrons to book charter fishing excursions, a concept which was believed would enhance the customers' shopping experience. Mrs. Creef indicated that there would be a preference to allow two outdoor stands (where the regulations only allow for one) and confirmed for the Board that the plan was to locate the kiosk in the terrace area.

Based on the discussion and feedback provided at the meeting, the applicant submitted an adoption ordinance for the proposed text amendment and markup of the relevant sections of the Unified Development Ordinance. Modifying the original proposal, the request is now seeking to amend Section 7.76.1 to expand the principal sale items allowed to be sold from outdoor stands to include "reservations or ticket sales," and to amend Section 7.76.2. to increase the number of outdoor stands allowed per site from one (1) to two (2).

BACKGROUND

The current version of the allowances and standards for *Outdoor Stands, Accessory to Shopping Center & Group Development* are the result of numerous changes over the course of the last ten (10) years; actions of note are as follows:

- The allowance of outdoor fresh produce stands as an accessory use to shopping centers was first established in mid-2009;
- In late-2009, an amendment was adopted to allow hotdog vending stands as an accessory use to shopping centers;
- In early-2010, an amendment was adopted to allow coffee vending stands as an accessory use to shopping centers;

Continued consideration of a text amendment to the Unified Development Ordinance submitted by a property owner to expand the principal sale items from outdoor stands to include reservations and tickets for events/activities

- In mid-2010, recognizing that one of each of the aforementioned stands could be permitted at any given shopping center, an amendment was adopted to limit the number of accessory outdoor stands at any shopping center site to one (1); additionally, the various stand uses were consolidated under a single use (Outdoor Stands);
- In late-2010, the Ordinance was amended to allow Italian ice and fudge sales;
- In early-2013 ice cream was added as an allowed sale item; additionally, in 2013, a request to expand the allowable number of stands from one (1) to (2) was denied; and
- The provisions were last amended in 2014 when the allowed locations for outdoor stands were expanded to allow as accessory to Group Development (aka Office/Retail Group Development).

POLICY CONSIDERATIONS

There are no direct policies concerning outdoor stands. However, certainly economic development objectives and policies encouraging and supporting small businesses and the viability of existing commercial properties are applicable, and need to be balanced with objectives and policies focused on maintaining the Town's character.

Generally, Staff believes that the request to allow the sale of tickets and reservations is consistent with applicable policies; however, Staff would suggest that the standards be clarified to require that the sale and advertisement of items be confined to stands. With respect to the number of allowed stands on any particular site, Staff would support a maximum of two (2) stands, with no more than one (1) stand selling fresh produce, hot dogs, coffee, ice cream or Italian ice, and/or fudge.

STAFF RECOMMENDATION

Staff recommends that the amendment be adopted with modifications to the standards to require that the sale and advertisement of items be confined to stands and to allow a maximum of two (2) stands, with no more than one (1) stand selling fresh produce, hot dogs, coffee, ice cream or Italian ice, and/or fudge. Additionally, it is suggested that Sections 7.76.3 and 7.76.4. also be amended to provide for a maximum stand area and any time limitations, respectively, for the sale of tickets and reservations; a limitation of 150 square feet and a time limitation consistent with produce stands are likely sufficient. Finally, Staff would recommend that the definition of Outdoor Stand, as follows, be amended consistent with the amendment of Section 7.76.1.:

Outdoor stand means an approved area where the sale of produce, hot dogs, coffee, ice cream or Italian ice, and fudge occurs from a cart or structure.

With regard to the Planning Board's review, Staff recommends consideration of the following UDO provisions:

3.5.3. Action by the Planning Board.

3.5.3.1. Every proposed amendment, UDO text amendment or zoning map amendment, shall be referred to the Planning Board for its recommendation and report. The Board of Commissioners is not bound by the recommendations, if any, of the Planning Board.

3.5.3.2. Prior to the consideration by the Board of Commissioners of a proposed UDO text amendment or zoning map amendment, the Planning Board shall advise and comment on whether the proposed amendment is consistent with the Comprehensive Plan. The Planning Board shall provide a written recommendation, certified by the UDO Administrator, to the Board of Commissioners that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the Comprehensive Plan shall not preclude consideration or approval of the proposed amendment by the Board of Commissioners.

3.5.3.3. Members of the Planning Board shall not vote on recommendations regarding any UDO text amendment or zoning map amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.

It may also be helpful to the Planning Board to review the following provisions regarding action by the Board of Commissioners:

3.5.4. Action by the Board of Commissioners.

Action upon an UDO text amendment or zoning map amendment, including the scheduling of a public hearing, will be at the discretion of the Board of Commissioners.

3.5.4.1. Before an item is placed on the consent agenda to schedule a public hearing, the Planning Board's recommendation on each proposed amendment must be received by the Board of Commissioners. If no recommendation is received from the Planning Board within 30 days from the date when submitted to the Planning Board, the petitioner may take the proposal to the Board of Commissioners without a recommendation from the Planning Board. However, the Planning Board may request the Board of Commissioners to delay final action on the amendment until such time as the Planning Board can present its recommendations. No such limitations shall apply to applications or requests submitted by Town staff or any Town Board.

3.5.4.2. After receiving a recommendation from the Planning Board on a proposed amendment, the Board of Commissioners may proceed to vote on the proposed ordinance, refer it to a committee for further

study, or take any other action consistent with its usual rules of procedure.

3.5.4.3. *The Board of Commissioners is not required to take final action on a proposed amendment within any specific period of time. Final action on an UDO text amendment or zoning map amendment submitted by third parties will be taken within a reasonable time. Final action taken within 90 days of the public hearing before the Board of Commissioners shall be presumptively reasonable.*

3.5.4.4. *No member of the Board of Commissioners shall vote on any zoning map amendment or UDO text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial and readily identifiable financial impact.*

3.5.4.5. *Prior to adopting or rejecting any UDO text and/or map amendment, the Board of Commissioners shall adopt one of the following statements which shall not be subject to judicial review.*

3.5.4.5.1. *A statement approving the amendment and describing its consistency with the adopted Comprehensive Plan and explaining why the action taken is reasonable and in the public interest.*

3.5.4.5.2. *A statement rejecting the amendment and describing its inconsistency with the adopted Comprehensive Plan and explaining why the action taken is reasonable and in the public interest.*

3.5.4.5.3. *A statement approving the amendment and containing at least all of the following:*

3.5.4.5.3.1. *A declaration that the approval is also deemed an amendment to the Comprehensive Plan. The Board of Commissioners shall not require any additional request or application for amendment to the Comprehensive Plan.*

3.5.4.5.3.2. *An explanation of the change in conditions the Board of Commissioners took into account in amending the UDO to meet the development needs of the community.*

3.5.4.5.3.3. *Why the action was reasonable and in the public interest.*

Continued consideration of a text amendment to the Unified Development Ordinance submitted by a property owner to expand the principal sale items from outdoor stands to include reservations and tickets for events/activities

3.5.4.6. In deciding whether to adopt a proposed amendment to this UDO, the central issue before the Board of Commissioners is whether the proposed amendment advances the public health, safety, or welfare. When considering proposed map amendments:

3.5.4.6.1. The Board of Commissioners shall consider the entire range of permitted uses in the requested classification.

Attachments:

1. Zoning Amendment Application;
2. Proposed Ordinance; and
3. Markup of Section 7.76, Outdoor Stands, Accessory to Shopping Centers & Group Development

**ZONING AMENDMENT APPLICATION
TOWN OF NAGS HEAD, NORTH CAROLINA**

Applicant Kate Creef, Assistant General Manager, on behalf of Outlets Nags Head

Mailing address 7100 South Croatan Hwy Nags Head, NC 27959

Explanation of request

- Zoning Ordinance - Section(s) _____
Attach amendment in ordinance form.
- Zoning Map
Attach copy of current Zoning Map with affected property outlined in red.
Attach names and mailing addresses of the property owners of all parcels of land abutting the parcel in question.

Nature of request

Request to allow reservation kiosks for on-site and off-site recreational activities as permitted use within retail shopping centers.

Reason for request

To enhance property use and customer shopping experience.

Kate Creef, Assistant General Manager, on behalf of Outlets Nags Head
Applicant
12/10/19
Date

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES
OF THE TOWN OF NAGS HEAD, NORTH CAROLINA PERTAINING TO THE
REGULATION OF OUTDOOR STANDS, ACCESSORIES TO SHOPPING
CENTERS & GROUP DEVELOPMENT**

ARTICLE I. Purpose(s) and Authority.

WHEREAS, pursuant to N.C.G.S. § 160A-381, the Town of Nags Head (the “Town”) may enact and amend ordinances regulating the zoning and development of land within its jurisdiction and specifically the location and use of buildings, structures and land; pursuant to this authority and the additional authority granted by N.C.G.S. Chap. 160A, Art. 19 et. seq, the Town has adopted comprehensive zoning regulations and has codified the same within the Unified Development Ordinance, Part II of the Town Code, adopted pursuant to N.C.G.S. § 160A-363, which allows the Town to combine certain land development ordinances into a unified ordinance; and

WHEREAS, an owner of the property within the Town of nags Head proposed the amendment of the Unified Ordinance to alter regulations for outdoor stands, accessory to shopping centers and group development; and

WHEREAS, the Board of Commissioners finds that these text amendments are consistent with the goals, objectives and policies of the Town’s adopted Comprehensive Plan, and that this action is reasonable and in the public interest, and is in the interest of and not contrary to the public’s health, safety, morals and general welfare for the Town to amend the Town’s Unified Development Ordinance as stated below.

ARTICLE II. Construction.

For purposes of this ordinance amendment, underlined words (underline) shall be considered as additions to existing Town Code language and strikethrough words (~~strikethrough~~) shall be considered deletions to existing language. Any portions of the adopted Town Code which are not repeated herein, but are instead replaced by an ellipsis (“...”) shall remain as they currently exist within the Town Code.

ARTICLE III. Amendment of the Unified Development Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Town of Nags Head, North Carolina, that the Unified Development Ordinance of the Town Code shall be amended as follows:

PART I. That **Section 7.76.1 and 7.76.2**, be amended as follows:

7.76.1 The principle sale of items at an outdoor stand shall be limited to either fresh produce, hot dogs, coffee, ice cream or Italian ice, ~~and~~ fudge, and reservations or ticket sales.

7.76.2 ~~Only one~~ Two outdoor stands shall be allowed per site. The stands shall not be required to be a permanent structure and may be located upon a trailer.

ARTICLE IV. Severability.

All Town ordinances or parts of ordinances in conflict with this ordinance amendment are hereby repealed. Should a court of competent jurisdiction declare this ordinance amendment or any part thereof to be invalid, such decision shall not affect the remaining provisions of this ordinance amendment nor the Unified Development Ordinance or Town Code of the Town of Nags Head, North Carolina which shall remain in full force and effect.

ARTICLE V. Effective Date.

This ordinance amendment shall be in full force and effect on the adopted effective date of the Unified Development Ordinance.

Benjamin Cahoon, Mayor
Town of Nags Head

ATTEST:

Carolyn F. Morris, Town Clerk

APPROVED AS TO FORM:
Town Attorney _____
Date adopted: _____
Motion to adopt by Commissioner _____
Motion seconded by Commissioner _____
Vote: _____ AYES _____ NAYS

SECTION 7.76 OUTDOOR STANDS, ACCESSORY TO SHOPPING CENTERS & GROUP DEVELOPMENT.

Outdoor stands, accessory to shopping centers and group development, are permitted in accordance with Section 6.6, Table of Uses and Activities, subject to other requirements of this UDO and provided that the following conditions are met:

7.76.1. The principal sale of items at an outdoor stand shall be limited to either fresh produce, hot dogs, coffee, ice cream or Italian ice, ~~and fudge~~ **and reservations or ticket sales**. The sale of any other items shall be incidental and limited to no more than ten percent of the display area or ten percent of sales.

7.76.2. ~~Only one~~ **Two** outdoor stands shall be allowed per site. The stands shall not be required to be a permanent structure and may be located upon a trailer. When located upon a trailer, skirting shall be installed around the perimeter to screen the wheels, axles and towing hitch from view.

7.76.3. The stand area, inclusive of display counters and awnings, shall not exceed four hundred (400) square feet for produce stands and shall not exceed one hundred fifty (150) square feet for hot dog, coffee, ice cream and Italian ice and fudge stands. Refrigeration units may be utilized within the stand area. The location of the stand on the site shall comply with minimum district yard regulations for principal use structures.

7.76.4. Produce stands shall be temporary and may be operated for a period of time not to exceed 180 days annually. The dates of operation shall be limited to between May 1 and November 1 each year. Hot dog, coffee, ice cream and Italian ice and fudge stands may be operated year round but shall not be left on the property overnight and must be removed daily.

7.76.5. All stands shall comply with applicable Dare County Health Department regulations and permitting requirements.

7.76.6. When located on a site with fifty (50) or more existing parking spaces, no additional parking spaces will be required. When located on a site with less than fifty (50) parking spaces a minimum of three (3) off-street parking spaces in accordance with parking regulations of this UDO shall be provided.

7.76.7. When the regulations contained in the subsection are in conflict with the general regulations of Town Code Section 12 Article III, Peddlers and Itinerant Merchants, the provisions of this UDO shall prevail.



MEMORANDUM
Town of Nags Head
Planning & Development Department

To: Planning Board
From: Holly B. White, Principal Planner
Michael Zehner, Director of Planning & Development
Kelly Wyatt, Deputy Director of Planning & Development
Date: February 13, 2020
Subject: Consideration of a text amendment to the Unified Development Ordinance to correct identified typographical errors.

OVERVIEW

Since the adoption of the Unified Development Ordinance (UDO) on August 7, 2019, staff has located minor typographical errors throughout the document. This amendment will address minor numbering, punctuation, grammar, and contextual issues. Additional similar amendments will be necessary to address any other outstanding issues in the future.

STAFF RECOMMENDATION

Staff recommends that the amendment be adopted with as outlined in the attached memorandum. Staff is available to answer any questions.

Attachment:

Memorandum- An Ordinance Amending the Code of Ordinances of the Town of Nags Head, North Carolina Pertaining to Correct Identified Typographical Errors.



MEMORANDUM

Town of Nags Head

Planning & Development Department

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE TOWN OF NAGS HEAD, NORTH CAROLINA PERTAINING TO CORRECT IDENTIFIED TYPOGRAPHICAL ERRORS

ARTICLE I. Purpose(s) and Authority.

WHEREAS, pursuant to N.C.G.S. § 160A-381, the Town of Nags Head (the "Town") may enact and amend ordinances regulating the zoning and development of land within its jurisdiction and specifically the location and use of buildings, structures and land; pursuant to this authority and the additional authority granted by N.C.G.S. Chap. 160A, Art. 19 et. seq, the Town has adopted comprehensive zoning regulations and has codified the same within the Unified Development Ordinance, Part II of the Town Code, adopted pursuant to N.C.G.S. § 160A-363, which allows the Town to combine certain land development ordinances into a unified ordinance; and

WHEREAS, following adoption of the UDO Planning Staff has identified several typographical and unintended errors to be amended;

WHEREAS, the Town of Nags Head 2017 Comprehensive Plan includes goals and policies aimed at maintaining a well-run and efficient government that provides high quality and cost effective services through good governance in order to advance the Town's vision; and

WHEREAS, the Board of Commissioners finds that these text amendments are consistent with the goals, objectives and policies of the Town's adopted Comprehensive Plan, and that this action is reasonable and in the public interest, and is in the interest of and not contrary to the public's health, safety, morals and general welfare for the Town to amend the Towns Unified Development Ordinance as stated below.

ARTICLE II. Construction.

For purposes of this ordinance amendment, underlined words (underline) shall be considered as additions to existing Town Code language and strikethrough words (~~strikethrough~~) shall be considered deletions to existing language. Any portions of the adopted Town Code which are not repeated herein but are instead replaced by an ellipses ("...") shall remain as they currently exist within the Town Code.

ARTICLE III. Amendment of the Unified Development Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Town of Nags Head, North Carolina, that the Unified Development Ordinance of the Town Code shall be amended as follows:

PART I. That **Article 2, Administrative, Legislative, & Quasi-Judicial Authority, Section 2.4 Planning Board**, be amended as follows:

2.4.4. Powers and Duties.

2.4.4.1. It shall be the duty of the Planning Board to prepare plans and to coordinate the plans of the Town and those of others to bring about a coordinated and harmonious development of the area. The Planning Board is hereby designated as the planning agency for the preparation of a zoning plan for the Town under the authority of NCGS 160A-387. In addition, the Planning Board is empowered to:

2.4.4.1.1. Acquire and maintain in current form such basic information and materials as are necessary to understand past trends, present conditions and forces at work to cause changes in these conditions.

2.4.4.1.2. Prepare and, from time to time, amend and revise a comprehensive and coordinated plan for the physical development of the area. The Comprehensive Plan shall be the Planning Board's recommendations to the Board of Commissioners for the development of the Town including, among other things, the general location, character and extent of streets, bridges, parkways, playgrounds, parks and other public ways, grounds and open spaces; the general location and extent of public utilities and terminals, whether publicly or privately owned or operated, for water, light, sanitation, transportation, communication, power and other purposes; the removal, relocation, widening, narrowing, vacating, abandonment, change of use or extension of any of the foregoing ways, buildings, grounds, open spaces, property, utilities or terminals; and the most desirable pattern of land use within the area.

~~2.4.4.1.4.~~ **2.4.4.1.3.** Prepare and recommend ordinances promoting orderly development of the Town as recommended by the Comprehensive Plan including the ordinances contained within the UDO. The Planning Board may initiate-proposals for amendment of the UDO based upon its studies and Comprehensive Plan. In addition, the Planning Board shall review and make recommendations to the Board of Commissioners concerning all proposed amendments to the UDO and zoning map.

~~2.4.4.1.5.~~ **2.4.4.1.4.** Determine whether specific proposed developments referred to it by governmental or private agencies in the area conform to the principles and requirements of the Comprehensive Plan for the area and to make recommendations concerning them.

~~2.4.4.1.6.~~ **2.4.4.1.5.** Keep the Board of Commissioners and the public informed and advised as to these matters.

~~2.4.4.1.7.~~ 2.4.4.1.6. Make any other recommendations which it sees fit for improving the development of the area.

~~2.4.4.1.8.~~ 2.4.4.1.7. Perform any other duties which may lawfully be assigned to it.

PART II. That **Article 2 Administrative, Legislative, & Quasi-Judicial Authority, Section 2.6 Board of Commissioners** be amended as follows:

SECTION 2.6 BOARD OF COMMISSIONERS.

2.6.1. The Board of Commissioners has the authority to initiate, review, and decide applications for the following: UDO text amendments, zoning map amendments, and conditional use permits in accordance with Article 3, Legislative/Quasi-Judicial Procedures, as well as major site plans, major subdivision preliminary plats, and subdivision waivers in accordance with Article 4, Development Review Process.

2.6.2. The Board of Commissioners, in considering conditional use permit applications, acts in a quasi-judicial capacity and, accordingly, is required to observe the procedural requirements set forth in Section 3.13, Procedures for Quasi-Judicial Hearings.

~~2.6.2.~~ **2.6.3.** In considering proposed changes in the text of this UDO or in the zoning map, the Board of Commissioners acts in its legislative capacity and must proceed in accordance with the requirements of Section 3.5, UDO Text Amendments/Zoning Map Amendments.

~~2.6.3.~~ **2.6.4.** Unless otherwise specifically provided in this Article, in acting upon conditional use permit requests or in considering amendments to this Ordinance or the zoning map, the Board of Commissioners shall follow the regular voting and other requirements as set forth in other provisions of the Town eCode, the Town eCharter, Rules of Procedure, or general law as applicable.

~~2.6.4.~~ **2.6.5.** The Board of Commissioners, in considering the approval of a site-specific development plan (as defined in Section 3.6, Establishment of Vested Rights), shall follow the procedural requirements set forth in Section 3.8, Conditional Use Permits for the issuance of a conditional use permit.

~~2.6.5.~~ **2.6.6.** A failure to vote by a Board member who is physically present in the Commissioners chamber, or who has withdrawn without being excused by a majority vote of the remaining members present, shall be recorded as an abstention, not an affirmative vote.

PART III. That **Article 3 Legislative/Quasi-Judicial Procedures, Section 3.13 Procedures for Quasi-Judicial Hearings**, be amended as follows:

3.13.3. Modification of Application at Hearing.

~~3.13.2.1~~ **3.13.3.1.** In response to questions or comments made in sworn testimony at the hearing, the applicant may agree to modify the application, including the plans and specifications submitted.

~~3.13.2.2~~ **3.13.3.2.** Unless such modifications are so substantial or extensive that the decision-making board cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised plans before it, the decision-making board may approve the application with the stipulation that the permit will not be issued until plans reflecting the agreed upon changes are submitted to the UDO Administrator.

PART IV. That **Article 4 Development Review Process, Part II. Development Review Process, Section 4.2 Purpose and Intent**, be amended as follows:

PART II. DEVELOPMENT REVIEW PROCESS.

SECTION 4.2 PURPOSE AND INTENT.

The formal development review process is designed for non-residential development (i.e., projects other than one- and two-family dwellings) applications that require review by the Planning Board and Board of Commissioners. The permitting process for one- and two-family dwellings is provided in Part III, [Development Permitting Process Requirements](#).

PART V. That **Article 4 Development Review Process, Section 4.10 Permits Required**, be amended as follows:

SECTION 4.10 PERMITS REQUIRED.

4.10.1. No use of land shall be initiated or modified and no building or other structure shall be erected, moved, added to or structurally altered without having either a conditional use permit approved by the Board of Commissioners as provided for under Section 3.8, Conditional Use Permits, or the necessary permits identified in Section 4.11, Permit Types, approved and issued by the UDO Administrator.

4.10.2. Furthermore, no building permit shall be issued except in conformity with the provisions of this UDO, the state building code, and applicable federal, state and local regulations.

~~4.10.4~~ **4.10.3.** A fee for conditional use permits, zoning permits and building permits is required, which shall be in accordance with a regularly adopted fee schedule of the Town.

PART VI. That **Article 4 Development Review Process, Section 4.13 Certificate of Compliance Required**, be amended as follows:

SECTION 4.13 CERTIFICATE OF COMPLIANCE REQUIRED.

4.13.1. No land shall be used or occupied, and no building hereafter structurally altered, erected, moved, be used or have its use changed, until a certificate of compliance shall have been issued by the UDO Administrator stating that the building and/or the proposed use thereof complies with the provisions of this UDO.

4.13.2. A certificate of compliance shall be applied for coincident with the application for a building permit and shall be issued within ten days after the erection or structural alterations of such building, or part, shall have been completed in conformity with the provisions of this UDO.

4.13.3. A record of all certificates shall be kept on file in the office of the building inspector, and copies shall be furnished on request to any person wishing to review such records.

~~4.13.5.~~ **4.13.4.** In instances where a change of use or other development is proposed that triggers permits or approvals under this UDO, but no building permit is required, then only those UDO permits or approvals required to verify that the proposed use and requirements pertaining thereto comply with the provisions of this UDO.

~~4.13.6.~~ **4.13.5.** Prior to issuance of a certificate of compliance for any new construction project or for any non-residential project which involves an increase in lot coverage, the UDO Administrator shall inspect the entire site to determine if the development complies with the Town approved site plan. The applicant shall also furnish the Town with a final, original, sealed and signed as-built survey of the entire site. In cases where the proposed building is within six inches of the height limit for the district in which it is located, the UDO Administrator may require a height certificate prepared by a licensed surveyor.

~~4.13.7.~~ **4.13.6.** Prior to issuance of a certificate of compliance for any remodel, addition, or accessory structure, the UDO Administrator shall inspect the entire site to determine if the development complies with the Town approved site plan. If the UDO Administrator finds that the site or a structure on the site has deviated from the approved site plan, or in cases where the project is close to exceeding lot coverage, height, or directly adjacent to a setback, the UDO Administrator may require a final, original, sealed and signed as-built survey and/or height certificate.

PART VII. That **Article 6 Zoning Districts, Section 6.2 Zoning District, Special Districts** be amended as follows:

6.2.5.4. O&S Ocean and Sound Waters District. The Ocean and Sound Waters District encompasses the ocean and sound waters and is established to provide for the proper use of these waters, including islands that adjoin the Town, to ensure the continued scenic, conservation and recreational value that these waters provide to the Town, its residents, visitors and the surrounding area. Regulations in this district shall not prohibit or regulate commercial fishing and navigation. The Ocean and Sound Waters District shall encompass and be applied to the area defined as the extraterritorial zoning area as referenced in Town Code [Article Section 2-1 Zoning](#); boundary extension; establishment; application.

PART VIII. That **Article 6. Zoning Districts, Section 6.6, Table of Uses and Activities**, be amended as follows:

Use Category/Class	Use Type	Residential Districts			Commercial Districts				
		R-1	R-2	R-3	CR	C-1*	C-2	C-3	C-4
Residential	Dwelling, Large Residential	PS	PS	PS	PS		PS		
Residential	Dwelling, Multi-Family				CS	CS	CS		

PART IX. That **Article 7. Supplemental Regulations, Section 7.21 Massage and Bodywork Therapy**, be amended as follows:

SECTION 7.21 MASSAGE AND BODYWORK THERAPY.

Massage therapy centers, are permitted in accordance with Section 6.6, Table of Uses and Activities, subject to other requirements of this UDO and provided that the following conditions are met:

7.21.1. General Requirements.

These requirements apply to massage therapists and massage and bodywork therapy business operators. No person permitted under this article shall allow or permit any person to massage or treat any person unless the person giving such massage or treatment has complied with all requirements of this article.

7.21.1.1. Permits required.

7.21.1.1.1. All massage and bodywork therapists and owner/operators of massage and bodywork therapy establishments shall possess and provide proof of a North Carolina license to practice massage and bodywork therapy in accordance with NCGS Chapter 90, Article 36 Massage and Bodywork Therapy Practice.

7.21.1.1.2. A zoning permit is required, in accordance with Article 4, Development Review Process of this UDO, for both the practice of massage and bodywork therapy and owner/operators of massage and bodywork therapy establishments.

~~**7.21.1.2.3.**~~ **7.21.1.1.3.** An annual Town of Nags Head Business Registration shall be completed by massage and bodywork therapists and/or owner/operators of massage and bodywork therapy establishments. At the time of registration, any fees associated with the registration shall be paid.

7.21.1.2. The following information shall be submitted and considered as part of the application for a permit from the Town:

7.21.1.2.1. The name of the business and location of the business.

7.21.1.2.2. List of North Carolina certified massage therapists and contact information for massage therapists working in massage therapy and bodywork establishments.

7.21.1.2.3. A certificate of insurance indicating that the applicant has professional liability insurance for the practice of massage therapy/bodywork.

7.21.1.2.4. A description of the services to be provided and any other business to be operated on the same premises or on adjoining premises owned or controlled by the applicant.

7.21.1.2.5. If an applicant is to work under the supervision of a licensed physician, applicant must show scope of services from the licensed physician.

7.21.1.2.6. Verification of criminal history through investigative report by the Nags Head Police Department. Submission of the following information is necessary to complete this investigative report:

7.21.1.2.6.1. A complete statement of all convictions of any person involved in the operation of the business for any felony, or prostitution or any violation of any law relative to prostitution;

7.21.1.2.6.2. A complete statement of any revocation, by any governmental unit, of any license to operate a massage business or to engage in the business or profession of massage by the applicant or any persons associated with or employed by the operation of the massage therapy business;

7.21.1.2.6.3. A complete statement of any conviction for violation of any statute, law, ordinance or regulation of any government

concerning the operation of a massage business or the business or profession of massage by the applicant or anyone employed with the business.

7.21.1.2.7 The Town reserves the right to request submission of any additional information deemed necessary to process the permit application.

7.21.1.3. The applicant or any person having a legal or beneficial ownership interest in the applicant shall not, for the three-year period preceding the application, have a previously issued license revoked for engaging in the business or profession of massage.

7.21.1.4. The applicant or any person having any legal or beneficial ownership interest in the applicant, shall not in the last ten (10) years have been convicted of any crime involving sexual misconduct including but not limited to, NCGS 14-177 – 14-202.1 and NCGS 14-203 – 14-208, any federal statutes relating to prostitution, or of any violation of any law or ordinance of any governmental unit related to the business or profession of massage.

7.21.1.5. It shall be unlawful for any person, corporation, partnership, or association to employ any person under the age of eighteen (18) years in the operation of a massage business.

7.21.1.6. Hours of operation:

7.21.1.6.1. No person shall massage or treat any person, or engage in the business or profession of massage, before 8:00 a.m. or after 12:00 midnight, prevailing time.

7.21.1.6.2. No person shall admit customers or prospective customers, or remain open for business, or allow, permit or condone any massage or treatment of any person before 8:00 a.m. or after 12:00 midnight, prevailing time.

7.21.1.6.3. No person in charge of managing a massage business shall allow, permit or condone any massage or treatment of any person before 8:00 a.m. or after 12:00 midnight, prevailing time.

7.21.1.7. Posting of license:

7.21.1.7.1. Every massage therapist shall post a copy of their North Carolina license to operate in their work area or on their person.

7.21.1.7.2. Every person, corporation, partnership, or association licensed under this article hereof shall display their business registration and their North Carolina license to operate in a prominent place or on their person.

7.21.1.8. A permit issued pursuant to this article is void if the licensee moves or ceases operating a massage business.

7.21.2. *Massage of Private Parts for Hire.*

It shall be unlawful for any person to massage or to offer to massage the private parts of another for hire. The term "massage," as used in this section, means the manipulation of body muscle or tissue by rubbing, stroking, kneading or tapping, by hand or mechanical device. The term "private parts" means the penis, scrotum, mons veneris, vulva, or vaginal area. The provisions of this section shall not apply to licensed medical practitioners, osteopaths or chiropractors, or persons operating at their direction, in connection with the practice of medicine, chiropractic or osteopathy.

7.21.3. *Revocation of Permit.*

7.21.3.1. Violation of any part of this article shall be grounds for revocation of the permit.

7.21.3.2. A permit issued pursuant to this section shall be revoked by the UDO Administrator or designee upon the determination that:

7.21.3.2.1. The permit holder violates any building or fire prevention ordinances or any provision of this UDO.

7.21.3.2.2. The permit holder, or the legal or beneficial owner of any interest in the permit holder is convicted of any crime involving sexual misconduct including, but not limited to, NCGS 14-177 – 14-202.4, and NCGS 14-203 – 14-208 in the last ten years.

7.21.3.2.3. Any employee of the permit holder is convicted of any felony in connection with his employment, or is convicted of any crime involving sexual misconduct including, but not limited to, NCGS 14-177 – 14.202.4 and NCGS 14-203 – 14-208 or of this article.

PART X. That **Article 7. Supplemental Regulations, Section 7.30 Restaurant, Neighborhood**, be amended as follows:

SECTION 7.30 RESTAURANT, NEIGHBORHOOD.

Restaurant, neighborhood, is permitted in accordance with Section 6.6, Table of Uses and Activities, subject to other requirements of this UDO and provided that the following conditions are met:

7.30.1. To be classified as a neighborhood restaurant, the indoor customer service area shall be less than 1,000 square feet.

7.30.2. An on-site outdoor customer service area in an amount up to 50% of the indoor customer service area is also permitted.

7.30.3. A restaurant site may contain more than one principal restaurant building, or one principal restaurant building in combination with another principal drive-in restaurant, drive-through restaurant, or takeout restaurant building.

7.30.4. Uses qualifying as a restaurant shall meet the following criteria:

~~7.30.2.1~~ **7.30.4.1.** A food preparation area that is at least twenty (20) percent of the gross building square footage of the principal building. The square footage of food preparation area located in an on-site accessory restaurant use building or a second on-site drive-in, drive-through, or takeout restaurant may be applied when calculating this minimum 20% requirement. But when calculated together (principal and accessory or second principal buildings), in no event shall the food preparation area of the principal building be permitted to be less than ten (10) percent of the principal building gross square footage; and,

~~7.30.2.2~~ **7.30.4.2.** At least seventy-five (75) percent of all customer seats shall be designated for full-service, full-menu dining; and,

~~7.30.2.3~~ **7.30.4.3.** No more than fifteen (15) percent of the total building square footage shall be devoted to accessory entertainment uses including but not limited, to dance floor, lounges, bars, stages, live performance, and disc jockey areas. Accessory entertainment uses referenced in this section shall be permitted in a restaurant establishment provided these uses are clearly subordinated in area, extent, hours of operation, and purpose to areas designated for food and/or beverage preparation, service, and consumption.

PART XI. That **Article 7. Supplemental Regulations, Section 7.33 Commercial with Accessory Residential (Attached or Detached)**, be amended as follows:

SECTION 7.33 COMMERCIAL WITH ACCESSORY RESIDENTIAL (ATTACHED OR DETACHED).

Accessory residential units are single-family attached or detached units that may be allowed on the same property and in conjunction with a commercial use. These are distinctly different than accessory dwelling units, which are accessory uses designed to be subordinate to and located on the same property as a single-family dwelling. Commercial with Accessory Residential, is permitted in accordance with Section 6.6, Table of Uses and Activities, subject to other requirements of this UDO and provided that the following conditions are met:

7.33.1. Commercial uses may have up to two (2) accessory residential units that are attached or detached.

7.33.2. Accessory residential uses must be located above or to the rear of the primary commercial use and must meet the setbacks for the principal structure within the zoning district.

7.33.3. Individual accessory residential units may not exceed 1,500 square feet in area.

~~**7.33.4.** Parking shall be provided for the accessory residential units using the same parking standard applicable to single-family dwellings.~~

PART XII. That **Article 7. Supplemental Regulations, Section 7.39 Fire Stations/Public Works Facilities**, be amended as follows:

SECTION 7.39 FIRE STATIONS/PUBLIC WORKS FACILITIES.

Fire stations and public works facilities are permitted in accordance with Section 6.6, Table of Uses and Activities, subject to other requirements of this UDO and provided that the following conditions are met:

7.39.1. Fire Stations.

Fire stations are permitted in accordance with Section 6.6, Table of Use and Activities, subject to other requirements of this UDO and provided that the following conditions are met:

7.39.1.1. No open storage is allowed.

~~**7.39.2.**~~ **7.39.1.2.** Lighting shall be prohibited except for minimum lighting that may be required for security purposes.

PART XIII. That **Article 7. Supplemental Regulations, Section 7.50 Fishing Piers**, be amended as follows:

SECTION 7.50 FISHING PIERS.

Fishing Piers are permitted in accordance with Section 6.6, Table of Uses and Activities, subject to other requirements of this UDO and provided that the following conditions are met:

7.50.1. Fishing piers, which may include accessory restaurant or retail uses, are permitted in the R-2 and CR districts in accordance with Section 6.6, Table of Uses and Activities, subject to other requirements of this UDO and provided the following conditions are met:

7.50.1.1. Parking lot lighting shall be prohibited except for minimum lighting which may be required for security purposes.

7.50.1.2. The maximum total height of the pier house structure shall be thirty-five (35) feet.

7.50.1.3. Lot coverage shall not exceed fifty (50) percent. Coverage may be increased to a maximum of sixty (60) percent if open-space paving blocks are used in place of surfaces such as concrete or asphalt. The use and installation of open-face paving blocks shall be in accordance with the requirements of Section 8.6.6.6., Special Requirements for the Use of Permeable Pavement.

7.50.1.4. Restaurants associated with a fishing pier shall not exceed 1,500 square feet of combined indoor and outdoor customer service area.

7.50.1.5. In the CR district only, if the pier house contains multiple accessory or principal uses, including but not limited to, retail sales, arcade, restaurant, wind turbines, educational and recreational programming, and indoor public assembly uses, with a parking requirement greater than one parking space per 200 square feet of gross floor area, the overall parking requirement may be reduced by fifteen (15) percent. In utilizing this provision, at no time shall the total number of parking spaces provided be less than 100.

~~7.50.1.5.~~ **7.50.1.6.** In the CR district only, the location and installation of wastewater treatment facilities and required repair areas to serve the principal use may be located off-site provided that all off-site properties are undeveloped and are zoned for commercial use. Off-site wastewater treatment facilities shall be exempt from the requirements of Section 7.47, Wastewater Treatment Plants (Accessory to Pier). Above ground structures of the treatment facility shall be deemed principal use structures and shall comply with the dimensional height and yard requirements of the zoning district in which they are located. When off-site wastewater treatment facilities are utilized in conjunction with a fishing pier, restaurants are not permitted as a principal or accessory use to the fishing pier.

~~7.50.1.6.~~ **7.50.1.7.** In the CR district only, up to fifty (50) percent of the required parking for the site may be located at an off-site location. Off-site parking must be located in the C-2 zoning district.

PART XIV. That **Article 7. Supplemental Regulations, Section 7.55 Municipal Parks**, be amended as follows:

SECTION 7.55 MUNICIPAL PARKS.

Municipal parks are permitted in accordance with Section 6.6, Table of Uses and Activities, subject to the following limitations and conditions:

7.55.1. Municipal Parks in the R-2 Zoning District.

Municipal parks which may include, but not be limited to, tennis courts, multi-purpose recreation fields, concession areas, and picnic areas, are permitted in accordance with

Section 6.6, Table of Uses and Activities, subject to the other requirements of this UDO and provided the following conditions are met:

~~7.55.1.~~ 7.55.1.1. All multi-purpose recreation fields or tennis courts shall be located no closer than one hundred (100) feet from the property line of any adjacent residential property within the R-2 district.

~~7.55.2.~~ 7.55.1.2. All buildings or parking lots shall be located no closer than fifty (50) feet from the property line of any adjacent residential property within the R-2 district.

~~7.55.3.~~ 7.55.1.3. All multi-purpose recreation fields, tennis courts, parking lots, or buildings shall be located no closer than thirty (30) feet from the adjacent residential property line of any property within the SED-80 district.

~~7.55.4.~~ 7.55.1.4. A 50-foot wide buffer shall separate all multi-purpose recreation fields and tennis courts from the property line of any property within the R-2 district. This buffer shall be bermed or planted to a minimum height of five (5) feet and that will reach a height of ten (10) feet within five (5) years. There shall be a minimum of six (6) rows of plants in the buffer placed on 10-foot centers. Eighty (80) percent of all plants must be locally adaptive live evergreen species, or the equivalent of these standards that incorporate existing vegetation and topography or other landscape architecture designs that demonstrate compliance with these standards. Ornamental grass/herbaceous plants shall not be required to be included in this buffer.

~~7.55.5.~~ 7.55.1.5. All buildings and parking areas shall be buffered from the property line of any property within the R-2 district utilizing a 10-foot wide Commercial Transitional Protective Yard as prescribed in Section 10.93, Landscaping, Buffering, and Vegetation Preservation.

~~7.55.7.~~ 7.55.1.6. Light fixtures for multi-purpose recreation fields shall be turned off no later than 9:00 pm.

PART XV. That **Article 7. Supplemental Regulations, Section 7.58 Designated Public Events Site**, be amended as follows:

SECTION 7.58 DESIGNATED PUBLIC EVENTS SITE.

Designated public event sites are permitted in accordance with Section 6.6, Table of Uses and Activities, subject to the following regulations:

7.58.1. A special events permit is required for events held at a designated public events site for events that expect more than 100 attendees. Applications, including a site and management plan for events, must be made to the Town Manager's office no less than

fourteen (14) days prior to the initiation of any event or temporary use to take place on the site in order for the Town to:

7.58.1.1. Evaluate requests for Town assistance and costs to be charged as associated with the event;

7.58.1.2. Determine and schedule what types of site inspections may be needed;

7.58.1.3. Evaluate parking, site access and traffic controls;

7.58.1.4. Evaluate crowd controls and flow, and site requirements for bathroom, water and other facilities that may be required to protect the health and welfare of the participants;

7.58.1.5. Confirm that NC Alcohol Law Enforcement (ALE) and Dare County Health Department requirements have been met;

7.58.1.6. To assign and charge any fees associated with use of Town personnel;

7.58.1.7. Schedule repeating events; ~~and.~~

7.58.2. Events site and management plan shall include:

~~7.58.8.1.~~ **7.58.2.1.** Contact information and cell phone for the person in charge of the event.

~~7.58.8.2.~~ **7.58.2.2.** A brief description of the event with an estimated number of expected participants. Ticketed events should indicate the maximum number of tickets that will be sold.

~~7.58.8.3.~~ **7.58.2.3.** A site plan map showing:

~~7.58.8.3.1.~~ **7.58.2.3.1.** The location of all temporary structures, including tents, stages, concessions, bathroom facilities, or rides.

~~7.58.8.3.2.~~ **7.58.2.3.2.** A traffic and parking plan indicating site ingress/egress, traffic flow direction, designated parking areas, and the number of parking spaces. Ticketed events must have one space for every three tickets sold. If off-site parking is anticipated, plan must indicate where off-site parking will be located and document approval from those property owners.

~~7.58.8.3.3.~~ **7.58.2.3.3.** The amount, type, and location of temporary signage, subject to the provision of Article 10, Part III, Sign Regulations of this UDO, and the following:

~~7.58.8.3.3.1~~ 7.58.2.3.3.1. Directional signage less than twelve (12) square feet may be located at strategic locations to direct pedestrians and motorists.

~~7.58.8.3.3.2~~ 7.58.2.3.3.2. Temporary advertisement, sponsorship, or commercial signage shall be directed internally to the event itself and shall not be located adjacent to or addressing adjacent properties, the US 158 right-of-way or the beach or sound.

~~7.58.8.3.3.3~~ 7.58.2.3.3.3. Temporary signs shall be displayed only during the actual time period of the event and shall be promptly removed at the close of such event.

~~7.58.8.3.4~~ 7.58.2.3.4. Notes or attachments related to any additional documentation pertinent to the planned event, including but not limited to:

~~7.58.8.3.4.1~~ 7.58.2.3.4.1. Approvals required from other agencies (ALE, NCDHHS).

~~7.58.8.3.4.2~~ 7.58.2.3.4.2. Off-site parking arrangements.

~~7.58.8.3.4.3~~ 7.58.2.3.4.3. Proof of insurance related to the event.

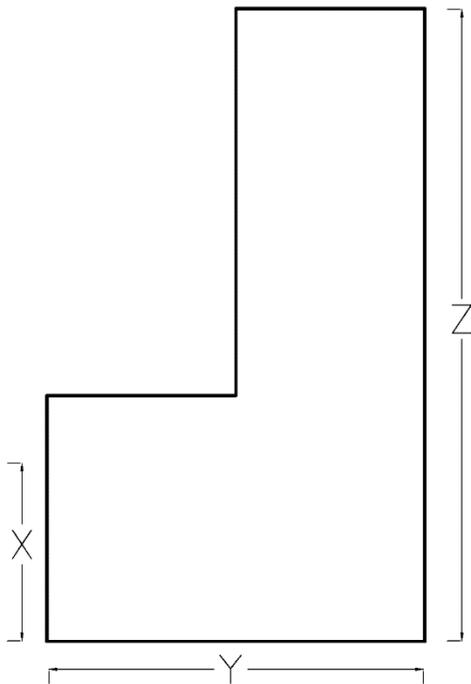
7.58.3. Failure to comply with inspection and code requirements can result in fines and/or suspension of the use of the site in accordance with Section 1.10, Violation of UDO Regulations, of this UDO and other applicable local and state regulations.

PART XVI. That **Article 8. District Development Standards, Section 8.6 Standards/Application of Dimensional Requirements**, be amended as follows:

8.6.2. Length and Width Requirements for Principal Buildings.

The following provision apply both to residential and commercial buildings, except that building erected in the C-3 commercial services district shall be exempt from these minimum dimensional requirements.

8.6.2.1. The length of a principal building shall not exceed three times the width of the building. The length shall be considered the longest dimension of the structure to include porches and open decks. The width shall be considered to be the widest consistent dimension through at least forty percent (40%) of the length of the building, which may be interrupted; for example, if a building has a width of twenty-two (22) feet for 20% of its length, reduces to a width of 18' for 60% of its length, and then widens to a width of 20' for 20% of its length, the building shall be determined to have a width of 20' and shall have a length of no more than 60'.



Dimensions—Principal Buildings

(To use Y as the width, X must equal at least 40 percent of the length (Z) of the building.)

~~8.6.2.3.~~ **8.6.2.2.** The minimum width of the enclosed habitable space of a principal building shall be eighteen (18) feet measured at the first-floor level.

~~8.6.2.4.~~ **8.6.2.3.** A building shall be at least eighteen (18) feet wide along at least forty (40) percent of its length.

~~8.6.2.5.~~ **8.6.2.4.** Outside dimensions shall be used in determining length and width. This is defined as the exterior façade covering on the outside of the building (see graphic above).

8.6.3.6. Exclusions from Yard Requirements.

8.6.3.6.1. The inner edge of the front, rear, or side yard shall be measured from the building foundation and may exclude the outermost three feet of eaves, gutters, uncovered handicapped ramps, or uncovered steps. This exclusion may also apply to cargo lifts for single-family or duplex dwellings only, and built-in railing benches constructed in accordance with Appendix B, ^uTown of Nags Head Residential Design Guidelines^u.

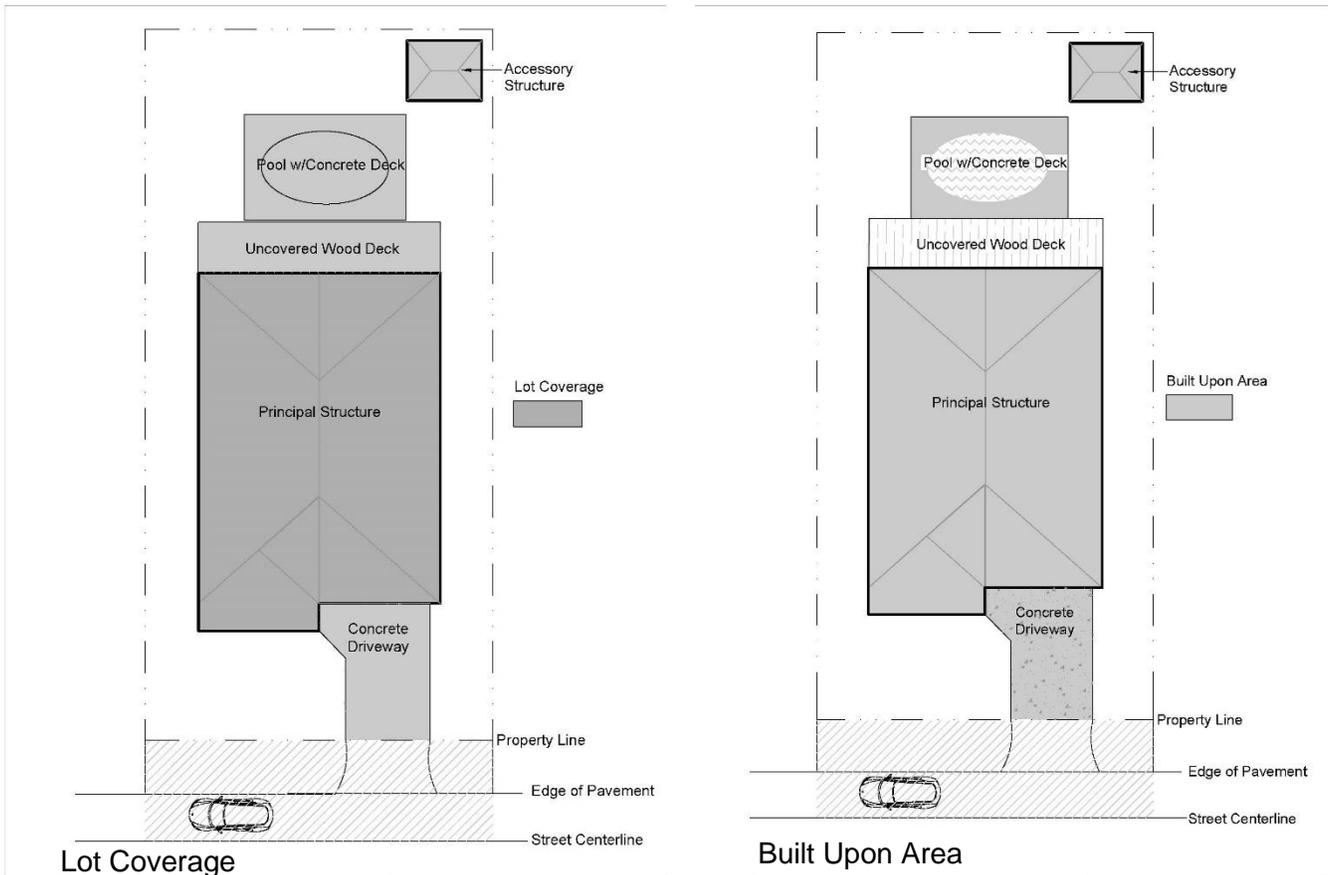
PART XVII. That **Article 8. District Development Standards, Section 8.6 Standards/Application of Dimensional Requirements**, be amended as follows:

8.6.6. Lot Coverage.

8.6.6.1. Purpose and Intent. As defined in Appendix A of this UDO, lot coverage means that portion of the lot area, expressed as a percentage, which is covered or

occupied by impervious surfaces or structures. Lot coverage is one of the primary mechanisms by which the Town regulates the development intensity of individual lots. Lot coverage limits are established for the purposes of preserving open space, limiting the amount of land disturbance necessary for development, and establishing development intensity limitations that are consistent with the Town's vision and goals for the built environment.

For the purposes of determining lot coverage, the following features shall be considered impervious – any principal or accessory use or structure located above the ground including decks, parking areas, vehicular use areas, roadways, access ways, and sidewalks or walkways that prevent the infiltration of rainwater. Lot coverage is utilized to determine zoning compliance and is distinct from the calculation of built-upon area. Built-upon area is used for the purposes of regulating stormwater management, and is described in Article 11, Part I, Buffering and Vegetation Preservation General Requirements of this UDO.



Although lot coverage is calculated based on the lot area as defined in Appendix A, in some cases portions of the lot area are excluded from the calculation. For example, for an oceanfront lot, lot coverage is calculated based on the lot area west

of the first line of stable natural vegetation or the static line, whichever is further landward of the ocean.

This section describes special provisions applicable to lot coverage calculations for certain uses/structures or districts. In some instances, certain building features or site elements are either excluded from the lot coverage calculation or count as a reduced percentage. Additionally, lot coverage may be increased with the application of additional stormwater management measures.

PART XVIII. That **Article 9., SPD-C Zoning Ordinance, Section 9.23 Institutional District**, be amended as follows:

9.23.5.3. Building Setback Requirements.

9.23.5.3.1. A minimum of forty (40) feet from the US 158 right-of-way.

9.23.5.3.2. A minimum of twenty (20) feet from the Seachase Drive right-of-way.

9.23.5.3.3. A minimum of fifty (50) feet from residential uses.

~~9.23.5.2.4.~~ **9.23.5.3.4. Building-to-Building Separation.** A minimum of twenty-five (25) feet.

~~9.23.5.2.5.~~ **9.23.5.3.5. Building Height Limitation.** Thirty-five (35) feet; however, for every foot above thirty-five (35) feet, there shall be an additional setback of two (2) feet from Seachase Drive, US 158, and any residential district. The maximum building height shall be forty-five (45) feet.

~~9.23.5.2.6.~~ **9.23.5.3.6. Parking Required.** Refer to Section 10.16, Required Parking by Use of this UDO.

PART XIX. That **Article 9., SPD-C Zoning Ordinance, Section 9.26 Attached Single Family District**, be amended as follows:

9.26.5. Single-Family Four (SF#4) District Standards.

Single-family four district standards in the attached single-family district are as follows:

9.26.5.1. Maximum Density. Twelve (12) dwellings per acre.

9.26.5.2. Minimum Building Front Yard and Side Yard Setback Requirements.

Fronting On:	Front Yard	Side Yard
Public right-of-way	15 feet	Minimum separation between buildings 10 feet

9.26.5.3. Minimum Rear Yard. Thirty (30) feet to existing residential outside the Village at Nags Head, plus a 25-foot natural or landscaped buffer. Only

a minimum 15-foot rear yard is required when adjacent to interior open space area.

~~9.26.5.3.~~ 9.26.5.4. **Minimum Lot Size.** 2,400 square feet.

9.26.6. Single-Family Five (SF#5) District Standards.

Single-family five district standards in the attached single-family district are as follows:

9.26.6.1. Maximum Density. Three (3) dwellings per acre.

9.26.6.2. Minimum Building Front Yard and Side Yard Setback Requirements.

Fronting On:	Front Yard	Side Yard
Public right-of-way	15 feet	Minimum separation between buildings 10 feet

9.26.6.3. Minimum Rear Yard. Thirty (30) feet to existing residential outside the Village at Nags Head, plus a 25-foot natural or landscaped buffer. Only a minimum 15-foot rear yard is required when adjacent to interior open space area.

~~9.26.6.3.~~ 9.26.6.4. **Minimum Lot Size.** 2,400 square feet.

PART XX. That **Article 9., SPD-C Zoning Ordinance, Section 9.27 Multifamily District,** be amended as follows:

9.27.6. Multifamily Two (MR#2) District Standards.

Multifamily two (MF #2) district standards in the multifamily district are as follows:

~~9.27.5.1.~~ 9.27.6.1. **Maximum Density.** Eighteen (18) units per acre.

~~9.27.5.2.~~ 9.27.6.2. **Coverage.**

Maximum Building	Maximum Parking	Minimum Landscaped	Minimum Common Area
50 percent (low-rise)	N/A	20 percent	N/A

~~9.27.5.3.~~ 9.27.6.3. **Minimum Building Front Yard and Side Yard Setback Requirements.**

Fronting On:	Front Yard	Side Yard
Public right-of-way	10 feet	20 feet

Side yard setbacks for developments taller than two stories between South Virginia Dare Trail and the Atlantic Ocean shall follow the “visual window” concept as prescribed in subsection 9.24.11.

~~9.27.5.4.~~ ~~9.27.6.4.~~ **Rear Yard.** Twenty (20) feet. The rear yard may be reduced to fifteen (15) feet if adjacent to dedicated open space.

~~9.27.5.5.~~ ~~9.27.6.5.~~ **Building Cluster Separation.** There shall be a minimum ten (10) feet building separation for each twelve (12) feet of building height or portion thereof.

~~9.27.5.6.~~ ~~9.27.6.6.~~ **Maximum Height.** Forty-five (45) feet.

PART XXI. That **Article 10. Performance Standards, Section 10.24 Signs Permitted in Commercial Districts and the Commercial/Residential District**, shall be amended as follows:

10.24.2.5. Window signs shall be permitted to be placed only inside a commercial building and shall not exceed twenty-five (25) percent of the glass area of the pane upon which the sign is displayed. Window signs of exposed neon, argon, krypton or similar gas tube lighting shall be permissible, provided that such signs shall not exceed twenty-five (25) percent of glass pane area, and shall not exceed singly, or in combination 0.15-square-foot per lineal foot of store frontage, not to exceed twenty (20) square feet of sign area for any one store.

PART XXII. That **Article 10., Performance Standards, Small Wireless Facilities**, be amended as follows:

SECTION 10.103 SMALL WIRELESS FACILITIES.

10.103.1. Standards.

Small wireless facilities and utility poles installed to support small wireless facilities shall comply with the following requirements:

10.103.1.1. Small wireless facilities shall be a permitted use in all rights-of-way and on properties containing uses other than single-family dwellings. Small wireless facilities shall be a conditional use on properties developed as single-family dwellings.

10.103.1.2. Height of New Small Wireless Facilities. New small wireless facilities in the ROW may not extend (i) more than ten feet (10') above an existing utility pole in place as of the effective date of this UDO; or (ii) for small wireless facilities on a new utility pole, more than ten feet (10') above the height permitted for a new utility pole under this UDO. A new small wireless facility on private property may not exceed the applicable height limit for the district in which it is located.



BOC ACTIONS
WEDNESDAY, FEBRUARY 5, 2020

1. Call to order - Mayor Cahoon called the meeting to order at 9:00 a.m.

2. Agenda – the Board approved the Feb 5th agenda as presented.

3. Recognition

Police Chief Phil Webster introduced Police Officer Terrance Flaughter who was welcomed by the Board to Town employment.

Public Works Director Ralph Barile introduced Facilities Maintenance Technician Nehmias Cortez who was welcomed by the Board to Town employment.

Finance Director Amy Miller introduced Dep Finance Officer Brooke Norris who was welcomed by the Board to Town employment.

Public Works Director Ralph Barile introduced Sanitation Supervisor Keefe White who was congratulated by the Board for 25 years of service to the Town.

Town Manager Cliff Ogburn introduced Town Clerk Carolyn F. Morris who was congratulated by the Board for 25 years of service to the Town.

4. Jennette’s Pier - Executive Director Mike Remige presented the annual update on Jennette’s Pier with a powerpoint presentation which was well received.

5. Public Comment

Susie Walters, Nags Head resident; spoke concerning recyclables which are now being incinerated; she encouraged the Board to allow for incineration of recyclables to continue while more information is gathered.

Al Friedman, Nags Head resident; he participates in Special Olympics events each year; the closest polar bear plunge is in Virginia Beach; he asked the Board to consider bringing this event to this area.

Cheri Pain, Nags Head resident; she has operated a homeowners association management business for 30 years in the Town; she very much appreciates the Town which is shaped by the hard work of the Board and many other individuals, she asked the Board to continue the Town’s recycling program.

David Masters, Jr., Nags Head resident; he mentioned the possibility of the Board rescinding the roll-back trash carts ordinance and is aware there are a lot of issues with this subject; he urged the Board to take another look at this issue rather than striking the ordinance.

6. Consent Agenda – The Consent Agenda consisted of the following items:

Budget Adjustment #8 to FY 19/20 Budget
Consideration of Tax Adjustment Report

Request to advertise delinquent taxes
Approval of minutes
Resolution authorizing Town Mgr to execute DEQ grant contract for Islington Beach Access
Amendments to Consolidated Fee Schedule
Resolution updating Town officials with banking authority
Resolution clarifying Dare County Control Group / Town Oct 2015 Memorandum of Agreement
Ratification of actions from Board of Commissioners Jan 23-24, 2020 Retreat

The Board approved the Consent Agenda – with removal of agenda item #E-8 re: Resolution clarifying Dare County Control Group/Town Oct 2015 MOA - for consideration at the Feb 18th mid-month mtg.

7. Public Hearing – to consider a Vested Right Site Plan for the Outer Banks Hospital, 4923 & 4927 S. Croatan Highway, 4922, 4926 & 4928 Passage Way, submitted by Quible and Associates P.C. on behalf of Outer Banks Hospital; the application involves the demolition of the Urgent Care Facility and construction of 10,400 square foot addition to the existing Radiation Therapy building. Applicant is seeking a Conditional Use Permit to reduce the number of required parking spaces and modify certain parking requirements, and to rezone the properties at 4922, 4926 & 4928 Passage Way from SPD-C/SF-2 to SPD-C/Hotel District – The following motions were unanimously passed:

Motion #1 - To approve the request to rezone parcels located at 4922, 4926 and 4928 S. Passage Way from the SPD-C/SF-2 District to the SPD-C/Hotel District as presented.

Motion #2 – To approve the vested right site plan/application with the required four (4) findings of fact for conditional use permits.

Motion #3 – To approve the conditional use permit to reduce required parking and loading zone dimensions with five (5) findings of fact and three (3) recommended conditions.

8. Planning Director update – Several items were specifically addressed to include the Flood Prevention Ordinance – for discussion at the joint workshop with the Planning Board on Feb 18th; Planning Board request for feedback on regulation of large occupancy/event homes; and legacy options in the UDO for discussion at an upcoming Planning Board meeting.

9. Workforce Housing – the Mayor suggested that the Board take this report into consideration and come back with recommendations at a future meeting.

10. Lunch – The Board recessed for lunch at 11:55 a.m. and reconvened at 1 p.m.

11. Audit contract – the Board passed a motion to select Johnson, Mizelle, Straub & Murphy of Kitty Hawk as the Town's auditor.

12. Town Attorney Leidy – he congratulated Town Clerk Carolyn F. Morris on her 25th anniversary with the Town.

13. Town Manager – Beach Nourishment - *Proposed Municipal Service District (MSD)* – The Board passed a motion directing staff to prepare the MSD Report (includes map, statement, and plan) to include the north end of Town (to Kill Devil Hills Town line) for discussion at the Mar 4th Board meeting.

14. Town Manager – Sanitation/Recycling

- *Consideration of modification to contract with Bay Disposal dated Feb 5, 2019 re: curbside recycling* – The Board passed a motion to continue the contract with Bay Disposal authorizing them to divert the recyclable materials to be incinerated until the end of this fiscal year.

Consideration of changes to winter sanitation/recycling schedule - It was Board consensus to make no changes to the recycling schedule at this time.

Consideration of ordinance to rescind Town Code Sec. 30-6 (e) Storage and removal of trash and recycling carts - Town Manager Ogburn asked for additional time to evaluate/research the rescinding of the ordinance requiring the roll back of trash carts – for review at the Mar 4th Board meeting.

15. Comr. Renée Cahoon – Workforce Housing – she thanked staff for the work already done – she suggested to not expend any more money until additional details are known concerning how the money will be spent.

16. Comr. Brinkley – he thanked Susie Walters and Cheri Pain who spoke today expressing interest in maintaining the recycling program. Comr. Brinkley also thanked Al Friedman for speaking about the Special Olympics - Town Manager Ogburn said he would follow up.

17. Comr. Fuller – Staff was asked to follow-up on the issue mentioned during today’s discussion on the Outer Banks Hospital facility site plan to make sure La Fogata Restaurant has adequate parking after renting 11 spaces to the Hospital.

18. Mayor Cahoon – CIP/Budget Workshops – the schedule was approved as follows:

CIP Workshop / Continuation if needed	Mar 25 th - 9 am / Apr 8 th – 9 am
Presentation of Manager’s Recommended Budget	May 6 th - 9 am
Budget Workshop / Continuation if needed	May 13 th - 9 am / May 27 th – 9 am
Public Hearing (PH)	Jun 3 rd - 9 am
Budget Workshop (w/PH comments incorporated)	Jun 10 th - 9 am
Adoption of Budget (mid-month meeting)	Jun 17 th - 7 pm

Comr. Brinkley will not be available for the Mar 25th workshop; Comr. Renée Cahoon will not be available for the Apr 8th workshop. The Soundside Boardwalk item is to be included on a Board meeting agenda for discussion prior to being considered at the CIP Workshop.

19. Mayor Cahoon - Envisioning the future of Nags Head – Staff is to include this item under the Mayor’s agenda as a standing item for each upcoming Board meeting.

20. Mayor Cahoon – He noted that the Urgent Care Facility that is to be demolished – from today’s Outer Banks Hospital site plan discussion – was a bldg. he worked on as architect many years ago.

21. Mayor Cahoon – He shared that he would be out of town tomorrow and Friday (Feb 6-7). Mayor Pro Tem Siers will be available if needed.

22. Mayor Cahoon – He reported that next week (week of Feb 9-15) he may be in Puerto Rico assisting Emergency Management with hurricane damage inspection.

23. Adjournment - The Board recessed to a Joint Workshop with the Planning Board on Feb 18th at 9 am – The workshop will be followed by a Board mid-month mtg at 1 pm. The time was 2:11 p.m.



MEMORANDUM

Town of Nags Head

Planning & Development Department

To: Planning Board
From: Kelly Wyatt, Deputy Director of Planning & Development
Michael Zehner, Director of Planning & Development
Date: February 14, 2020
Subject: Discussion of Event Home Regulations

Following the Planning Board's January 21, 2020 discussion on large occupancy/event homes, Planning Staff provided the Board of Commissioners with a brief memo and update at their February 5, 2020 meeting requesting guidance on how to proceed. The Board of Commissioners noted that event homes had been a discussion at their most recent retreat and that public safety, noise, and off-site impacts, such as parking, were the primary concerns noted with regard to large events being held within single-family residential dwellings.

It was the consensus of the Board of Commissioners that the Planning Board and Staff continue to move forward with discussion on the regulation of such events. Additionally, the Board of Commissioners noted that large occupancy homes are a concern of many municipalities within Dare County and recommended that Staff work jointly with the other towns to consider how best to regulate occupancy. Specifically, regulations that the Town of Kill Devil Hills has discussed related to sprinkler protection, increased buffering, and vehicle stacking within the drive aisle were of interest. Staff would submit that these two items might best be handled separately, as the Board can currently proceed with developing regulations related to events; however, the consideration of additional restrictions on large occupancy homes requires additional time and coordination.

With regard to the regulation of events being held within single-family dwellings within the Town, staff would recommend consideration be given to developing criteria similar to that of the Town of Duck's "Wedding Event Registration Policy". You can review this information here: <https://www.townofduck.com/getting-married-in-duck/> and a copy of the *Wedding Related Event Registration* is attached. In short, if a wedding-related event in the Town of Duck involves more than 50 people you are required to complete a registration form and return it to the Town within 30 days in advance of the event. The form is circulated to neighborhood associations, the property manager or owner of the proposed venue, and the Town of Duck Police and Fire Departments in order to ensure that they are aware of the event plans and also so that they contact can be made prior to or during the event should it be necessary. As part of the registration process, applicants are provided the Towns regulations for signage, noise and trash removal. Additionally, applicants must demonstrate that sufficient onsite parking is provided for the event. If unable to do so any need for the use of off-site parking must be accompanied by the proper permissions to utilize that parking facility.

Staff would recommend that consideration be given to requiring this registration when any proposed event is intended to attract 50 or more attendees at any single-family residential dwelling within the Town, not simply wedding-related events. Additionally, instead of adopting a policy, Staff would recommend that this be considered as amendment to the Town Code, likely within Chapter 4, *Amusements, Entertainments, Mass Gatherings and Commercial-Outdoor Recreational Uses*.

Planning staff will be available for additional discussion with the intention to bring forward a draft amendment to the Town Code for consideration at the Planning Board's March 17, 2020 meeting.



Town of Duck
Wedding-Related Event Registration Policy

The qualities that make Duck a great place to live and vacation also make it an attractive location for weddings and special events. Large, well-appointed rental homes can be an ideal venue for large parties. It is important to remember that these homes are located in residential neighborhoods and these events, if not properly managed, can disrupt the quality of life for neighbors and other members of the community. The Town of Duck's economy is tourism based, and it is the position of the Town to encourage and facilitate properly planned events that are cognizant of residents, businesses, and other visitors. For this reason, Duck is asking event planners to fill out the attached form which documents the measures that will be taken to reduce event related impacts such as noise, parking, signage, and trash removal.

If you are planning a wedding-related event in the Town which involves more than 50 people, please fill out the attached form and return it to the Town of Duck Town Hall 30 days in advance of the event. This form will be circulated to neighborhood associations, the property manager or owner of the proposed venue, and the Town of Duck Police and Fire Departments in order to ensure that they are aware of your event plans and also so that they can contact you prior to or during the event, should this be necessary.

The Town of Duck's regulations for signage, noise, and trash removal can be found on the Town's website at www.townofduck.com and are referenced on the registration form. Please note that these regulations remain in effect at all times and failure to comply with Town regulations could result in penalties or fines as well as the possibility of event disruption or termination. Also, please note that the Duck Police Department will be routinely monitoring conditions during the course of the event, specifically to preempt issues related to noise and parking.

For more information or questions regarding the Wedding-Related Event policy, please call the Department of Community Development at (252) 255-1234 or visit the Town's website at: www.townofduck.com/planningzoning.htm.



WEDDING-RELATED EVENT REGISTRATION

Registration submission required 30 days in advance of an event.

Submission Date: _____

PLEASE DO NOT LEAVE ANY BLANKS (Mark N/A as appropriate & use additional sheets if necessary).

A. Contact and Event Information:

Date(s) of Event #1: _____ Time(s) of Event: _____

Event #2: _____

Event #3: _____

(Events may include wedding ceremony, reception, rehearsal dinners, brunch, etc.)

Event(s) will be held on private property at the following location/address:

Registrant Name (s): _____

Email (please print clearly): _____

Home Phone: _____ Cell Phone: _____

Address: _____

Name, cell phone & email of responsible party or wedding planner on-site & available on the day of the event: _____

(Note that the responsible party should be someone who is readily accessible with this cell phone on his or her person during the event in case the Town should need to make contact regarding noise, trash, parking, or similar issues)

Number of participants expected: _____

Neighborhood Association Name/Contact/Phone: _____

Property Management/Realty Firm Name/Contact/Phone: _____

Rental Property Name and Rental House Number: _____; Or,
Property Owner Name/Address/Phone if property is not in a rental program:

B. Parking/Traffic Flow:

Cars may not be parked on the side of the road in Duck. If you plan to use an off-site location for private parking, please demonstrate that you have sufficient permission to use this facility. Please describe your parking plan (i.e. use of shuttle buses, person to direct traffic, use of other parking facilities, etc.): _____

C. Sound/Noise:

Please note that Duck has a noise ordinance that is in effect at all times.

What kind of sound system/amplification/music will be used?

DJ Band House Sound System Other (please describe): _____

What will be the hours of operation for the sound system? _____

Will the sound system be located outside of the building? Yes No

D. Trash Collection/Removal:

Trash Collection is curbside on Monday and Friday from May 1st to September 30th. The remainder of the year trash collection is on Mondays. Recycling is curbside on Mondays. Please describe your plan to remove overflow trash from your event (i.e. obtain extra trash receptacles, to be handled by rental company etc.): _____

E. Signage and Decorations

Signs, balloons, streamers and similar items are not permitted within the rights of way along NC12 and side streets. Please limit decorations (no more than three days duration) to the property where the event is being held and note that the property line is generally 15 feet or more back from the paved portion of the right of way.

Please describe what signage/decorations you are proposing to use for your event: _____

With the signature below, the registrant indicates that (s)he has read and understands the Town of Duck Registration Policy for Wedding-Related Events and will comply with this Policy.

You are strongly urged to obtain approval from the appropriate homeowner association before your event(s). Failure to do so could result in legal action by the applicable homeowner association to enforce their covenants. Your signature on this application indicates that you understand that the Town of Duck does not enforce or consider the effect of neighborhood covenants when reviewing wedding related event registration applications.

Registrant Signature

Date

The Town of Duck will distribute this information to:

Town Manager
Chief of Police
Fire Chief

Property Owner or Manager
Neighborhood Association
Property Owner or Manager of Off-Site
Parking Facility (if applicable)

If you have any questions regarding event registration or this form, please contact the Director of Community Development via email at info@townofduck.com or by phone at 252-255-1234.

Please submit this form at least thirty days in advance of the event via email to the address above, via fax at 252-255-1236, or via mail to:

ATTN: Wedding Event Registration
Town of Duck
P.O. Box 8369
Duck, NC 27949

The Town will send an acknowledgement email or letter so that you know the registration form has been received.

Please Accept Our Best Wishes for a Beautiful and Safe Wedding Event!



MEMORANDUM

Town of Nags Head

Planning & Development Department

To: Planning Board

From: Michael Zehner, Director of Planning & Development
Kelly Wyatt, Deputy Director of Planning & Development

Date: February 14, 2020

Subject: Discussion of Legacy Establishments/Structures

OVERVIEW

As noted in my Director's Report memo to the Board of Commissioners and Planning Board, dated January 30, 2019, given recent expressed interest in the future of the Blue Heron Motel at 6811 S. Virginia Dare Trail and the limitations imposed by Town Code requirements on the evolution of the current hotel use of the property, Staff intends to begin considering Code amendments that advance Comprehensive Plan policies valuing the preservation of legacy business, establishments, and structures. Staff anticipates that discussion at the Planning Board's February 18, 2020 meeting will be an initial discussion of options.

POLICY CONSIDERATIONS

- One of the Town's principal goals, as established in the Comprehensive Plan, is to "Plan for orderly and sustainable growth and redevelopment," and an identified objective to attain this goal is the "Preservation and maintenance of legacy commercial businesses.
- As used in the Comprehensive Plan, at least within the context of *Character Areas*, legacy establishments, structures, or locations are those which "contribute to the overall sense of place or tell the story of Nags Head's past. These establishments, structures, or locations often remind you of the past and are nostalgic."
- Legacy establishments are particularly noted as adding to the character of the Whalebone Junction Character Area, and specifically the Whalebone Junction Core, where it is noted that "flexibility should be given to legacy type establishments for renovations as a way to retain the character of area while allowing the establishment to remain viable in the market."
- Legacy businesses are also referenced with respect to the Corridors Character Area, and specifically for the NC 12 and SR 1243 corridors, where it is noted that one of the future desires is to "provide flexibility for existing legacy businesses to renovate to help keep the character of Beach Road."

- The Land Use Element of the Comprehensive Plan, and the discussion of Incentives/Design Flexibility with respect to Site Development Characteristics, provides an overview of the issue and general solution, as follows:

The town has taken recent steps to preserve older legacy businesses and encourage the retention of these structures. There has been a regulatory shift with regards to nonconforming properties (properties which met zoning regulations at the time they were developed but are not consistent with regularity changes that have occurred). Essentially, non-conformity regulations have been modified to allow continued improvements to these older properties. The regulations are primarily designed to restrict additional development of unwanted land uses. The town's position is to allow continued use and improvement to nonconforming properties.

- The section on Legacy Businesses under Local Business Development, as contained within the Economic Development and Tourism Element of the Comprehensive Plan, is attached. Specific policies and actions are as follows:

EC-7 Recognize the role and importance of the look and feel of legacy development in creating the distinctive heritage, unique lifestyle, and family beach character that is central to the town's vision.

EC-7a: Develop more specific criteria for legacy businesses, based on research and data of existing legacy type buildings.

EC-7b: Inventory, research, and map businesses that fit within the legacy business criteria.

EC-7c: Develop incentives to encourage the preservation of commercial floor space.

EC-7d: Explore ways to aid in the development of cottage courts.

ISSUE AND OPTIONS

Generally, as referenced above, many legacy establishments and structures have been rendered nonconforming, either with respect to the use no longer being allowed in the zoning district in which the property is located or because of standards or requirements changing, or due to both circumstances. Nonconforming status is, by its nature, limiting; Staff would recommend that the Board review Article 5, *Nonconformities*, of the UDO https://www.nagsheadnc.gov/DocumentCenter/View/2771/Article-5_Nonconformities, and specifically Sections 5.3, *Nonconforming Structure with Conforming Use*, 5.4, *Nonconforming Site and Parking Areas*, 5.5, *Nonconforming Use of Land*, and 5.6, *Nonconforming Use of Structure*. It is helpful to consider that the general principle with respect to nonconformities is that, over time, the nonconforming uses or conditions cease, evolving to conforming uses or conditions. This effect would therefore seem to be inconsistent with the intent of the goals, objectives, policies, and actions contained in the Comprehensive Plan which support the retention of legacy establishments and structures and warrants consideration.

The conditions discussed above were the basis for the adoption of provisions in 2015 contained in Section 7.2.14 (attached) pertaining to nonconforming cottage courts. A similar approach could be taken with respect to legacy businesses and structures. Alternatively, an overlay zoning district approach could be taken, perhaps applied in a limited geographic manner and/or to properties meeting defined characteristics. Staff can expand on the pros and cons associated with these approaches at the Board's meeting.

Regardless of the approach, Staff does agree with the recommended actions of the Comprehensive Plan that it will be necessary to define and develop specific criteria as to what constitutes a legacy business or structure, and to then inventory and map properties that meet those definitions and criteria; however, Staff also believes that it is important to be proactive and take an iterative approach, developing a framework wherein applicable properties and uses can be added over time, as warranted.

STAFF RECOMMENDATION

At least for this initial discussion, Staff would suggest that it would be helpful for the Board to discuss perspectives with regard to what does and does not constitute a legacy business or structure, what are the defining characteristics, and what businesses or structures typify the term.

Attachments:

1. B. Legacy Businesses, of 3.4, *Economic Development and Tourism*, and 3.4.3, *Local Business Development*, of the Comprehensive Plan; and
2. Section 7.2.14, *Nonconforming Cottage Courts*



B. Legacy Businesses

Nags Head's vision statement places a great emphasis on the town's legacy. The vision emphasizes preserving and protecting the Nags Head character, tourism based economy, and sense of place; "We uphold our legacy by protecting and promoting our small town character that includes a sustainable local economy based on family vacation tourism, a high quality beach experience, and small, locally owned businesses."

During the community engagement portion of the plan, the Advisory Committee recognized that many of the small businesses contribute to the sense of place, quality of life, and high quality visitor experience within the town. The committee referenced these establishments as legacy businesses and described them as nostalgic or a reminder of the past. They conveyed the idea that life here was different, and helped to tell the story of Nags Head's past.

The Advisory Committee further identified that legacy businesses typically have the following characteristics:

- The architecture is varied but the overall size and scale of the building is small and blends within the surrounding neighborhood.
- The building is low scale often with only one or 1 ½ stories.
- Multiple small buildings may be located on the same property with a mix of residential and business uses. However, the Structures appear residential.
- The buildings are set in close proximity to the road.
- Parking is directly adjacent to the building or wraps the building.
- Restaurants often have walk up windows with outdoor seating.
- The area is highly walkable and businesses often have amenities such as outdoor seating and bike racks that cater to pedestrians and cyclists.
- Structures with legacy characteristics were typically constructed prior to 1980.
- Dining and retail establishments with legacy characteristics in Nags Head range on average between 3,000-5,000 square feet in size.

Further analysis and study should be completed to further define and preserve legacy businesses in the town. Additionally, this information can be used to encourage future development to construct similar to legacy type structures.

Since 2002, the town has seen a number of small, local businesses close, many along NC 12. These are being converted into residential development. The 2010 Land Use Plan recognizes this same concern but also points to businesses relocating to US 158 or going out of business due to large chain or "big box" stores. This is concerning since the Visitor's



Survey 2014-2015 indicates that 52.3% of respondents rank dining at restaurants unique to the area at 4th (out of 32) in the activities they participated in during their stay.

The town has made great strides and forward progress in the last two years working with local business owners to identify opportunities and constraints to their success and how the town can be a part of that. However, there are still policy questions related to retaining and maintaining legacy businesses in the long term that should be vetted. Preservation and upkeep of these legacy establishments is crucial in preserving the small town character that is central to the town's vision.

POLICIES & ACTIONS

- EC-5 Direct new commercial growth into neighborhood commercial nodes, activity centers, or areas currently zoned for commercial development with emphasis on reuse of existing structures.
- EC-6 Support and foster small, local businesses that preserve and uphold the vision and legacy of the town.
 - EC-6a: Continue to work with the Local Business Committee to further identify and remedy regulatory barriers for opening and operating businesses.
 - EC-6b: Develop and map an inventory of local businesses representing each sector of the town's economy.
 - EC-6c: Develop regulatory flexibility that allows existing small, local businesses to upgrade and maintain their facilities in order to remain relevant and competitive in the market.
 - EC-6d: Evaluate the impact of town processes, related to zoning and permitting, on businesses and streamline to meet the town's needs while supporting business investment.
 - EC-6e: Expand the availability of town services available on-line to better meet the needs of the businesses community.
 - EC-6f: Provide technical assistance through workshops, educational materials, or web based media to educate business owners on town processes and regulations related to owning and maintaining a business.
 - EC-6g: Develop a branded wayfinding, safety, and information signage plan to identify types and locations of signage for pedestrians, cyclists, and vehicles. Install appropriate signage. Signage should enable visitors to locate existing town parks, sound and beach access points and trailheads.



POLICIES & ACTIONS

- EC-7 Recognize the role and importance of the look and feel of legacy development in creating the distinctive heritage, unique lifestyle, and family beach character that is central to the town's vision.
 - EC-7a: Develop more specific criteria for legacy businesses, based on research and data of existing legacy type buildings.
 - EC-7b: Inventory, research, and map businesses that fit within the legacy business criteria.
 - EC-7c: Develop incentives to encourage the preservation of commercial floor space.
 - EC-7d: Explore ways to aid in the development of cottage courts.
- EC-8 Enhance economic health and increase employment opportunities through business retention and expansion.
 - EC-8a: Partner with the Outer Banks Chamber of Commerce to research and conduct discussions with local, small business owners in order to better understand factors contributing to the sale or loss of businesses.
 - EC-8b: Coordinate with the Outer Banks Chamber of Commerce to offer education and training for local, small business owners on succession planning.

7.2.9. Off-Street Parking and Loading Facilities.

Individual units shall have a minimum of two (2) parking spaces. Parking spaces for each dwelling unit shall be provided so as not to interfere with the shared accessway or with the access of emergency or service vehicles to the entire property. Shared parking areas may be utilized to accommodate the total parking requirements for the development. Parking spaces and drive aisles shall not be located closer than five (5) feet to side or rear property lines. Parking spaces shall not be located with direct access from the right-of-way.

7.2.10. Refuse and Recycling.

Cottage courts shall provide a suitable location for a dumpster as determined by the UDO Administrator. Dumpster areas shall be appropriately screened and shall not be located in the required front yard of the property.

7.2.11. Pools.

Cottage courts may have one community pool serving all of the units on the property. Individual units may not have pools.

7.2.12. Utility Meters.

Utility meters of any type for individual units are prohibited.

7.2.13. Management.

Cottage courts shall operate under a single, unified management operation which arranges for reservations and attends to guest needs. There shall be a uniform key entry system operated by management staff.

7.2.14. Nonconforming Cottage Courts.

Cottage courts which do not conform to the definition of "cottage court", contained in Appendix A Definitions, and also to the provisions of this section may continue, subject to the following provisions:

7.2.14.1. Existing individual dwelling units in a nonconforming cottage court may be replaced provided that replacement structures conform to the provisions of this section or do not increase the degree of structure or site nonconformity.

7.2.14.2. All replacement, substantially improved, and substantially damaged cottage court units shall conform with the provisions of Article 11, Part III, Flood Damage Prevention.

7.2.14.3. For the purpose of this section, structures will be considered individually when determining thresholds for repair, maintenance and destruction.

7.2.14.4. No existing individual dwelling unit in a nonconforming cottage court shall be enlarged, extended, moved or structurally altered, except as provided below:

7.2.14.4.1. For lots abutting the Atlantic Ocean or Roanoke Sound, individual dwelling units in a cottage court may be moved in cases where such structures are determined to be in imminent danger of collapse, as defined by CAMA, as a result of erosion by wind or water, provided that such movement does not increase the degree of nonconformity of

ARTICLE 7. SUPPLEMENTAL REGULATIONS

the structures in any way. When utilizing this provision, a minimum ten-foot separation shall be maintained between individual structures. All structures when moved shall adhere to the minimum setback requirements prescribed in this section.

7.2.14.4.2. Minor modifications to a nonconforming cottage court dwelling unit or cottage court site may be approved administratively by the UDO Administrator or his/her designee. Minor modifications may include the addition of detached storage sheds, not to exceed 150 square feet in area, on-grade patios, decks, porches, driveway or parking modifications, or other additions not involving an increase or expansion of the habitable area of existing cottage court dwelling units.

7.2.14.4.3. Major modifications to a nonconforming cottage court dwelling unit or cottage court site, may be approved by the Nags Head Board of Commissioners through the conditional use process as set forth in Section 3.8, Conditional Use Permits. Major modifications include any proposal which will result in a net increase in habitable area of nonconforming cottage court units.

7.2.14.4.4. All improvements must meet the dimensional requirements of the district in which they are located. When a lot coverage nonconformity exists on a cottage court site, improvements may be allowed as long as there is no net increase in overall lot coverage. All other nonconformities shall be regulated in accordance with Article 5, Nonconformities.

7.2.14.5. On any individual dwelling unit in a nonconforming cottage court, work may be done on ordinary repairs, or on repair or replacement of nonloadbearing walls, fixtures, wiring or plumbing.

7.2.14.6. If an individual dwelling unit in a nonconforming cottage court becomes dangerous to life, destroyed or unlawful due to lack of repairs or maintenance, the building inspector shall condemn the structure in accordance with G.S. 160A-426, and the structure may thereafter be restored, repaired, rebuilt or replaced in conformity with the regulations of this UDO and any other applicable federal or state regulations.

7.2.14.7. Nothing in this UDO shall prevent the strengthening or restoring to a safe condition of any individual dwelling unit in a nonconforming cottage court or part thereof declared to be dangerous to life by any official charged with protecting the public safety, or upon order of such official when he has determined that there is a clear and immediate danger to the public safety.



MEMORANDUM

Town of Nags Head

Planning & Development Department

To: Planning Board

From: Michael Zehner, Director of Planning & Development
Kelly Wyatt, Deputy Director of Planning & Development
Kate Jones, Engineering Technician

Date: February 14, 2020

Subject: Discussion of Residential Stormwater Regulations

OVERVIEW

Given the continued importance and focus on stormwater, the Board of Commissioners asked the Director of Planning & Development to attend their retreat on January 23, 2020 to discuss the Town's residential stormwater regulations; these regulations can be found in Article 11, *Environmental Regulations* (https://www.nagsheadnc.gov/DocumentCenter/View/2777/Article-11_Environmental-Regulations) of the UDO, within Part I, *Stormwater, Fill, and Runoff Management*, Section 11.5, *General Standards for Residential or Duplex Development on Individual Lots*. A copy of the PowerPoint presentation (without referenced attachments) is attached. Following the Board of Commissioners' discussion, the Board directed Staff to present the Board's perspectives and the options identified by Staff (provided under CONSIDERATIONS) to the Planning Board for review and consideration of any recommended actions,

Essentially, the regulations and ordinance requirements are triggered by the following development activities:

- The construction of new detached single-family and duplex residential properties;
- The construction of more than 500 sq. ft. of new built-upon area on properties with existing single-family and duplex residential dwellings; and
- The removal and replacement of driveways; in instances where an existing driveway and parking area not meeting the standards of this section is being removed and replaced, the new driveway and/or parking area shall be designed so as to limit the discharge of stormwater into the right-of-way or onto adjacent properties.

When triggered, a stormwater management plan meeting the standards required by the ordinance must be submitted. In general, the standards of the ordinance require stormwater control measures (SCMs) to be provided, with storage volume equal to 15 cubic feet for every 100 square feet of built-upon area. For example, 1,000 square feet of built-upon area would require SCMs with 150 cubic feet of storage volume. The regulations do provide options to reduce the calculated built-upon area, incentivizing

preferred outcomes, and thereby reducing the necessary sizing (storage volume) of SCMs.

CONSIDERATIONS

During their discussion at the retreat, the Board of Commissioners noted the following guiding principles for further review and consideration of the residential stormwater regulations:

- Can our rules acknowledge that there are different conditions – a system with flexibility?
- Retain form of landscape/minimize impact to landscape.
- Look for common sense solutions.
- Don't place unjust burden on property owner.
- Can we offer a "carrot" to go with a stick?
- Do we as a Board need to define flooding – separate between "Nuisance" and "Problem Stormwater" issues.
- Should not create additional problems.
- Should define problem we are trying to solve.

In their consideration and any recommendation to the Board of Commissioners, Staff would suggest that the Planning Board focus on whether the regulations and any potential changes address these perspectives and principles.

In their review, the Board of Commissioners also asked that the Planning Board consider the following options identified by Staff, to determine whether related actions may be necessary so that the regulations are more consistent with the aforementioned principles. The options presented by Staff to the Commissioners are in bold, Staff has expanded on each of these items for consideration and discussion by the Planning Board.

- **Improve education and availability of resources**
 - Education:
 - In the near term, publish social media and website news flashes related to the benefits of stormwater management at the lot level.
 - Publish a brochure, similar to materials for the Septic Health Initiative, can be mailed out to homeowners focusing on the benefits of stormwater management.
 - Engage with stakeholders and focused groups (Green Drinks, contractors, homeowners) on Town stormwater efforts, stormwater management, and Low-Impact Development (LID) techniques.
 - Coordinate with CSI, North Carolina Coastal Federation, and others to share resources and increase capacity.
 - LID Pilot Project: Look for opportunities on Town property to install pilot projects highlighting LID stormwater control measures; incorporate signage and coordinate public education opportunities.

- Availability of Resources:
 - Is there a way to cost share or subsidize costs of required improvements? This would require a budget allocation or grants.
 - There are existing grants that could be used, such as the Dare Soil and Water grant, which can provide \$5,000 per homeowner, but there is a cap on total funding.
 - Could the stormwater ad valorem tax be expanded to include residential stormwater management funding?
 - Consider a water bill credit for installing LID stormwater measures such as cisterns and rain barrels.
- **Enhance ordinance incentives for preferred outcomes**
 - Expand available credits to reduce built upon area.
 - Do not cap tree and open space preservation credits to a maximum of 30% reduction of built upon area; provide the option to eliminate the need for stormwater management if you have enough open space and sizable trees to retain.
 - Provide a credit for reducing site disturbance, lot clearing, or filling.
 - Offer additional credit for not filling Army Corp of Engineers wetland areas.
 - Offer an incentive for the use of native plants in the SCMs.
 - Reduce the number of required SCMs (from 3 to 2) for a built upon area credit.
- **Provide an administrative option for engineering analysis to exempt or reduce requirements**
 - This may be an option, but conditions or standards allowing for exemption would need to be identified.
 - Consideration for water quality impacts, need to be considered, not just water quantity.
- **Provide more alternatives**
 - The regulations provide a variety of options and currently allow for the approval of alternative SCMs; we should continue to defer to the State for accepted SCMs, but continue to explore new technologies.
- **Provide for administrative waiver/variance**
 - Will require conditions and circumstances that warrant waiver to be identified. Would these be soil conditions, topography, lot size, amount of disturbance?
 - Who would make this decision and what information is required to be submitted?

- **Standardize dimensions and volume of BMP's**
 - Perhaps a standard set would relate to lot size, and the lot coverage allowed by zoning.
 - May result in more predictability, but less relation to actual impacts and existing conditions.
- **Create a points-type program for BMP's and/or preferred outcomes, similar to design guidelines**
 - Needs further thought, but could be designed such that points are received for various LID components. This would open up predevelopment LID concepts for points such as siting development in lower impact portions of the site, choosing greater setbacks and smaller building footprint, retaining natural hydrological features (i.e. wetlands).
 - SCMs with greater impacts would receive more points. The BUA would determine the amount of points needed; for example, SCMs with native plants would receive more points than infiltration trenches and French drains, large cisterns would receive more points than standard rain barrels, etc.
 - Signing a maintenance agreement could also generate points.
 - May be an *overcorrection*, significantly revising a regulatory program that has been in place for only 14 months.

STAFF RECOMMENDATION

Staff recommends that the Planning Board discuss the residential stormwater regulations, identifying their own perspectives regarding the intent of the regulations and whether the regulations achieve their intended purpose, align with the Commissioners' principles, and/or require adjustment.

Attachments:

1. PowerPoint - Town of Nags Head Residential Stormwater Ordinance Discussion, Board of Commissioners Retreat, January 23, 2020

Town of Nags Head Residential Stormwater Ordinance Discussion

Board of Commissioners Retreat

January 23, 2020

Residential Stormwater Ordinance - Background

- The regulation of stormwater on residential lots became a consideration in the Fall of 2012, the result of excessive rainfall and flooding that occurred over the preceding late-Spring and Summer months.
- On January 8, 2014, the BoC adopted an update to Chapter 34, *Stormwater, Fill and Runoff Management*, of the Town Code (*Attachment A*) which codified a stormwater plan requirement for single-family and duplex development triggered by fill and/or grading activities; adoption of this ordinance was preceded by the work of a stormwater subcommittee and coordination with the Planning Board and BoC (*Attachment B and Attachment C*)
- Between 2014 and the end of 2018, there was continued discussion and consideration of stormwater and the Residential Stormwater Ordinance; on December 5, 2018, the BoC adopted amendments to Chapter 34 (*Attachment D*) intended to simplify the requirements and plan approval process (*Attachment E*).
- Within 2019, Staff continued to work with representative of the Outer Banks Home Builders on fill requirements (*Attachment F*); Staff committed to proposing amendments to fill requirements in conjunction with adoption of an updated Flood Prevention Ordinance. Chapter 34 was codified as Part I of Article 11, Environmental Regulations, of the UDO (*Attachment G*); the complimentary Recommended Standard Details Manual may be accessed here: <https://www.nagsheadnc.gov/938/Recommended-Standard-Details-Manual--Sto>

Residential Stormwater Ordinance - Purpose & Intent; Policy Goals

- As provided in the UDO, the purpose and intent of the overall *Stormwater, Fill and Runoff Management* Ordinance is to proactively protect, maintain and enhance the public health, safety, environment and general welfare by establishing requirements and procedures to control the adverse effects of fill, land disturbance and increased post-development stormwater runoff for the purposes of both water quantity management for flood prevention and water quality protection with the goals to:
 - Control and minimize impacts associated with stormwater runoff from all development and redevelopment.
 - Mitigate current stormwater problems and prevent future problems associated with stormwater runoff.
 - Preserve water quality through proactive management practices.
 - Facilitate public understanding of stormwater management.
 - Encourage the use of pilings and open foundations and minimize the use of fill, consistent with FEMA's coastal construction recommendations.
 - Improve stormwater management through use of low impact development techniques.
 - Establish requirements for on-going management and maintenance of stormwater management practices.
 - Establish application and enforcement procedures that address land disturbance, sedimentation and erosion control, the use of fill, and stormwater management practices consistent with associated Town ordinances and state and federal laws and regulations, to include:
 - Soil erosion and sedimentation control provisions (Article 11, Part II);
 - Excavations (Chapter 18 of the Town Code of Ordinances);
 - Flood damage prevention provisions (Article 11, Part III);
 - NCDEQ stormwater management (NCAC T15: 02H .1000);
 - NCDEQ soil erosion and sedimentation control (G.S. 113A-50 - 113A-71);
 - NCDEQ and Dare County Health Department subsurface, ground-absorption wastewater effluent disposal (NCAC T15A: 18A. 1900).
 - Establish public awareness of potential surface and subsurface water drainage problems recognizing that development potential of some land may be limited.
 - Regulate development and redevelopment which may create additional stormwater related burdens to the Town or adjacent properties.
 - Cause every development and redevelopment employing stormwater management practices to develop a maintenance plan, and place responsibility for maintenance with the property owners.

Residential Stormwater Ordinance - Purpose & Intent; Policy Goals

- As established in the adoption ordinance for the 2018 Ordinance amendments, the basis for the adoption of the amendments were that:
 - the Town acknowledges that stormwater poses a threat to the public health, safety, and welfare;
 - the Town has experienced significant localized flooding during heavy and/or frequent rain events that in many cases can be attributed to stormwater and;
 - it is the Town's intent to preserve residential neighborhoods and to support local businesses;
 - the Town finds that the improper use of fill and lack of maintenance of stormwater management practices contributes to stormwater run-off;
 - the 2017 Comprehensive Plan states that the Town will "Ensure that stormwater runoff is properly managed to reduce nuisance flooding and pollution of sensitive environmental areas (p. 205)";
 - the Town finds that to protect coastal waters we should limit non-point source pollution attributed to run-off from impervious surfaces such as parking lots and roof tops;
 - the Town finds that as more lots are developed and the built upon area is increased throughout Nags Head, stormwater collection and conveyance systems within the public rights-of-way are being overburdened and must be supplemented with additional management practices on private property;
 - the Town manages resources to protect the public infrastructure, quality of life, environment, and property of the citizens of Nags Head through fair and equitable, cost effective means, and the Stormwater Ordinance seeks to improve, enhance, and protect the quality of life for the citizens of Nags Head;

Residential Stormwater Ordinance - Purpose & Intent; Policy Goals

- The Town's Comprehensive Plan includes the following policies and actions related to stormwater:
 - LU-14b: [Review] Existing lot coverage incentives for providing engineered stormwater management.
 - MS-15: Ensure that stormwater runoff is properly managed to reduce nuisance flooding and pollution of sensitive environmental areas.
 - MS-17b: Seek additional funding opportunities from local, state and federal agencies to assist with future stormwater planning and construction efforts.
 - MS-18: Educate and involve the public in stormwater management.

Residential Stormwater Ordinance - Continued and Additional Considerations

- As noted on Slide 2, since adoption of the amendments in Dec. 2018, Staff continued to work with representative of the Outer Banks Home Builders on fill requirements; Staff committed to proposing amendments to fill requirements in conjunction with adoption of an updated Flood Prevention Ordinance. As noted in *Attachment G*, there was not consensus on all issues between Staff and the Home Builders; Staff did receive feedback from the BoC at their September 2019 Retreat that will inform the forthcoming draft amendments associated with fill and the Flood Prevention Ordinance.
- Since January 2019, there have been 25 stormwater plans submitted for residential projects (6 for pool projects); of those, 3 were prepared by a licensed engineer, compared with 8 of 8 projects active at that time under the previous iteration of the ordinance having been prepared by a licensed engineer (3 of those 8 were subsequently redesigned under the new ordinance).

Residential Stormwater Ordinance - Continued and Additional Considerations

- Options to consider:
 - Repeal the residential stormwater requirements;
 - Improve education and availability of resources;
 - Enhance ordinance incentives for preferred outcomes;
 - Provide an administrative option for engineering analysis to exempt or reduce requirements;
 - Provide more alternatives;
 - Provide for administrative waiver/variance;
 - Standardize dimensions and volume of BMP's;
 - Create a points-type program for BMP's and/or preferred outcomes, similar to design guidelines;
 - Other options?



MEMORANDUM

Town of Nags Head

Planning & Development Department

To: Planning Board
From: Michael Zehner, Director of Planning & Development
Date: February 17, 2020
Subject: Discussion of FY20-21 Planning & Land Use Work Plan

In discussions with members of the Planning Board at their recent retreat, the Board of Commissioners encouraged the Planning Board and Staff to work jointly on the development of a Work Plan for the next fiscal year, in conjunction with the development of the budget, to establish priorities relating to planning and land use; in short, this Work Plan would be a collection of prioritized actions and activities serving as a strategic plan to implement various initiatives and plans.

For the Board's consideration:

- **Plan Implementation:** Staff would suggest that activities included in the Work Plan focus on implementing the following four (4) plans; implementation matrixes from each are attached:
 - *Town of Nags Head Comprehensive Plan*, July 5, 2017 [LINK](#)
 - *Vulnerability, Consequences, Adaptation, Planning Scenarios (VCAPS) Report*, August 2017 [LINK](#)
 - *Town of Nags Head Parks and Recreation Plan*, January 25, 2012 [LINK](#)
 - *Nags Head Pedestrian Plan*, July 16, 2014 [LINK](#)

Additional consideration should be given to activities contained in the Town's *Decentralized Wastewater Management Plan* (2005) and *Hazard Mitigation Plan* (2015); however, an updated Hazard Mitigation Plan is expected to be presented for adoption in June/July 2020 and the update of the *Decentralized Wastewater Management Plan* is an active project, expected to be initiated in the current fiscal year.

- **Vision & Goals:** As noted, the Work Plan should serve as a strategic plan to implement various initiatives and plans, but activities in the Work Plan should also work towards the achieving the accepted vision and goals for the Town. The following are the vision and goals established within the Comprehensive Plan:

VISION

The Town of Nags Head is a unique coastal community built upon a legacy rooted in shared values, including our most recognized common bond – a love for the Outer Banks. We recognize that the town must be a good place to live before it can be a good place to visit. We strive to preserve and protect the Nags Head character, environment, tourism

based economy, and sense of place in order to ensure a high quality of life for residents and a memorable family vacation experience for present and future generations.

We uphold our legacy by protecting and promoting our small town character that includes a sustainable local economy based on family vacation tourism, a high quality beach experience, and small, locally owned businesses. Fundamental to our legacy and quality of life are preserving the historic architecture and culture that distinguishes our town; providing residents and visitors with excellent public services and well-maintained recreational amenities; and ensuring access to a well-protected natural coastal environment.

Our legacy will be strengthened and preserved by a focused, transparent decision making process that is comprehensive and consistent with the community's vision. In order to maintain that focus, our decisions are directed by the five goals described below.

GOALS

1. *Preserve our community's distinctive heritage and unique lifestyle*
 - a. *A relaxed-paced, family beach community comprised primarily of low-density development and open spaces.*
 - b. *A healthy, well-maintained oceanfront beach that is visually and physically accessible and usable; not blocked by large structures.*
 - c. *An environment that reflects the heritage of "Old Nags Head" with unique and eclectic architectural styles, scenic views, and coastal landscapes.*
2. *Protect our critical natural resources and coastal ecosystem*
 - a. *Build and promote a sustainable economy that supports residents and visitors.*
 - b. *A natural environment typified by clean water and a coastal barrier landscape with noninvasive, salt tolerant vegetation.*
 - c. *Ocean and estuarine shorelines that are carefully managed to preserve the natural and beneficial functions of the environment while balancing the need to respect private property rights and public access.*
 - d. *Plan for the future impacts of sea level rise; ensuring proper policies, plans, and practices for stormwater and wastewater management are in place to sustain the natural environment and maintain a viable family, tourism-based economy.*
3. *Build and promote a sustainable economy that supports residents and Visitors*

- a. *A diverse supply of housing, including single-family homes and multi-family dwelling units, that meet the needs of residents in all phases of life and for varying income levels.*
- b. *A diverse supply of visitor accommodations, including single-family homes, hotels, cottage courts, and multi-family dwelling units for visitors who desire both short-term and long-term stays.*
- c. *A thriving local business community that offers a wide range of goods and services available to residents and visitors.*
- d. *A premier family beach destination on the Outer Banks, providing an enjoyable and memorable experience.*

4. *Plan for orderly and sustainable growth and redevelopment*

- a. *A well-organized and compatible pattern of land development and redevelopment through proactive land use and transportation policies.*
- b. *Development that is designed to reduce private property damage and loss of life from major storm events and natural hazards.*
- c. *Safe connectivity and accessibility between neighborhoods, businesses, and recreational opportunities for a variety of travel modes, lessening traffic congestion, and enabling an active and healthy lifestyle for residents and visitors.*
- d. *A place with active and passive recreational opportunities that serve all ages and abilities, creating opportunities for community interaction and healthy living.*
- e. *Preservation and maintenance of legacy commercial businesses.*

5. *Maintain a well-run and efficient government that provides high quality and cost effective services*

- a. *Develop, fund, and prioritize the Capital Improvement Plan annually to provide for the infrastructure, equipment, and facility needs of the community.*
- b. *Provide the highest quality public safety services possible, and routinely review the public safety needs of the community to ensure that resources are available to meet these needs.*
- c. *Provide friendly and accommodating customer service.*
- d. *Communicate town information to residents and visitors through a variety of media that demonstrates the results of measurable goals and objectives.*
- e. *Advocate for the provision of high quality, responsive services, legislation, resources, and policies from government partners and other organizations that further the vision of the Town of Nags Head.*

- **Key Concerns & Guiding Themes:** In the process to develop the Comprehensive Plan, both *Key Concerns* and *Guiding Themes* were identified. These are referenced below, and further expanded upon the Comprehensive Plan.

Key Concerns			
Embracing the Town's Vision	Sustaining the Beach Road's Commercial Character	Diversifying Housing Options	Educating Residents on Regulatory Realities
Preserving Commercial Character	Connecting Key Town Destinations	Adapting to Sea Level Rise	

Guiding Themes		
Architectural Integrity	Beach Road vs Bypass	Protecting Conversion of Commercial Property to Residential
Shopping Centers and Large Format Development	Character Areas	Oceanfront
Preservation of Existing Business	Greater Diversity in Housing and Accommodations	Connectivity
Healthy Small, Local Business Economy	Arts and Cultural Resources	Environmental Quality

- **Work Plan Categories:** For the purpose of the Work Plan, and intended to highlight as well as focus the implementation of specific plans, the Vision, Goals, Key Concerns, and Guiding Themes, Staff is suggesting that Work Plan activities be categorized in at least one of five categories, as follows:
 - Community Character
 - Sustainability & Resiliency
 - Economic & Cultural Development
 - Hazard & Emergency Planning
 - Responsive & Transparent Government

It is likely that many activities will qualify for more than one category. Staff will expand on the criteria for each category within the Work Plan

- **Planning Board Review:** Staff would recommend that the Planning Board review the information outlined above, and specifically the attached implementation matrixes from the four (4) plans, and suggest any focus or priority activities for the Work Plan. At the Board's meeting Staff will be prepared to discuss ongoing projects, tentatively identified priorities, and timeline and resource limitations.



4.5. POLICY AND ACTIONS MATRIX

Table 4.3.1 Policy and Action Matrix

Land Use	
Policy #	Policy
Action #	Action
LU-1	<p>Ensure that the character of Nags Head is preserved as a single-family residential beach community with ties to its natural environment. This character is defined by:</p> <ul style="list-style-type: none"> ▪ Development that blends with the landscape, preserving natural vegetation, dunes, open spaces, and environmental quality. ▪ A visible and dark night sky maintained by lighting that is minimal and carefully designed. ▪ Views from the ocean beach of dunes and vegetation and structures that are low in height, blend with the landscape, and don't shade the beach. ▪ Buildings with a residential scale and appearance with low heights and small footprints that are designed to reflect the heritage of Nags Head. ▪ Commercial development that serves the needs of residents and visitors but respects the goals of the community related to design and appearance. ▪ Land uses that are compatible with the community and with adjacent properties that don't create excessive noise, light, unsafe conditions, or other nuisances. ▪ A land use pattern that preserves residential neighborhoods and establishes walkable nodes of commercial development that attract patrons and strengthen business opportunity. ▪ Signage that provides adequate communication but does not dominate the landscape. ▪ Development of low density and intensity served primarily with on-site wastewater systems
LU-2	Develop separate zoning districts and regulations that recognize the appropriate scale and pattern of development for the US 158 and NC 12 corridors.
LU-2a	Conduct an inventory of buildings sizes and types for commercial areas and use this information to define desired development characteristics and regulations for each corridor. This should include a review of site development regulations, with particular focus on Beach Road activity centers, to ensure that buildings



Table 4.3.I Policy and Action Matrix

Land Use	
Policy #	Policy
Action #	Action
	address the street and relate to the pedestrian environment.
LU-2b	Develop pedestrian facilities in defined activity centers on the west side of NC 12 to connect businesses and create a walkable environment.
LU-2c	Focus on activating the front of commercial structures along the NC 12 corridor with uses that blend the private sphere of the business with the public sphere of the sidewalk and street. This can be accomplished through outdoor seating or dining.
LU-3	Recognize a low-density pattern of development for the oceanfront that is characterized by small scale, adaptable structures.
LU-3a	Develop incentives or regulations that limit individual building sizes to 5,000 square feet and 35 feet in height for new oceanfront development. Any new town regulations should not preclude existing structures greater than 5,000 square feet from making improvements, renovations, or repairs.
LU-3b	Regulate accessory structures in the active, oceanfront environment where frequent damage occurs to protect private property and limit storm damage and debris. This may include additional regulations applicable to oceanfront pools, dune decks, walkovers, and gazebos.
LU3-c	Maintain current regulations regarding free of obstruction and the prohibition of ground floor enclosures along the oceanfront.
LU-4	Encourage a balance of land uses along the Beach Road characterized by a diversity of accommodations and small, neighborhood serving businesses.
LU-4a	Direct commercial development to activity centers or nodes through incentives or modifications to zoning regulations consistent with the development plans described in Section 2.



Table 4.3.1 Policy and Action Matrix

Land Use	
Policy #	Policy
Action #	Action
LU-4b	Explore incentives and develop regulations to encourage pedestrian friendly, human scale development along the Beach Road.
LU-4c	Explore ways to create cohesiveness in commercial activity centers by limiting certain types of residential uses (single-family) or allowing single-family or residential uses only as accessory to commercial uses. This could include utilizing vertical or horizontal mixed use or detached accessory residential structures
LU-4d	Identify existing cohesive residential areas that are currently zoned commercial and consider rezoning to residential to preserve their integrity and limit future land use compatibility issues.
LU-4e	Develop regulations that prevent incompatible commercial development adjacent to areas with historical designations or significance.
LU-5	Promote contiguous and cohesive nodes of commercial development of appropriate size and massing for the surrounding area.
LU-5a	Conduct a study to inventory existing commercial buildings along each corridor or character area in order to determine the appropriate size/massing and scale of structures in these areas.
LU-5b	Establish regulations to define maximum sizes and/or address the scale and massing of new commercial buildings based on the study of building sizes/types for each corridor or character area. These regulations should address the desired scale and massing for both the US 158 and NC 12 corridors. Careful consideration should be given to this approach as there may be competing goals, such as future hotel development, which may need special attention when addressing this issue. The town should consider whether the C-1 or C-4 zoning classifications should replace the current C-2 zoning classification in certain areas such as along NC 12 where smaller building sizes may be more appropriate.
LU-6	Limit destruction and clearing of the maritime forest in Nags Head Woods to maximum extent



Table 4.3.1 Policy and Action Matrix

Land Use	
Policy #	Policy
Action #	Action
	possible, allowing only the minimum clearing and land disturbance necessary to make reasonable use of property.
LU-6a	Maintain and enforce regulations for the continued protection of the Nags Head Woods ecosystem.
LU-6b	Evaluate allowed land uses in the SED-80 and SPD-20 zoning districts and determine if the listed uses are compatible with the goals and objectives of preserving Nags Head Woods and the surrounding area. In particular, the SED-80 district includes a provision for cluster housing which allows more than one dwelling unit on a lot. The town has been previously concerned about the overall compatibility of this type of use in the SED-80 district. The town should pay close attention to this when conducting its review of appropriate land uses.
LU-7	Review regulations in the Ocean and Sound Waters Overlay District and the Commercial Outdoor Recreation Overlay District to ensure proper use of the ocean and sound waters, including islands that adjoin the town, to ensure the continued scenic, conservation and recreational value that these waters provide to the town, its residents, visitors and the surrounding area.
LU-7a	Review regulations for commercial boating and personal watercraft to maintain compatibility with adjacent uses and the estuarine environment.
LU-8	Ensure proposals for future commercial uses in the sound are not detrimental to the marsh, sound bottom, and submerged aquatic vegetation. Compatible sound uses will not increase turbidity in the water and will maintain overall water quality. The town will not support upland excavations for the development of canals or uses that will destroy significant areas of wetlands or marsh.
LU-9	Encourage land uses that serve the needs of both year-round and seasonal residents in support of the town's overall vision for the community.



Table 4.3.1 Policy and Action Matrix

Land Use	
Policy #	Policy
Action #	Action
LU-9a	Evaluate land uses specified in each zoning district and further clarify which uses are appropriate based on the intent of each district, their overall compatibility with current land uses, and desired future development patterns.
LU-9b	Evaluate all current commercial zoning districts, based on this plan and the future land use map, to determine if they are functioning as envisioned and make necessary modifications. This should include review of the existing C-2 district and determination if the C-1 and C-4 districts would be better suited than the current C-2 zoning along NC 12, between the highways, and along US 158 (excluding major shopping center developments).
LU-10	Discourage high intensity land uses that produce significant noise, light, heavy vehicle traffic, noxious fumes or poor air quality, are unsightly, encourage unsafe behavior, or require large amounts of land for heavy industrial uses, processing, or storage of materials or equipment.
LU-10a	Evaluate land uses specified in each zoning district and further clarify which uses are appropriate based on the intent of each district, their overall compatibility with current land uses, and desired future development patterns.
LU-10b	Maintain the current boundaries of the C-3 district and do not expand these uses to other parts of the town.
LU-11	Support mixed use development or accessory residential dwellings that combine commercial and residential uses along NC 12 and in designated commercial activity centers located between US 158 and NC 12.
LU-11a	Create incentives and zoning tools to encourage mixed residential and commercial development at appropriate locations including activity centers (both vertical, horizontal and detached mixed use) which



Table 4.3.I Policy and Action Matrix

Land Use	
Policy #	Policy
Action #	Action
	would enhance the opportunity for locally owned and neighborhood serving businesses.
LU-11b	Promote and infill mixed use commercial development in designated activity centers using available zoning, incentives, and regulatory tools.
LU-11c	Ensure new mixed use development provides opportunities for healthy and active lifestyles by requiring bicycle and pedestrian circulation/parking, sidewalks, and pedestrian plazas and/or seating areas.
LU-12	Utilize on-site wastewater systems as the preferred method of wastewater treatment as long as they remain viable to effectively treat effluent and protect water quality.
LU-13	Maintain the overall regulatory scheme for residential and commercial zoning districts as a means to avoid overall increases in development intensity or density.
LU-13a	Consider incentives that would encourage infill development in commercial activity centers and nodes in accordance with the character area development plans outlined in Section 2. Incentives could include increases in density or lot coverage or additional site design flexibility.
LU-14	Limit the scale and mass of single family residential dwellings to support the town’s vision for low density and intensity residential neighborhoods.
LU-14a	Maintain current regulations that control maximum house size based on lot size.
LU-14b	Review the town’s development standards to address proportionality of residential structures to lot size and to address the overall character of residential development. At a minimum, this review should examine: <ul style="list-style-type: none"> ▪ Building height requirements as they relate to setbacks. ▪ Alternative approaches to the current building to lot size ratio (i.e. floor area ratio or consideration



Table 4.3.I Policy and Action Matrix

Land Use	
Policy #	Policy
Action #	Action
	<p>of lot width as a factor in limiting building sizes).</p> <ul style="list-style-type: none"> ▪ Overall approaches to regulating height. ▪ Current standards for regulating the length-to-width ratio of buildings. ▪ Factoring decking and/or porches and other unheated spaces in the building to lot size ratio and/or the building length-to-width ratio. ▪ Existing lot coverage incentives for providing engineered stormwater management. ▪ Methods to discourage monotony in building design, particularly for residential dwellings.
LU-15	Promote architectural standards for commercial development in keeping with the Nags Head style architecture.
	<p>LU-15a Examine buildings constructed since the architectural requirements were established and determine if the regulations have created the desired scale and appearance for commercial development. Identify examples of favorable design projects and determine how the regulations or guidelines should be modified to achieve this.</p>
	<p>LU-15b Consider evaluating other regulatory approaches for commercial architectural design. An alternative approach could involve utilizing design guidelines and a discretionary (board) review process to provide some flexibility to the design of commercial buildings. The town should consider creating a pre-application or pre-design review process to help applicants understand what is expected in terms of site and building design.</p>
	<p>LU-15c Encourage creativity in the design of smaller commercial buildings to accommodate the historically varied and eclectic architectural styles within the town. The town may consider exemptions from the architectural requirements for buildings below a certain size and/or height to accommodate this.</p>
LU-16	Preserve the dark night sky through implementation and enforcement of quality lighting fixtures and



Table 4.3.I Policy and Action Matrix

Land Use	
Policy #	Policy
Action #	Action
	codes, dark sky education, and citizen support.
LU-16a	Evaluate and modernize the lighting ordinance to reflect best practices for being a dark sky community.
LU-16b	Research and consider applying to the IDA for the Dark Sky designation.
LU-16c	Explore the feasibility of minimum regulations for residential properties that limit nuisance lighting to adjacent properties or town rights-of-way associated with glare or light trespass.
LU-16d	Explore efficient low-level lighting along multi-use pathways and at crosswalks to promote safety while preserving the night sky. The town should resist proposals to provide overhead lighting along roadway corridors.
LU-17	Maintain current regulations which prohibit lighting of the ocean beach or estuarine waters to protect marine species and limit unnecessary intrusions into natural areas.
LU-18	Encourage signage that is designed to serve the needs of residents and visitors but respects the goals of the community related to design and appearance.
LU-18a	Develop appropriate freestanding sign standards based on the desired character of each area, particularly along roadway corridors.
LU-18b	Ensure that future revisions to signage regulations remain content neutral.
LU-19	Support signage that provides adequate communication but does not dominate the landscape. The town will not permit signs or attention getting devices that flash, spin, rotate, blink, or are digital. Signs shall not be directed to or face the ocean beach or sound waters.



Table 4.3.1 Policy and Action Matrix

Land Use	
Policy #	Policy
Action #	Action
LU-20	Protect and preserve existing vegetation until necessary for development. Avoid clearing lots prior to the actual preparation of sites for development.
LU-20a	Develop and conduct educational efforts for property owners, landscapers, and the development community on the importance of preserving the unique coastal vegetative landscape.
LU-20b	Evaluate the effectiveness of vegetation preservation ordinances in order to improve their overall success.
LU-21	Protect and preserve mature vegetation where possible on development sites rather than removing vegetation and replanting.
LU-21a	Strengthen existing regulations or develop incentives that work to preserve mature vegetation and prioritize retention of existing vegetation over replanting. Seek to limit removal of mature vegetation outside of required development footprint areas.
LU-22	Improve the overall success and survivability of landscape plantings through careful selection of vegetation that will withstand the anticipated exposure to wind and salt.
LU-22a	Amend town ordinances to provide examples of appropriate and compliant landscaping plans in order to assist with the overall success and survivability of required landscaping and buffering.
LU-23	Require sufficient parking for commercial businesses with parking area design regulations that limit impacts on neighbors and surrounding land uses.
LU-23a	Explore incentives or regulations that encourage bike and pedestrian infrastructure to be incorporated into site design.



Table 4.3.I Policy and Action Matrix

Land Use	
Policy #	Policy
Action #	Action
LU-23b	Monitor the use of parking and utilize this information to evaluate changes in parking standards.
LU-23c	Establish maximum limits on the number of parking spaces for each land use.
LU-24	Support land use compatibility and business development through flexibility in the application of design standards that achieves project goals and preserves the overall spirit and intent of the town's ordinances and land use goals.
LU-24a	Explore methods to allow greater flexibility in the application of design standards that achieves project goals without compromising the spirit and intent of the town's ordinances. This may include administrative sign offs, incentives, and other discretionary review mechanisms.
LU-25	Support continued use and improvement of non-conforming properties.
LU-26	Support access management strategies for individual developments that are appropriate based on a roadway's functional characteristics, surrounding land uses, and users (location and spacing of permitted driveways).
LU-26a	Develop standards to control access for individual developments including turning movements to and from sites and separation distances from driveways and adjacent street intersections where conflicts can occur.
LU-27	Promote and expand the types of housing and accommodations available within the town.
LU-27a	Explore incentives and remove regulatory barriers to encourage cottage court development along the oceanfront and beach road areas.
LU-27b	Research and examine barriers that may be inhibiting hotel development in the town.



Table 4.3.1 Policy and Action Matrix

Land Use	
Policy #	Policy
Action #	Action
LU-27c	Research and explore other options to diversify the types of housing and accommodations available within the town. This could include creating allowances for accessory dwelling units in all or a portion of the town’s zoning districts. The town should ensure that any regulations for accessory dwelling units are consistent with the town’s size limitations for large residential dwellings.
LU-27d	Review existing policies and ordinances to remove regulatory barriers preventing accessible housing for the aging population.
LU-28	Maintain the policy to restrict tie-ons to the Village wastewater system to only those properties that were part of the original Village master plan.
LU-29	Maintain coordination with the Village at Nags Head property owner’s association and Architectural Control Committee on changes to the Village at Nags Head zoning ordinance or regarding development projects which are reviewed by both entities.
LU-30	Prevent the conversion of recreational or open spaces in the Village.



Table 4.3.2 Policy and Action Matrix

Natural Resources & Resiliency

Policy #	Policy
Action #	Action
NR-1	Protect natural estuarine shorelines for their capacity to absorb and filter runoff and ability to provide habitat.
NR-1a	Develop incentives for the protection of natural shorelines.
NR-1b	Develop an estuarine shoreline management plan that establishes policies, procedures, and overall management strategy for the town's estuarine shoreline.
NR-2	Utilize constructed "living" shorelines to stabilize and restore estuarine shorelines when feasible.
NR-2a	Research, identify and map marsh loss, "soft" stabilization methods that are appropriate for Nags Head's estuarine shoreline, potential opportunities for land acquisition, and potentially restorable wetlands.
NR-2b	Develop incentives for utilizing constructed "living" shoreline methods that encourage improved water quality and ecological integrity while reducing shoreline erosion.
NR-2c	Develop partnerships with non-profits and universities to design and construct living shoreline demonstration projects within the town.
NR-3	Support partnerships and programs that work to educate the public on the benefits of natural shorelines.
NR-3a	Establish partnerships with NC Sea Grant, the Coastal Studies Institute, the Nature Conservancy, Jockey's Ridge State Park, and the Coastal Federation to develop and offer education on the benefits of natural shorelines.



Table 4.3.2 Policy and Action Matrix

Natural Resources & Resiliency

Policy #	Policy
Action #	Action
NR-3b	Develop and distribute educational materials and offer training on natural shorelines. The educational materials should describe how living shorelines are a viable alternative to hardened structures, explain the benefits that natural shorelines provide, and discuss construction methods and permitting guidance.
NR-4	Preserve important estuarine waterfront viewsheds along the Causeway and in the Whalebone area that contribute to the overall quality of life and sense of place.
NR-4a	Identify key waterfront viewsheds and develop incentives or regulations to protect them.
NR-5	Engage the public in sustained and coordinated efforts to increase awareness and encourage individual stewardship of Nags Head Woods Preserve through educational efforts.
NR-5a	Develop a joint education and outreach effort to develop greater awareness of rules of use and boundaries of Nags Head Woods Preserve in an effort to maintain ecosystem function.
NR-5b	Conduct targeted environmental education efforts regarding sustainable use, habitats, and ecosystem services of Nags Head Woods Preserve.
NR-5c	Promote educational and recreational opportunities in Nags Head Woods Preserve through social media.
NR-6	Protect important natural habitats and ecosystems.
NR-6a	Seek dedicated nature preserve status or regulatory conservation protection for town owned property in Nags Head Woods Preserve.
NR-6b	Partner with the Nature Conservancy to purchase or preserve through easements the remaining vacant parcels in private ownership in Nags Head Woods Preserve.



Table 4.3.2 Policy and Action Matrix

Natural Resources & Resiliency

Policy #	Policy
Action #	Action
NR-7	Enhance the partnership between the town and the Nature Conservancy in order to achieve mutual goals for the protection and promotion of the Nags Head Woods Ecosystem.
NR-7a	Partner with the Nature Conservancy to explore additional opportunities for passive recreation in Nags Head Woods. This includes a coordinated effort between the Towns of Nags Head and Kill Devil Hills and the Nature Conservancy to allow limited access to the Fresh Pond for passive recreation while maintaining water quality through protection of the water source.
NR-7b	Coordinate with the Nature Conservancy to update a Fire Management Plan for Nags Head Woods.
NR-7c	Promote the cultural, historical, and natural resources in Nags Head Woods through wayfinding and interpretive signage or interpretive apps or other innovative media by partnering with the Nature Conservancy to develop and install appropriate signage.
NR-7d	Establish an annual meeting with the Nature Conservancy to discuss mutual goals and management issues.
NR-8	Enhance the partnership with Jockey’s Ridge State park in order to achieve mutual goals for the protection and promotion of the park.
NR-8a	Conduct maintenance as needed for the upkeep of the sound access off of Soundside Road.
NR-8b	Partner with Jockey’s Ridge State Park to identify common education efforts and work together to conduct environmental education as opportunities arise.



Table 4.3.2 Policy and Action Matrix

Natural Resources & Resiliency

Policy #	Policy
Action #	Action
NR-9	Preserve Nags Head Woods and Fresh Pond in their natural state and allow only limited public use for passive recreation. This shall include only limited walk-in only access to Fresh Pond and no improved facilities for boating, parking, or swimming. The town will not allow or introduce public access and/or uses into the town-owned portions of Nags Head Woods and/or the Fresh Pond AEC which will degrade and/or supersede the ability to maintain the existing public uses such as the Police Shooting range and the Fresh Pond public water supply.
NR-10	Protect the public health and safety of the town from natural and manmade hazards through proactive planning and mitigation efforts.
NR-10a	Partner with the county, state, and local agencies to develop a special needs registry list.
NR-10b	Coordinate with the Outer Banks Hospital, the Peak Resources nursing care facility, and other special needs populations to develop a policy and procedure for evacuation procedures. Ensure that yearly contact is made, prior to an event, to verify the town's role.
NR-10c	Explore the feasibility of developing a Local Emergency Preparedness Committee (LEPC) to assist in planning, preparedness, response, and mitigation for potential hazards that could affect the town.
NR-11	Ensure that the town is a disaster resilient community that can survive, recover from, and thrive after a natural or man-made disaster event.
NR-11a	Engage the community in the update of the town's Emergency Operations Plan.
NR-11b	Ensure that an emergency transportation route, parallel to US 158, is maintained to provide an alternate route to NC 12 and US 158.



Table 4.3.2 Policy and Action Matrix
Natural Resources & Resiliency

Policy #	Policy
Action #	Action
NR-I I c	Obtain pre-storm authorization from the NC Department of Transportation (NCDOT) to clear DOT maintained roads after storm events.
NR-I I d	Enter into an agreement prior to storm events to secure the use of the helipad at the hospital for pre- and post-disaster event needs.
NR-I I e	Maintain mutual aid agreements and reevaluate as necessary to continue post-storm assistance with building inspections, damage assessment, utilities repair, public facilities maintenance, and additional public safety personnel. This includes continued participation in the Statewide Mutual Aid Compact.
NR-I I f	Obtain debris removal and monitoring agreements on a yearly basis and seek pre-approved temporary disaster-debris management sites with the North Carolina Department of Environment and Natural Resources (NCDENR).
NR-I I g	Continue to exercise inter-local agreements with Dare County and other municipalities for debris management and monitoring.
NR-I I h	Identify and implement methods to streamline the damage assessment process to provide information to Dare County, the state, and any other agencies assisting the town with recovery efforts. This includes methods to expedite the availability of damage and condemnation information to town staff and the public.
NR-I I i	Explore resilient construction techniques and higher regulatory standards to protect existing and future development from frequent localized flooding events.
NR-I I j	Monitor areas of frequent flooding during regular and major storm events. Maintain and utilize this information to ensure accurate floodplain mapping, educational efforts, and the application of higher regulatory standards (if needed).



Table 4.3.2 Policy and Action Matrix

Natural Resources & Resiliency

Policy #	Policy
Action #	Action
NR-12	Support mitigation projects that reduce the potential damaging effects of hazards on the town.
NR-12a	Update and maintain a map of properties that are considered repetitive loss.
NR-12b	Assist home and businesses owners in mitigating hazards to their structures through grant funding opportunities, educational efforts, or one-on-one opportunities as they seek permits to complete work.
NR-12c	Develop a program to identify businesses and material storage areas where significant amounts of toxic or hazardous products are stored which would be subject to flooding.
NR-13	Support the town’s continued participation in the National Flood Insurance Program (NFIP) and Community Rating System (CRS). Participation in the NFIP is key in making federally backed flood insurance available within the town and to improve the town’s CRS rating.
NR-14	Promote public awareness of risks from natural and manmade hazards through public education programs.
NR-14a	Partner with Dare County’s Joint Information Section and other neighboring municipalities to develop a process and protocol for informing visitors, residents, and special needs populations of potential hazard events prior, during, and after events. This includes storm-related information as well as evacuation and re-entry. The policy should explore alternative non-traditional methods of information dissemination.
NR-14b	Enhance and expand the internal processes for providing public information pre, during, and post storm. This includes automated voice messaging system and other means of social media with storm damage and re-entry information, a Mayor’s radio broadcast, email broadcasts, improved real-time website information with relevant local contact information, available information at traffic stops, and designation of a post-storm public information officer.



Table 4.3.2 Policy and Action Matrix

Natural Resources & Resiliency

Policy #	Policy
Action #	Action
NR-14c	Develop a comprehensive educational outreach program to inform the public and increase awareness on hazards, how to develop and retrofit their properties against hazards, and individual tasks that can help them better prepare and respond to hazards. This should also include targeted educational strategies for repetitive loss properties. Staff should explore alternative options to traditional on-site meetings This may include increased use of social media, the public access channel, and short videos or handouts.
NR-15	Foster partnerships with universities and non-profits to assist the town in identifying risks and making sound scientific based decisions that increase the town’s resiliency.
NR-15a	Continue to partner with NC Sea Grant to finalize the VCAPS process and study on Sea Level Rise and Climate Adaptation.
NR-15b	Seek additional partners to assist the town in carrying out the actions of the VCAPS study including the scenario based vulnerability analysis.
NR-16	Minimize impacts of future sea level rise.
NR-16a	Conduct a vulnerability analysis to determine the town’s risk to hazards including sea level rise. This analysis should include future sea level rise scenarios.
NR-16b	Research and map estuarine marsh migration along Roanoke Sound.
NR-16c	Develop a plan for adaptation that includes a suite of SLR scenario/probability distributions (more up-to-date than CRC).
NR-16d	Develop a comprehensive education and outreach program for K-12 and residents/property owners that includes the follow topics: SLR, storms, sound side & oceanfront erosion, beach nourishment, and CRS.

IMPLEMENTATION



Table 4.3.2 Policy and Action Matrix	
Natural Resources & Resiliency	
Policy #	Policy
Action #	Action
NR-16e	Maintain and expand the Septic Health Initiative by providing government assistance for septic retrofits, assisting homeowners in maintaining their septic systems, conducting more groundwater sampling, securing additional wells for sampling, developing partnerships to assist with the peer review of existing data, transitioning to a mandatory septic inspection program with incentives, and mapping of groundwater.
NR-16f	Develop an estuarine shoreline management plan that establishes policies, procedures, and an overall management strategy for the town’s estuarine shoreline. This plan will work to develop projects and strategies to prevent estuarine flooding in the future. The plan should research, identify and map marsh loss, “soft” stabilization methods that are appropriate for Nags Head’s estuarine shoreline, potential opportunities for land acquisition, and potentially restorable wetlands. Additionally, it should develop incentives that can be utilized for the protection of natural shorelines.
NR-17	Maintain an ocean shoreline that provides a high level of recreational, aesthetic, natural, and storm protective value that is free of structures, debris, and litter.



Table 4.3.2 Policy and Action Matrix

Natural Resources & Resiliency

Policy #	Policy
Action #	Action
NR-17a	<p>Develop a long-term shoreline management plan that considers the environmental, legal, financial, physical, and regulatory issues and constraints that will need to be addressed to conduct ocean shoreline management over a 30-year time horizon. The plan should consider the following:</p> <ul style="list-style-type: none"> ▪ Multiple strategies including nourishment, structure relocation, sand fencing, dune vegetation, alternative shoreline stabilization techniques, and the potential for structure acquisition in limited circumstances. This includes agreement from the public and elected leaders on a target beach condition which becomes the town’s goal to achieve through consecutive nourishment cycles. ▪ A streamlined and programmatic approach to permitting that allows for a shorter window for construction projects. ▪ Best practices for dune management including minimum disturbance by property owners (i.e. cutting away dunes to enhance views or significant dune removal to clear structures), regular sand fencing and dune vegetation planting, and proper siting and construction of structures. ▪ An improved design utilizing dune vegetation, sand fencing, and adjustments to the beach and dune nourishment profile to limit impacts to oceanfront property owners from migrating sand. ▪ Appropriate trigger points for maintenance cycles that address project goals. ▪ A long-term funding strategy that provides consistent revenue for the town and reasonable and predictable tax rates for oceanfront and non-oceanfront property owners. ▪ A coordinated approach with Dare County and other municipalities on a long-term funding approach to nourishment which provides a consistent and predictable source of revenue for maintenance and construction projects. ▪ A coordinated approach with Dare County and other municipalities to determine if and how regional planning can improve project efficiencies and achieve cost savings.

IMPLEMENTATION



Table 4.3.2 Policy and Action Matrix

Natural Resources & Resiliency

Policy #	Policy
Action #	Action
NR-17b	Incorporate appropriate policies in shoreline management planning to account for estimated impacts associated with sea level rise. This should acknowledge that a long-term approach may involve shifting strategies in areas of the shoreline where it is cost prohibitive to continue beach nourishment. This should also acknowledge that other strategies will require additional financial and legal resources including outside assistance to succeed.
NR-17c	Develop legal and financial resources to manage the shoreline.
NR-17d	Develop a comprehensive communication strategy to educate town property owners and residents on the importance of the beach and the strategies the town is utilizing to maintain the beach and provide public access.
NR-17e	Develop regulations to protect marine species habitat, including turtle nests, and prohibit harassment of wildlife or marine life.
NR-18	Support and retain the public’s right to use the wet and dry sand beach while respecting the rights of individual property owners. This includes limiting the ability of groups or parties to restrict the use of the beach by other individuals.
NR-18a	Review ordinance language to limit conflicts between different user groups of the beach and nearshore waters and ensure the safety of beach users (i.e. fisherman, bathers, surfers).
NR-18b	Modify ordinance language for crowd gatherings to clarify that groups or parties using the beach for events cannot limit access to the beach by other parties or individuals.
NR-19	Provide substantial opportunity for the public to access the beach. This includes beach accesses with adequate parking at regular intervals for the length of the town with accessible facilities.

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Table 4.3.2 Policy and Action Matrix

Natural Resources & Resiliency

Policy #	Policy
Action #	Action
NR-19a	Develop a public access plan to consider opportunities for additional public accesses and facilities and establish a prioritized maintenance plan for existing public access facilities. This plan should also address an accessibility standard for public accesses where feasible.
NR-19b	Acquire oceanfront property when the opportunity arises to meet other shoreline management or public access goals.
NR-20	Preserve and enhance dunes and native dune vegetation for the role they play in property and infrastructure protection.
NR-20a	Identify and strengthen regulations and educational efforts that promote the preservation of dunes, vegetation and topography.
NR-20b	Protect structures from erosion by considering additional setbacks beyond the minimum, where possible. This may involve exploration of a “build-to” line, which requires buildings to be located within a certain distance of the front yard setback line.
NR-20c	Clarify and strengthen the town’s policies for low-density oceanfront development and adaptability of structures, recognizing that smaller structures can more easily be removed or relocated when threatened by erosion.
NR-20d	Develop a policy approach regarding the town’s role in managing the loss of public infrastructure including streets and utilities.
NR-20e	Investigate mitigation programs and grants to assist property owners with structure relocation.



Table 4.3.2 Policy and Action Matrix

Natural Resources & Resiliency

Policy #	Policy
Action #	Action
NR-20f	Investigate innovative programs and seek funds for mitigation measures such as relocation of threatened structures and more stringent building codes for high hazard areas that support the growth management policies of the town.
NR-21	Prevent the use of sandbags, seawalls, bulkheads and other hard structures as an approach to erosion protection for private property. This does not include public protection projects such as a terminal groin which are an integral component of a community wide erosion abatement strategy.
NR-21a	Clarify and strengthen regulations that address appropriate erosion protection approaches.
NR-22	Prevent commercialization of the ocean beaches.
NR-22a	Clarify and strengthen regulations on non-commercialization of the ocean beaches to include the activities that are prohibited.
NR-23	Seek cooperation on shoreline management activities from local, state and federal agencies.
NR-23a	Advocate for the establishment of a statewide beach management strategy and policy along with a dedicated funding (state or federal) program designed specifically for beach restoration and nourishment projects.
NR-23b	Advocate for legal and administrative enforcement assistance from state and other local agencies to remove structures and debris from the ocean beaches. This includes advocating for expanded state and federal programs to remove structures on the beach.



Table 4.3.2 Policy and Action Matrix

Natural Resources & Resiliency

Policy #	Policy
Action #	Action
NR-23c	Lobby for Federal funding to remove/relocate threatened structures by supporting the reinstatement of the Upton-Jones amendment which modified the National Flood Insurance Program. (The amendment did not require a homeowner to wait for destruction of their home by erosion but to submit claims and be re-compensated if occurrence of damage was imminent.) (Resolution adopted March 5, 2008)
NR-23d	Advocate for the expansion of local authority to construct alternative erosion control structures in key locations as part of a community wide strategy for erosion abatement.
NR-23e	Work with state agencies to improve the inventory of data that will be beneficial to planning and development of shoreline management projects.
NR-24	Preserve, protect, and improve water quality and natural estuarine functions to ensure public health, protection of natural resources and habitats, and recreational use.
NR-24a	Develop and map the surface drainage system in Nags Head to enable a better understanding of the impacts on-site systems have on surface waters.
NR-24b	Coordinate with Dare County Environmental Health to utilize septic permit data to develop a dataset of existing ground water elevations.
NR-24c	Monitor proposed regulations that could potentially affect water quality within the town and within the Pasquotank River Basin.
NR-24d	Lobby for adequate safeguards from upstream land uses.
NR-25	Increase public understanding of the relationship between water quality, ecosystem health, and human health advisories relating to water quality.



Table 4.3.2 Policy and Action Matrix

Natural Resources & Resiliency

Policy #	Policy
Action #	Action
NR-25a	Further develop partnerships with the UNC Coastal Studies Institute, the Dare County Cooperative Extension and Health Department, the Nature Conservancy, Jockey’s Ridge State Park, the Cape Hatteras National Park Service, and the Coastal Federation to encourage research and education opportunities related to water quality, ecosystem health, and human health.
NR-25b	Develop a focused educational outreach plan for the Septic Health Initiative that can be implemented, with the assistance of partnerships.
NR-25c	Work with Dare County Health Department, real estate agents, and property managers to educate property owners on the maintenance needs of septic systems.
NR-26	Maintain and expand the Septic Health Initiative.
NR-26a	Centralize all septic health program data and water quality data into a single database, available on the town’s website, that allows staff to easily search and manipulate data. This should include data from: the town’s water quality monitoring program, the NC Division of Shellfish Sanitation, septic permit data from Dare County, town inspections and pump outs, and repair/loan data.
NR-26b	Develop improved administrative management tools for implementing the program. This includes: <ul style="list-style-type: none"> ▪ An efficient way to email reports to owners directly from permitting software. ▪ A streamlined process for how inspections are received, coordinated, scheduled, and a report of the inspection sent back to the homeowner.
NR-26c	Refine the town’s permitting software to determine how to track more detailed inspection and pump out data.

IMPLEMENTATION



Table 4.3.2 Policy and Action Matrix

Natural Resources & Resiliency

Policy #	Policy
Action #	Action
NR-26d	Identify properties through septic health data that have never had an inspection or pump out. Make contact with those property owners to inform them of the program and offer services. If feasible, map vulnerable areas based on their proximity to major drainage features and target those areas for outreach.
NR-26e	Identify properties through mapping efforts with older OWTS (pre 1980) to inform them and offer loan program for repairs or replacement.
NR-26f	Update and maintain the septic health program’s website monthly to provide program information and current water quality data.
NR-26g	Update the Decentralized Wastewater Management Plan to evaluate the overall effectiveness of the program and recommend additional measures as necessary.
NR-26h	Provide annual updates to the Board of Commissioners on the program status.
NR-26i	Conduct peer reviewed scientific analysis of the program every three years.
NR-27	Develop and enhance relationships with the county, state, federal, non-profit, and Institutional partners to assist in research and educational efforts. This includes, but is not limited to, the Dare County Health Department, the Dare County Cooperative Extension, Jockey’s Ridge State Park, the National Park Service, the Nature Conservancy, the Coastal Federation, the UNC Coastal Studies Institute, and other partners in the university system.
NR-27a	Ensure water quality testing results are peer reviewed through partnerships with universities.
NR-28	Preserve and protect groundwater aquifers from depletion and contamination.
NR-28a	Update the town code to prevent fracking or deep well injection of wastewater.

IMPLEMENTATION



Table 4.3.3 Policy and Action Matrix
Economic Development & Tourism

Policy #	Policy
Action #	Action
EC-1	Develop and promote a sustainable economy that supports a high quality of life for residents and visitors without compromising the integrity of natural and cultural resources and sense of place.
EC-1a	Develop a focused educational effort for citizens on the regional economy and importance of tourism revenues in supporting the town's tax base.
EC-1b	Utilize updated research and feedback from the Outer Banks Visitor studies and surveys to assist town staff in planning and budgetary efforts.
EC-2	Encourage the continued promotion of Nags Head and the Outer Banks as a destination.
EC-2a	Promote cultural, educational, and recreational events that reflect community goals and values with an emphasis on extension of shoulder seasons.
EC-2b	Coordinate with the Outer Banks Visitors Bureau to better promote and advertise Nags Head.
EC-3	Meet the infrastructure and service needs of the community at appropriate levels as the community continues to grow.
EC-4	Advocate for the provision of high quality, responsive services, legislation, resources, and policies from government partners and other organizations that further the vision of the Town of Nags Head.
EC-5	Direct new commercial growth into neighborhood commercial nodes, activity centers, or areas currently zoned for commercial development with emphasis on reuse of existing structures.
EC-6	Support and foster small, local businesses that preserve and uphold the vision and legacy of the town.



Table 4.3.3 Policy and Action Matrix
Economic Development & Tourism

Policy #	Policy
Action #	Action
EC-6a	Continue to work with the Local Business Committee to further identify and remedy regulatory barriers for opening and operating businesses.
EC-6b	Develop and map an inventory of local businesses representing each sector of the town's economy.
EC-6c	Develop regulatory flexibility that allows existing small, local businesses to upgrade and maintain their facilities in order to remain relevant and competitive in the market.
EC-6d	Evaluate the impact of town processes, related to zoning and permitting, on businesses and streamline to meet the town's needs while supporting business investment.
EC-6e	Expand the availability of town services available on-line to better meet the needs of the businesses community.
EC-6f	Provide technical assistance through workshops, educational materials, or web based media to educate business owners on town processes and regulations related to owning and maintaining a business.
EC-6g	Develop a branded wayfinding, safety, and information signage plan to identify types and locations of signage for pedestrians, cyclists, and vehicles. Install appropriate signage. Signage should enable visitors to locate existing town parks, sound and beach access points and trailheads.
EC-7	Recognize the role and importance of the look and feel of legacy development in creating the distinctive heritage, unique lifestyle, and family beach character that is central to the town's vision.
EC-7a	Develop more specific criteria for legacy businesses, based on research and data of existing legacy type buildings.
EC-7b	Inventory, research, and map businesses that fit within the legacy business criteria.



Table 4.3.3 Policy and Action Matrix	
Economic Development & Tourism	
Policy #	Policy
Action #	Action
EC-7c	Develop incentives to encourage the preservation of commercial floor space.
EC-7d	Explore ways to aid in the development of cottage courts.
EC-8	Enhance economic health and increase employment opportunities through business retention and expansion.
EC-8a	Partner with the Outer Banks Chamber of Commerce to research and conduct discussions with local, small business owners in order to better understand factors contributing to the sale or loss of businesses.
EC-8b	Coordinate with the Outer Banks Chamber of Commerce to offer education and training for local, small business owners on succession planning.
EC-9	Develop a partnership with Dare County, the Outer Banks Visitors Bureau, the Outer Banks Chamber of Commerce, the Albemarle Commission, and other municipalities to advance a regional approach for economic development.
EC-9a	Continue to support and participate in Economic Diversification Studies conducted by Dare County and other regional authorities.
EC-9b	Identify and discuss barriers to economic development and diversification. Develop strategies from these discussions that can be implemented within the town that work to bring economic sustainability.
EC-9c	Continue to partner with the Albemarle Commission on Workforce and Economic Development Initiatives.

IMPLEMENTATION



Table 4.3.3 Policy and Action Matrix
Economic Development & Tourism

Policy #	Policy
Action #	Action
EC-9d	Continue to partner with the College of the Albemarle to develop training opportunities for existing businesses and new enterprises.
EC-10	Promote the growth of existing businesses and the recruitment of new business that are compatible with the town's vision which add full-time, year-round jobs that work stabilize the employment market.
EC-10a	Improve and expand local and regional transportation linkages, including roads, bridges, multi-modal connections, public transportation, and internet.



Table 4.3.3 Policy and Action Matrix

Cultural Resources

Policy #	Policy
Action #	Action
CR-1	Recognize the importance of cultural resources and the arts in creating a sustainable, local economy and high quality of life.
CR-1a	<p>Engage in a strategic planning activity, with the assistance of the Committee for Arts and Culture, to develop a vision for arts and culture in Nags Head. This should consider the level and commitment the town wishes to make to directly or indirectly promote arts and culture in the community. This should involve the following:</p> <ul style="list-style-type: none"> ▪ A discussion of the types of cultural resource and arts initiatives the town wishes to be involved in as well as the staff and financial resources necessary to achieve this. ▪ A discussion of the partnership opportunities available to leverage town commitments for these opportunities. ▪ A community engagement process to define what culture and arts means to the community including where the town should apply its resources. ▪ An evaluation of the commitment to utilizing town venues, including Dowdy Park, for cultural events with internal and external resources.
CR-1b	Enhance marketing of cultural resources and opportunities to residents and visitors by improving communications and collaborations within community organizations.
CR-1c	Support and/or provide programming and events for residents and visitors that enhance the quality of life and sense of place.
CR-2	Preserve assets of cultural, architectural, archeological, historic, or social significance.
CR-2a	Engage the community in identifying community assets that should be considered for protection.



Table 4.3.3 Policy and Action Matrix

Cultural Resources

Policy #	Policy
Action #	Action
CR-2b	Develop incentives that can be incorporated in the town code that work to preserve key assets.
CR-2c	Review zoning standards for areas of architectural significance, including the commercially zoned area adjacent to the Historic Cottage Row, to ensure compatible development. (Refer to chapter two for additional policy guidance on the Historic District character area.)
CR-3	Encourage partnerships with the public, private, and nonprofit sectors to foster stronger, more visible leadership in culture and the arts making opportunities and programs more available.
CR-3a	Continue to work with Art is the Heart, the Dare County Arts Council, and other organizations to develop strategies, activities, and events to promote culture and arts in the community.
CR-3b	Partner with the Outer Banks Visitors Bureau to assist in promoting character areas within the town.
CR-4	Promote and sustain the Gallery Row Arts District.
CR-4a	Identify regulatory barriers that stifle development of local and neighborhood serving businesses along the beach road and within the Gallery Row Arts District.
CR-4b	Maintain an inventory of existing cultural and art venues and identify new sites for future venues.



Table 4.3.3 Policy and Action Matrix

Parks & Recreation

Policy #	Policy
Action #	Action
PR-1	Serve residents and visitors of all ages and physical abilities through increased availability of ADA accessible and age appropriate recreational facilities and opportunities.
PR-1a	Improve and increase both the number of playgrounds and features available for younger children.
PR-1b	Increase activities and available recreational space for youth and teens, including use of park space in the evenings.
PR-1c	Create recreational opportunities in the evenings that appeal to working adults and teens.
PR-1d	Research and explore recreational opportunities that would meet the needs of segments of the older adult population that are currently excluded. This may be accomplished through partnerships.
PR-2	Create opportunities for unstructured community interaction and new recreational opportunities.
PR-2a	Make park space available for un-programmed and spontaneous activities; particularly allow open field space to be used by the general public (not just reserved for organized leagues).
PR-2b	Support the use of the public beach for event programming and sports opportunities (such as beach soccer, volleyball, etc.).
PR-2c	Develop community events and programs during the off-season, especially during the “shoulder-seasons” to support local businesses and serve year-round residents.
PR-2d	Explore incentives that would encourage future development and redevelopment to include areas that encourage community interaction such as sidewalks, trails, open space, park facilities, pedestrian plazas, public accesses, and outdoor seating areas.



Table 4.3.3 Policy and Action Matrix

Parks & Recreation

Policy #	Policy
Action #	Action
PR-2e	Research the feasibility and location of a dog park in Nags Head.
PR-2f	Research the feasibility, cost, and location of lighted public tennis courts.
PR-2g	Identify and support additional indoor recreational opportunities within the town.
PR-2h	Explore the feasibility of park development on the town lot at the end of Forbes Street.
PR-2i	Research powerboat launching and docking on the sound.
PR-3	Expand and develop public access to ocean and estuarine shorelines that accommodate different user types, age groups, and needs.
PR-3a	Develop an ocean and estuarine shoreline management plan that explores opportunities for additional public accesses and facilities that includes maintenance and staffing needs, increased ADA accessibility, and additional site features such as parking, shade and picnic structures, water source, and bathroom elements.
PR-3b	Develop a prioritized list of existing public access facilities that outline needed improvements necessary to achieve greater ADA accessibility as well as the potential costs for improvements.
PR-3c	Conduct a study, to be incorporated as part of the public access plan, to identify and determine typical staffing needs, on-going maintenance costs, and any needed facility renovations and costs for existing public access facilities.
PR-3d	Develop a Master Plan for a sound side boardwalk.
PR-3e	Increase fishing and crabbing access opportunities along the sound.



Table 4.3.3 Policy and Action Matrix

Parks & Recreation

Policy #	Policy
Action #	Action
PR-4	Improve pedestrian and bicycle access, connectivity, and safety.
PR-4a	Incorporate identified pedestrian and bicycle projects into the town’s capital improvement plan. Design and construct projects recommended in the Pedestrian Plan (2014).
PR-4b	Continue construction of the multi-use trail along US 158 with pedestrian and bicyclist safety as priority.
PR-4c	Coordinate with NCDOT and the Albemarle Rural Planning Organization (ARPO) to plan, design, and implement pedestrian and bicycle improvements.
PR-4d	Plan, organize, and facilitate bike and pedestrian safety programs for children and adults.
PR-4e	Interconnect neighborhoods with crosswalks on the west side of US 158.
PR-4f	Expand and sign hiking path from Town Park through Nags Head Woods.
PR-4g	Evaluate alternate paving materials in an effort to reduce impervious surfacing where possible and appropriate.
PR-5	Commit to continual improvement and maintenance of parks and recreational facilities that reflects the level and value of private investment in the community.
PR-5a	Conduct a study of parks and recreational facilities to be incorporated into the town’s capital improvement plan (CIP), to identify and determine typical staffing needs, on-going maintenance costs, and any needed facility renovations and costs.
PR-5b	Update existing facilities, when renovations are undertaken, to be compliant with where feasible for ADA standards and any new local, state, and federal regulations.



Table 4.3.3 Policy and Action Matrix

Parks & Recreation

Policy #	Policy
Action #	Action
PR-5c	Conduct an assessment of existing parks and recreational facilities and identify opportunities to incorporate other recreational or site amenities such as horseshoe pits, corn hole, bocce areas, picnic tables, grills, bike racks, trash/recycling containers, water (shower facilities or water fountains), and wifi where appropriate. This is including but not limited to Satterfield Landing Park, Whalebone Park, and Town Park.
PR-5d	Replace Playground Equipment at Town Park with a design consistent with Nags Head’s architectural aesthetic. Equipment should be made of materials which perform better than traditional materials (such as metal or wood) in our environmental conditions and which attract children.
PR-5e	Repair the Beach Road multi-use trail as needed with asphalt and improve drainage where possible. Install signage to promote safety for all users. (Note: asphalt is the preferred material for the NC 12 and South Oregon Inlet Road trails sections).
PR-6	Explore and develop a wayfinding signage system for visitors to better orient themselves to commercial and cultural destinations and beach and sound access points.
PR-6a	Develop a branded wayfinding, safety, and information signage plan to identify types and locations of signage for pedestrians, cyclists, and vehicles and install appropriate signage. Signage should enable visitors to locate existing town parks, sound and beach access points and trailheads.
PR-7	Ensure that all development, redevelopment, neighborhoods, and commercial areas connect to existing or planned public recreational improvements and facilities to promote a high quality of life and healthy living.
PR-7a	Research and explore incentives or amendments to town ordinances to incorporate standards that incentivize or require development to provide publicly availability connections to existing or planned recreational improvements and facilities.



Table 4.3.3 Policy and Action Matrix

Parks & Recreation

Policy #	Policy
Action #	Action
PR-8	Commit to the continuous implementation of the mission, vision, and actions of the parks and recreation element.
PR-8a	Continue active monitoring and pursuit of local, state and federal grant opportunities for plan implementation.
PR-8b	Incorporate capital projects and program recommendations into the town’s budgetary and capital improvement plan process.
PR-8c	Acquire property for the purpose of parks, open space, and conservation including: <ul style="list-style-type: none"> ▪ Purchase of properties with opportunities for park development, multi-use trail and beach and sound access including parking. ▪ Purchase of undeveloped lots within neighborhoods to preserve green space for “pocket park” or trail uses as permitted. ▪ Purchase of land for the purposes of conservation or open space.
PR-9	Promote parks and recreational facilities, events, and programs within the town.
PR-9a	Provide an interactive map available on the town website and other forms of media that display all parks and recreational facilities and beach and sound accesses.
PR-9b	Promote the town’s Adopt-a-Bench and Adopt-a-Beach program.
PR-9c	Promote recreational opportunities and other events with the YMCA and other nonprofit and private sector providers.



Table 4.3.3 Policy and Action Matrix

Parks & Recreation

Policy #	Policy
Action #	Action
PR-9d	Enhance educational materials and programs on beach safety issues such as the safety flag system, rip currents, and marine life.
PR-10	Collaborate with partners to develop a diversity of innovative programs, facilities, events, and spaces to achieve the mission and vision for parks and recreation.
PR-10a	Develop a system for coordinated communications with Dare County Parks and Recreation to inform older adults and families with special needs of programs and resources through the town website, Facebook page and other town communications.
PR-10b	Publicize activities for older adults.
PR-10c	Coordinate with the Outer Banks Bicycle and Pedestrian Safety Coalition to develop education materials, programs, and events to address bike and pedestrian safety.
PR-10d	Encourage Dare County to replace all or a portion of the playing fields at Satterfield Landing to artificial turf and incorporate a playground within the site.
PR-10e	Participate in Dare County Parks and Recreation Planning efforts that involve future county parks and recreation needs.



Table 4.3.3 Policy and Action Matrix

Transportation

Policy #	Policy
Action #	Action
TP-1	Provide local transportation infrastructure that is safe, efficient, and designed to accommodate all modes of transportation consistent with the town’s Complete Streets policy.
TP-1a	Complete maintenance plans for town-owned transportation assets at regular intervals. At a minimum, this should include preparation of a pavement condition survey every ten years to assist with prioritization of Powell Bill expenditures for street overlay projects.
TP-1b	Utilize grant opportunities when available to construct facilities and/or upgrade existing facilities to address safety and accessibility issues.
TP-1c	Establish an internal process to annually identify and prioritize transportation improvements for which the town is responsible for financing and constructing. This could be part of the CIP process but would be more effective as a separate activity. This should primarily include prioritization of bicycle and pedestrian facilities and maintenance of town owned streets using Powell Bill funds and other identified resources.
TP-1d	Consider the establishment of a dedicated funding source or revenue stream for transportation improvements.
TP-1e	Revise policies and ordinances as appropriate to maintain and strengthen the town’s goal for access management onto major roadways within the town.
TP-1f	Continue to work with groups such as the Outer Banks Bicycle and Pedestrian Safety Coalition to improve bicycle and pedestrian safety and community awareness.
TP-2	Reduce the reliance on personal transportation by providing additional transportation choices through a combination of public and private services.



Table 4.3.3 Policy and Action Matrix

Transportation

Policy #	Policy
Action #	Action
TP-2a	Explore the feasibility of a trolley service or bus circulator to connect the Town of Nags Head with the other northern beach communities.
TP-3	Provide comprehensive bicycle and pedestrian connectivity within the town and to the larger Outer Banks Community.
TP-3a	Conduct an annual review of recommendations from the Nags Head Pedestrian Plan and prioritize projects based on available funding and anticipated external revenue sources.
TP-3b	Identify grant funds and other external revenue sources to support implementation of the Pedestrian Plan.
TP-3c	Coordinate with NCDOT to incorporate pedestrian and bicycle projects into planned state maintenance projects.
TP-4	Support the development and maintenance of regional transportation infrastructure that allows residents and visitors to travel to the Outer Banks in the safest, most efficient manner.
TP-4a	Participate in the ARPO regional transportation planning efforts including the SPOT process.
TP-4b	Improve coordination within Dare County for prioritization of transportation improvements and transportation system development. This could include a county and town working group to discuss priorities at the county level in preparation for the regional prioritization process as well as to discuss public transportation and funding of local projects.
TP-4c	Advocate for revisions to the Strategic Mobility Formula to recognize the seasonal nature of our community, the importance of transportation for Hurricane Evacuation, and the use of accurate local data in the analysis phase of the scoring.



Table 4.3.3 Policy and Action Matrix

Transportation

Policy #	Policy
Action #	Action
TP-4d	Advocate for additional transportation funding at the state level and a method to equitably distribute funds to non-urbanized areas of the state.
TP-4e	Coordinate with Dare County and the other Dare County towns to accelerate the timeline for implementation of the R-3419 TIP project (conversion of US 158 to a four-lane divided facility and associated intersection improvements) as well as other projects within the CTP.



Table 4.3.3 Policy and Action Matrix

Municipal Services	
Policy #	Policy
Action #	Action
MS-1	Provide effective governance to the Town of Nags Head’s citizenry, property owners, business owners, and stakeholders to advance the town’s mission and vision.
MS-1a	Draft and distribute an annual report that demonstrates the results of the measurable goals and objectives of each department to the Board of Commissioners and all citizens.
MS-1b	Develop, fund, and prioritize the Capital Improvement Plan annually that provides for the infrastructure, equipment, and facility needs of the community.
MS-2	Maintain a trained workforce capable of carrying out the statutory requirements of municipal government and the requirements established by the Board of Commissioners.
MS-2a	Assist department heads in developing clearly defined, measurable goals for each department.
MS-2b	Develop and implement a performance review process that accomplishes departmental goals and meets job competencies.
MS-2c	Provide employees with a platform that allows for objective discussion of innovative ideas that result in continuous improvement of individual job functions and the overall ability of the town to serve customers.
MS-3	Provide timely dissemination of information and data to internal (staff) and external (citizens, boards, committees, applicants) customers through increased use of website, social media, email, and other forms of technology.
MS-3a	Update the town’s website to make it more user friendly and searchable.



Table 4.3.3 Policy and Action Matrix

Municipal Services

Policy #	Policy
Action #	Action
MS-3b	Provide a “self-serve” mechanism on the town’s website that allows the public to search information for public records requests.
MS-3c	Provide an employee self-service mechanism to access pay stubs, W-2’s, and additional personnel information.
MS-3d	Create automated online processes for applications and permits.
MS-4	Provide friendly and accommodating customer service.
MS-4a	Develop goals and metrics for providing friendly, accommodating customer service.
MS-5	Ensure that all employees understand the mission, vision, and goals of the town and see themselves as contributors in achievement of these.
MS-5a	Develop employee engagement programs and strategies that establish meaningful contact and connection with employees as well as educates them on the mission, vision, and goals of the town.
MS-6	Involve and engage the public in decision making at all levels of town governance where appropriate and during other relevant times of design and decision making processes.
MS-6a	Conduct community input opportunities that inform stakeholders and seek their input during town decision making processes.
MS-6b	Continue outreach efforts to promote conversations with the community, promoting awareness on issues important to the town.



Table 4.3.3 Policy and Action Matrix

Municipal Services

Policy #	Policy
Action #	Action
MS-7	Manage the town’s wages and benefits in a manner that retains high quality employees and keeps operational costs down. It is the policy of the Town of Nags Head to compensate its employees at a level sufficient to encourage excellence of performance and to maintain the labor market competitiveness necessary to recruit, retain, and develop a competent and diverse workforce.
MS-7a	Research and assess current wages of neighboring towns every 3 years to ensure the town remains competitive. Present findings of the assessment to the Board of Commissioners in a formal report.
MS-7b	Research and assess benefit options on a yearly basis ensuring that employees receive maximum benefit for their care while keep costs down. Present findings of assessment to the Board of Commissioners in a formal report.
MS-7c	Review the pay plan every 2-3 years and present recommendations to the Town Manager. All final recommendations will be presented to the Board of Commissioners.
MS-7d	Conduct a full position classification study, with a third party vendor, every 9-10 years. This will ensure proper maintenance of job responsibilities and that each individual job has a proper pay grade assignment based on the current job market.
MS-8	Protect citizens and visitors from the perils of fire and crime, and ensure safe oceanfront beaches by providing well-equipped and prepared public safety personnel.
MS-8a	Continually assess the police, fire and rescue needs of the town and make personnel and resources expenditures commensurate with the needs created by development, special events, and the changing nature of the social environment.



Table 4.3.3 Policy and Action Matrix

Municipal Services

Policy #	Policy
Action #	Action
MS-8b	Seek community involvement and cooperation in the provision of Police and Fire services through the Volunteer Fire Department, the Community Watch program, the Citizen’s Police Academy, school based initiatives, and proactive community outreach in all divisions of the Police and Fire Departments.
MS-8c	Ensure the ocean beach is a safe environment for family vacation tourism by constantly monitoring beach populations and concentrations, adjusting personnel and resources as needed to meet increases in demand for service.
MS-8d	Provide fire and life safety education programming.
MS-8e	Strengthen the proactive functions of the commercial fire inspection program by: <ul style="list-style-type: none"> ▪ Remaining responsive to the commercial business community and seeking their input with respect to scheduling and completion of annual commercial fire inspections. ▪ Initiating and supporting progressively advanced code enforcement staff certification levels. ▪ Integrating new and progressive code officials training, in diverse platforms, as they become available. ▪ Researching and pursuing technology based solutions for fire prevention education and enforcement for commercial occupancies in order to improve customer service levels, ▪ Continuing to work with fire staff and emphasize the cultural importance of the commercial fire inspections program as a vital component of fire prevention in Nags Head.
MS-8f	Complete progressive staff trainings, qualifications, and certifications necessary to perform the duties of public safety officials including but not limited to police officers, detectives, animal control, ocean rescue personnel, fire inspectors, fire public education specialists, child car seat technicians, CPR instructors, and fire support personnel.



Table 4.3.3 Policy and Action Matrix

Municipal Services

Policy #	Policy
Action #	Action
MS-8g	Utilize all web based, published, broadcast, e-mail, and social media outlets to deliver and distribute timely public safety messages. This will include exploring mechanisms to provide emergency notifications to the public through cell phone and landline message services.
MS-8h	Explore and employ appropriate new technologies, including but not limited to body cameras and in-car cameras, to increase accountability and reduce risk to Police Department personnel and the public.
MS-9	Meet the public safety needs of the community at appropriate levels as the community continues to focus growth and public investment in areas identified as activity centers.
MS-9a	Develop incentives to encourage the use of important fire prevention structures and systems such as sprinkler systems.
MS-10	Support continued planning to eliminate uncontrolled wildfires.
MS-10a	Annually maintain and update the Nags Head Woods Fire Protection Plan through engagement of the North Carolina Forest Service, Nature Conservancy, and the Town of Kill Devil Hills.
MS-10b	Maintain the necessary personnel training and equipment to prevent wildfires and loss of life and property.
MS-10c	Support the Cape Hatteras National Seashore in conducting prescribed burns to prevent wildfires and loss of life and property.
MS-11	Evaluate the impacts of development on public safety during the permitting, site plan review, and text amendment processes and prioritize public safety through best management practices for land use planning and site design.

IMPLEMENTATION



Table 4.3.3 Policy and Action Matrix

Municipal Services	
Policy #	Policy
Action #	Action
MS-12	Proactively provide maintenance of facilities including streets, rights-of-way, drainage infrastructure, public buildings, multi-use paths, parks and beach accesses, and other town facilities.
MS-12a	Develop mechanisms to track the departmental workload and required man hours to support requests for personnel or equipment, particularly as new facilities are developed.
MS-12b	Develop plans for maintenance to town facilities including schedules for repair and replacement. These plans should be updated every five years and should be used to establish projects for inclusion in the CIP.
MS-12c	Create a beach access development and maintenance plan to determine where new facilities are needed and when maintenance activities should occur to existing facilities.
MS-12d	Continue to employ strategies to schedule and track maintenance activities to manage the departmental workload in the most efficient manner possible as well as documentation of routine maintenance.
MS-12e	Seek and utilize grants where possible to fund infrastructure construction and replacement activities.
MS-12f	Conduct a pavement condition survey of town streets every ten years and utilize this information to schedule maintenance activities as part of the town's CIP.
MS-13	Provide for the most effective and economical collection and disposal/recycling of commercial and residential solid waste that meets community expectations for cleanliness and appearance. The town should work to provide service to all generators of solid waste emphasizing reuse and recycling practices over disposal
MS-13a	Explore expansion of the town's recycling program to add new types of waste items as recycling technology evolves and markets for recycled materials develop.



Table 4.3.3 Policy and Action Matrix

Municipal Services	
Policy #	Policy
Action #	Action
MS-13b	Research and plan for expansion of town-wide recycling service to commercial properties and/or those properties not serviced by the existing residential curbside service in order to meet the town’s stated goal of 40 percent waste reduction by 2022 (from the Solid Waste Management Plan).
MS-13c	Monitor recycling tonnage from the town’s residential program and employ methods such as education programs to improve recycling participation. This could include working with rental agencies, property owners associations, and directly with homeowners to provide marketing and educational materials on the town’s program.
MS-13d	Explore programs and/or develop and enforce regulations that limit the timeframe residential carts sit adjacent to roadways.
MS-13e	Monitor community growth and demands for service and plan for recommended increases in manpower and equipment when necessary. Additional measures or benchmarks are needed to determine when demand exceeds the capacity of current resources to maintain service levels.
MS-13f	Consider technologies including RFID tags to improve collections data which will provide the town with information that it can use to refine service levels.
MS-13g	Actively engage staff in the update to the Solid Waste Management Plan and review its goals for recycling and waste reduction.
MS-13h	Develop and conduct progressive educational programming aimed at reducing waste and promoting reuse and recycling.
MS-14	Provide sufficient levels of potable water to accommodate water demand at build-out through an economical and efficient means and in an environmentally sensitive manner.



Table 4.3.3 Policy and Action Matrix

Municipal Services

Policy #	Policy
Action #	Action
MS-14a	Continually monitor the town’s water processing capacity and make necessary system improvements when needed.
MS-14b	Continue to loop the water supply system when opportunities and funding permits as the town recognizes the importance of a dual or looped water supply system for pressure, service and fire supply.
MS-14c	Develop mechanisms to anticipate when the town may exceed its water allotment from Dare County and make financial provisions to meet contractual obligations to expand the reverse osmosis water treatment plant capacity when necessary.
MS-14d	Prepare a comprehensive water system master plan every 10 years to evaluate and analyze the capital needs of the Nags Head water system and to provide recommendations to the town for short-term and long-term improvements. These recommendations serve as the plan for the town to meet future water needs and to stage the necessary construction and associative financing in an efficient manner. The comprehensive water system master plan should examine the following; evaluation of the existing water system operation, assessment of the reliability of the existing infrastructure, distribution system analysis for water consumption and fire protection, regulatory water quality requirements, source water evaluation, development of a 10-yr Capital Improvement Plan and a water system rate study. Intermediate updates may be conducted at shorter intervals to focus on specific objectives of the water system master plan. It is anticipated that the next comprehensive water system master plan update will occur in FY 17/18.
MS-14e	Coordinate with the National Park Service and the affected entities to seek funds for improvement to the water supply line serving Park Service property and the Oregon Inlet Fishing Center.
MS-14f	Develop an educational program highlighting the beneficial effects of conserving potable water.
MS-14g	Maintain the status of the Fresh Pond as a CAMA Area of Environmental Concern to protect the Fresh Pond watershed for future water supply use.



Table 4.3.3 Policy and Action Matrix

Municipal Services	
Policy #	Policy
Action #	Action
MS-15	Ensure that stormwater runoff is properly managed to reduce nuisance flooding and pollution of sensitive environmental areas.
MS-15a	Develop an affordable, long-range plan for progressively improving the town’s stormwater drainage infrastructure.
MS-15b	Complete and continually update a town-wide drainage infrastructure plan that maps type, size, and location of existing drainage features within the town including rights-of-way and outfalls.
MS-15c	Update the Stormwater CIP concentrating on potential improvements to the main drainage routes and working back upstream through neighborhoods identifying areas of concern and the evaluation of potential alternatives.
MS-15d	Evaluate and document existing nuisance and problem areas for identification of potential corrective action.
MS-15e	Replace inadequate town-owned critical drainage facilities
MS-16	Improve town drainage infrastructure through planning, maintenance, or new construction, where appropriate and as identified in long range plans.
MS-16a	Purchase equipment to necessary to conduct systematic annual maintenance, on-demand maintenance, and post- storm maintenance.
MS-16b	Continue to coordinate with the local, state, and federal agencies such as the North Carolina Department of Transportation and the National Park Service to conduct annual maintenance activities within the main drainage arteries to maintain and/or improve drainage ways.



Table 4.3.3 Policy and Action Matrix

Municipal Services	
Policy #	Policy
Action #	Action
MS-16c	Develop a level of service that accounts for future development, redevelopment and changes in surrounding environmental conditions.
MS-16d	Perform hydraulic and hydrologic analyses of identified areas of concern for appropriate infrastructure sizing, when required.
MS-16e	Monitor and evaluate performance and condition of existing drainage infrastructure through on-site review and observations.
MS-16f	<p>Continue to refine and update project prioritization based upon the following criteria: Frequency and duration of occurrences and extent of flooding conditions observed</p> <ul style="list-style-type: none"> ▪ Project Benefit <ul style="list-style-type: none"> ○ Tributary Area Served ○ Number of Properties Served ▪ Public Safety ▪ Flood Control & Water Quality ▪ Project Cost/Available Funding ▪ Regulatory permitting constraints and coordination ▪ Other applicable limiting factors
MS-17	Ensure that financial resources are available to provide adequate levels of service and desired capital improvements.



Table 4.3.3 Policy and Action Matrix

Municipal Services	
Policy #	Policy
Action #	Action
MS-17a	Maintain an adequate fund reserve for operation of equipment and materials to perform necessary maintenance on existing drainage infrastructure.
MS-17b	Seek additional funding opportunities from local, state and federal agencies to assist with future stormwater planning and construction efforts.
MS-18	Educate and involve the public in stormwater management.
MS-18a	Develop public educational materials on stormwater and the town’s stormwater drainage system that can be made available on social media and the town’s website.
MS-18b	Engage stakeholders affected by town projects to inform them of the project purpose, timeline, areas, how the project may impact them, and how they can engage in project planning (if appropriate).

Table 2: VCAPS Implementation Table- Overall Priority Actions

PRIORITY I

PRIORITY I	ID	Action	Town Lead	Key Partners	Requires Significant Private Support or Coordination	Time Frame (short: <2 yrs; intermediate: 2-5 yrs; long: 5+ yrs)	Revenue Type (grant, staff time, facility fees, or capital reserves)	Overlap with FOCUS Nags Head (Action #)	Status
	O-1 (WM-1)	Maintain and expand the Septic Health Initiative (retrofits, homeowner assistance, groundwater sampling, peer review data, groundwater mapping, transition towards mandatory inspections with other incentives)				FOCUS NAGS HEAD Goal Addressed: 2, 3, 5			
		P&D	SHC	No	Short	Staff Time	NR-26, NR-16, NR-16e	-	
	O-3 (AG-4)	Develop a comprehensive education and outreach program for K-12, residents, and property owners implemented by both public and private actors. Include topics such as: SLR, storms, soundside/oceanfront erosion, beach renourishment, and CRS.				FOCUS Nags Head Goals Addressed: 1, 2			
		P&D	SLMC, CA & SLRC, NCCF, TNC, NCSG, OB-COC	Yes	Short	Grant, Staff Time	NR-16, NR-16d	-*	
	O-4 (ES 1)	Develop an estuarine shoreline management plan that establishes policies, procedures, and an overall management strategy for the town's estuarine shoreline. This plan will work to develop projects and strategies to prevent estuarine flooding in the future. The plan should research, identify and map marsh loss, "soft" stabilization methods that are appropriate for Nags Head's estuarine shoreline, potential opportunities for land acquisition, and potentially restorable wetlands. Additionally, it should develop incentives that can be utilized for the protection of natural shorelines.				FOCUS Nags Head Goals Addressed: 1, 2, 5			
		TM	P&D, TNC, NCCF, NC-SWC-CCAP	No	Intermediate	Grant, Staff Time	NR-1, NR-16	In FY 2017-2018 Budget	
	O-6 (AG-2)	Develop a plan for adaptation that includes a suite of SLR scenario/probability distributions (update since CRC and consider longer timescale for infrastructure).				FOCUS Nags Head Goals Addressed: 1, 2, 3, 4			
		P&D, TM	NCSG	Yes	Short	Grant, Staff Time	NR-16, NR-16c	-	

PRIORITY I

PRIORITY I	ID	Action	Town Lead	Key Partners	Requires Significant Private Support or Coordination	Time Frame (Short: <2 yrs; Intermediate: 2-5 yrs; Long: 5+ yrs)	Revenue Type (grant, staff time, facility fees, or capital reserves)	Overlap with FOCUS Nags Head (Action #)	Status
		O-7 (AG-I)	<p>Develop a long-term shoreline management plan that considers the environmental, legal, financial, physical, and regulatory issues and constraints that will need to be addressed to conduct ocean shoreline management over a 30-year time horizon. The plan should consider the following:</p> <ul style="list-style-type: none"> • Multiple strategies including nourishment, structure relocation, sand fencing, dune vegetation, alternative shoreline stabilization techniques, and the potential for structure acquisition in limited circumstances. This includes agreement from the public and elected leaders on a target beach condition which becomes the town's goal to achieve through consecutive nourishment cycles. • A streamlined and programmatic approach to permitting that allows for a shorter window for construction projects. • Best practices for dune management including minimum disturbance by property owners (i.e. cutting away dunes to enhance views or significant dune removal to clear structures), regular sand fencing and dune vegetation planting, and proper siting and construction of structures. • An improved design utilizing dune vegetation, sand fencing, and adjustments to the beach and dune nourishment profile to limit impacts to oceanfront property owners from migrating sand. • Appropriate trigger points for maintenance cycles that address project goals. • A long-term funding strategy that provides consistent revenue for the town and reasonable and predictable tax rates for oceanfront and non-oceanfront property owners. • A coordinated approach with Dare County and other municipalities on a long-term funding approach to nourishment which provides a consistent and predictable source of revenue for maintenance and construction projects. • A coordinated approach with Dare County and other municipalities to determine if and how regional planning can improve project efficiencies and achieve cost savings. • A comprehensive communication strategy to educate town property owners and residents on the importance of the beach and the strategies the town is utilizing to maintain the beach and provide public access. 	TM	P & D, SLMC, CA & SLRC	No	Short	Staff time	NR-17, NR 18, NR 19, NR 20, NR-21

FOCUS Nags Head Goals Addressed: 1, 2, 5

PRIORITY I

PRIORITY I	ID	Action	Town Lead	Key Partners	Requires Significant Private Support or Coordination	Time Frame (Short: <2 yrs; Intermediate: 2-5 yrs; Long: 5+ yrs)	Revenue Type (grant, staff time, facility fees, or capital reserves)	Overlap with FOCUS Nags Head (Action #)	Status
	O-8 (SW 1)	Address stormwater at the source through best management practices (e.g., low impact development, reduced amount of impervious surface, etc.)				FOCUS Nags Head Goals Addressed: 2, 4, 5			
		TM	P&D, NC-SWC-CCAP	No	Short	Staff Time	MS-16	*	
	O-9 (SW-2)	Decrease amount of impervious surface in the future. Examine regulations for road and parking lot requirements and explore ways to reduce impervious coverage associated with development.				FOCUS Nags Head Goals Addressed: 2, 4, 5			
		P&D	TM, Planning Board, BOC	Yes	Medium-Long	Staff Time	-	Can be included in the UDO update	
	O-12 (SW 5)	Develop long-range plans for progressively improving the town's stormwater drainage infrastructure. This plan includes documentation of the type, size, and location of existing drainage features within the town, including rights-of-ways and outfalls. Additionally, the plan should document existing nuisance and problem areas that experience frequent flooding.				FOCUS Nags Head Goals Addressed: 1, 2, 4, 5			
		TM	P & D, NCCF, NC DOT, TNC	No	Short	Staff Time	MS-15	In proposed FY 2017-2018 Budget	

PRIORITY 2

PRIORITY 2	ID	Action	Town Lead	Key Partners	Requires Significant Private Support or Coordination	Time Frame (Short: <2 yrs; Intermediate: 2-5 yrs; Long: 5+ yrs)	Revenue Type (grant, staff time, facility fees, or capital reserves)	Overlap with FOCUS Nags Head (Action #)	Status
	O-2 (AG-3)	Conduct ongoing monitoring of physical conditions/geography including erosion rates, wind transport of sand, and dune capacity as part of the long-term ocean shoreline management strategy						FOCUS Nags Head Goals Addressed: 2, 5	
			TM	P&D, Contractors, USGS	No	Short-Intermediate	Staff Time, CIP	NR-16	*
	O-11 (WM-2)	Develop higher standards/regulations in permitting for separation of groundwater and mean high water below a septic drain field						FOCUS Nags Head Goals Addressed: 2, 4, 5	
			P&D	EPA R4, County Co-Op	Yes	Intermediate	Staff time	NR-16, NR-24, NR-28,	-
	O-14 (ES-3)	Acquire land with estuarine shorelines that can be persevered in their natural state or that can be retrofitted with living shorelines.						FOCUS Nags Head Goals Addressed: 2, 4, 5	
			TM	P&D, TNC, NCCF, State Parks, NPS	Yes	Intermediate	Grant, Staff Time	NR-1, NR-2, NR-4	Ongoing*
	O-15 (WM-3)	Advocate for the continued enforcement of rigorous standards environmental health standards for onsite wastewater systems						FOCUS Nags Head Goals Addressed: 1, 5	
			-	NC DEQ, County EHS	No	Short-Intermediate	Staff time	NR-24, NR-26, NR-27	Ongoing
	O-18 (AG-7)	Conduct State level planning for evacuation planning and vulnerable infrastructure leading to OBX (roads, water) in light of SLR						FOCUS Nags Head Goals Addressed: 3, 4, 5	
		NCEM	County EM, NC DOT	No	Long	Staff time	NR-10, NR-11, NR-16	-	

PRIORITY 3

PRIORITY 3	ID	Action	Town Lead	Key Partners	Requires Significant Private Support or Coordination	Time Frame (short: <2 yrs; intermediate: 2-5 yrs; long: 5+ yrs)	Revenue Type (grant, staff time, facility fees, or capital reserves)	Overlap with FOCUS Nags Head (Action #)	Status	
	O-10 (OM-2)	Study additional engineering, financial tools to use to mitigate against beach loss.					FOCUS Nags Head Goals Addressed: 2, 5			
			TM	P&D, NCCF, NCSG	No	Medium-Long	Staff Time	NR-17	*	
	O-13 (ES-2)	Develop an education and outreach program for property owners on permitting living shorelines, loss of estuarine shorelines, how to construct living shorelines, and explain why they are important.					FOCUS Nags Head Goals Addressed: 1, 2			
			P&D	NCCF, HOAs, TNC,	Yes	Short-Medium	Staff Time	NR-1, NR-2, NR-3	*	
	O-16 (AG-6)	Explore the use of neighborhood scale design approaches. This could include utilization of off-site septic and cluster septic systems.					FOCUS Nags Head Goals Addressed: 2, 4, 5			
		P&D	TM, Developers, County EHS	Yes	Intermediate-Long	Staff time	NR-24, NR-26, NR-28			
O-17 (AG-6)	Utilize and establish living shoreline projects in the town. This includes installation of demonstration projects on town owned property or private property. Public-private partnerships are critical to the implementation on private property.					FOCUS Nags Head Goals Addressed: 1, 2, 4				
			P & D, NCCF, TNC	Yes	Short-Intermediate	Grant, Staff Time	NR-2	*		

PARKS AND RECREATION ACTION PLAN: IMMEDIATE

<i>ACTION</i>	<i>ESTIMATED COSTS</i>	<i>RESPONSIBILITY</i>	<i>COMMENT</i>
Adopt Plan	N/A	Board of Commissioners	Adopted Plan should guide grant applications and budget planning. PARTF rates points for adopted plan.
Communication system with Dare County to inform NH citizens of programs and resources.	Staff or volunteer time	Town PIO; Dare Parks and Rec. Director	Use of Town website, FB, email notifications, and Channel 20
Coordinate Community Calendars of events with local partners such as the Tourism Development Board, YMCA, and Dare County	Staff or volunteer time	Town PIO; Dare Parks and Rec. Director	Town website and FB
Provide maps on Google maps that indicate where parks and water access are located.	Staff or volunteer time	Town PIO; Planning	Town website and FB
Partner with the YMCA on Skate Park task force	Staff or Volunteer time	Town Manager assign	Provide Town representation on Skate Park discussions
Research feasibility, cost and location for illuminated tennis courts or work with Kelly's to update agreement.	Staff time	Town Manager assign	Coordinate with Dare County, Kelly's and Public Works for possible CIP request.
Application to NC Trails Program for multi-use trail (deadline 1/31/12)	25% local match to be met with \$150,000 already allocated for trail construction.	Planning and Public Works Departments	Town researched Safe Routes to School funding for this project and learned that it is not available at this time. SRTS funding could be used on small sidewalk segment near school.
Update CIP requests and parks maintenance budgets for BOC Consideration for FY2012-2013.	To be considered at budget development process.	Town Manager and planning Director to coordinate	Many recommendations noted in this plan are items Town Departments were already working on, or had already developed CIP requests for.

PARKS AND RECREATION ACTION PLAN: YEARS 1-3

<i>ACTION</i>	<i>ESTIMATED COSTS</i>	<i>RESPONSIBILITY</i>	<i>COMMENT</i>
Improve, increase or replace recreational elements at: Town Park, Satterfield, and Whalebone.	Est. \$150,000 (varying in cost and design)	Public Works and Planning	Grant application to PARTF, in January of 2012, could provide funding for enhanced recreational elements in Whalebone Park.
NCDOT grant application for Comprehensive Pedestrian Planning Grant (applied 12/2/11). If approved, then staff will work with consultant to develop Comprehensive Plan.	Staff time; \$6,000 to be allocated if grant approved in FY12/13	Planning Department	Grant requires 20% match: \$6,000 of local funding will produce \$30,000 product. Town should hear this spring if application is approved.
Develop and install uniform directional signage that allows visitors to locate existing parks, sound and beach access points and trailheads.	\$75,000 (estimated, actual cost to be determined through RFP)	Public Works and Planning	This effort could be incorporated into a larger “wayfinding project” that is aesthetically consistent with district signage.
Continue development of multi use trail along the US158 by-pass.	Phased	Public Works/Planning	Grant possibilities include Safe Routes to School, NC Trails Program
Repair the Beach Road multi-use trail, as needed, with asphalt and improve drainage where possible. Install signage to promote safety for all users.	8’ trail at approx. \$14.00 sf.	Public Works and Planning	Committee feels that asphalt is the preferred surface and that trail areas in South Nags Head may need resurfacing.
Continue to improve and maintain all access points (sound and beach), and make ADA improvements.	Varies	Public Works and Planning	Grant possibilities include CAMA
Provide sun shelters and water fountains at parks and beach accesses where possible.	Varies	Public Works and Planning	Grant possibilities include CAMA, Tourism Board
Purchase properties to advance or benefit park development, multi-use trail and Beach and Sound access improvements.	Varies	Board of Commissioners	Grant possibilities include CAMA, PARTF and Tourism Board
Promote regional events and sporting tournaments at Windmill Point, on the new beach, and other locations with community partners.	Varies/use of property and staff time	Town Task Force and/or staff appointment	Town would need to allocate funding for staff and/or co-sponsorships

<i>PARKS AND RECREATION ACTION PLAN: YEARS 1-3 (continued)</i>			
<i>ACTION</i>	<i>ESTIMATED COSTS</i>	<i>RESPONSIBILITY</i>	<i>COMMENT</i>
Research feasibility and possible lay out of disc golf course within Town Park and adjacent areas of Nags Head Woods and the YMCA.	Staff time	Public Works and Planning	Grant possibilities include PARTF and YMCA Partnership
Improve and sign kayak launches along the causeway.	Signage/staff time	Public Works and Planning	Grant possibilities include CAMA, NC Trails Program
Construct recreational facilities for general public use - such as horse shoe pits, corn hole and bocce areas, picnic tables, grills, playground and grassy open areas within Whalebone Park and other park areas as space allows.	Varies	Public Works and Planning	Grant possibilities include PARTF, Tourism Board
Offer joint recreational opportunities with the County, YMCA and other private sector commercial providers for youth and teens	None/ staff time	Planning	Identify program needs with County and other providers.
Create recreation committee and/or staff coordinator to work with Dare Co, Tourism Board, Chamber, and local partners to plan/promote events.	Volunteers and staff (or consider an intern or new staff position)	Board of Commissioners	A staff person would need to be appointed to carry out these duties by the Town Manager.
Encourage amusement type areas within the public/ private sector and examine zoning to allow these uses in certain districts.	Planning Board; Commissioners	Board of Commissioners and Planning	Short of rezoning, more flexibility in Crowd Gathering permits.
Participate in Windmill Point Master Planning once initiated with Tourism Board (see below)	Staff and volunteers	Staff and/or as requested by Windmill Point Committee	Ensure that traffic safety and pedestrian/bike connectivity and boardwalk are included.
Work with adjacent property owners and the Tourism Board to develop master plan for a boardwalk along the Sound and connecting Tanger Outlets, Windmill Point and other adjacent properties. Plan should improve sailboat and kayak launches at the Harvey site, consider development of park at the end of Forbes Street, and increase fishing, crabbing and boat launching opportunities.	Staff time plus master plan and design costs.	Board of Commissioners, Public Works and Planning	Grant possibilities include CAMA, NC Trails program, CWMTF

PARKS AND RECREATION ACTION PLAN: YEARS 4-10

<i>ACTION</i>	<i>ESTIMATED COSTS</i>	<i>RESPONSIBILITY</i>	<i>COMMENT</i>
Develop pedestrian and multi-use trail system throughout area of Whalebone District including crosswalk at Gull Street and 158 that connects the new Whalebone Park, Jennette's Pier, the entrance to the National Park, and shopping and restaurant destinations.	Phased	Public Works and Planning	Grant possibilities include NC Trails Program
Expand hiking and biking path from Town Park through Nags Head Woods.	Phased	Public Works and Planning In coordination with The Nature Conservancy	Grant possibilities include NC Trails Program
Research feasibility and location of a dog park within Nags Head in consideration of the new facility in Kitty Hawk.	Staff time	Public Works and Planning	Grant possibilities include PARTF
Coordinate with Jockey's Ridge State Park to add ADA surface material from boardwalk to beach area, install additional restrooms and shower facilities, identify opportunity to expand parking and/or improve traffic flow.	Signage/staff time	Public Works and Planning	Grant possibilities include CAMA, Tourism Board

PARKS AND RECREATION ACTION PLAN: 10 years and beyond

<i>ACTION</i>	<i>ESTIMATED COSTS</i>	<i>RESPONSIBILITY</i>	<i>COMMENT</i>
Improvements to Satterfield Landing: 1) replacing all or a portion of playing fields to artificial turf and 2) installing playground within the site 3) and outdoor lighting.		Dare County Parks and Recreation and YMCA	
Interconnect neighborhoods with crosswalks on the west side of US 158. Continue development of multi-use trail along 158 to Whalebone Junction Area.	On-going Phases of construction	Public Works and Planning	Grant possibilities include, tourism Board and NC Trails Program
Pursue the development of additional recreational opportunities at Dowdy and other available properties.		Board of Commissioners, Public Works and Planning	Grant possibilities include, PARTF
Research feasibility, costs and location of a public pool.		Public Works and Planning	

Appendices follow.



Table 4-1. Implementation Action Steps

TASK	LEAD AGENCY	SUPPORT	DETAILS	PHASE
Present Plan to Town Council	Project Consultants	Planning & Development	Presentation to Board of Commissioners in July 2014.	Short-term (2014)
Approve this plan	NCDOT Bike/Ped Division	Project Consultants	Official letter of approval in July 2014.	Short-term (2014)
Adopt this plan	Board of Commissioners	Planning & Development, Project Consultants	Through adoption, the Plan becomes an official planning document of the Town. Adoption shows that the Town of Nags Head has undergone a successful, supported planning process.	Short-term (2014)
Designate Staff	Board of Commissioners	Leadership of Town Departments	Designate staff to oversee the implementation of this plan and the proper maintenance of the facilities that are developed. It is recommended that a combination of existing staff from Planning & Development and Public Works oversee the day-to-day implementation of this plan.	Short-term (2014)
Present this plan to other local and regional bodies and agencies.	Planning & Development	Bicycle and Pedestrian Advisory Committee, Public Works	This Plan should be presented to other local and regional bodies and agencies. Possible groups to receive a presentation might include: the Albemarle RPO, regional transportation planners, Dare County planners, Dare County Department of Public Health, local cycling/walking/running clubs and advocacy groups .	Short-term (2014)
Form and confirm the goals of the Bicycle and Pedestrian Advisory Committee	Board of Commissioners	Bicycle and Pedestrian Advisory Committee, Planning & Development	Form the Bicycle and Pedestrian Advisory Committee and confirm the goals of the BPAC to include the implementation of this plan.	Short-term (2014)
Begin Annual Meeting With Key Project Partners	Planning & Development	Public Works, NCDOT, BPAC, and local & regional stakeholders	Key project partners (see org. chart on page 4-2) should meet on an annual basis to evaluate the implementation of this Plan. Meetings could also occasionally include on-site tours of priority project corridors.	Short-term/Ongoing (Beginning 2014)
Ensure planning efforts are integrated regionally	Bicycle and Pedestrian Advisory Committee, Planning & Development	Albemarle RPO, Dare County, OBX Bicycle and Pedestrian Safety Coalition, neighboring municipalities, NCDOT	Combining resources and efforts with surrounding municipalities, regional entities, and stakeholders is mutually beneficial. Communicate and coordinate with the regional partners on regional trails, bicycle, and pedestrian facilities; partner for joint-funding opportunities. After adoption by the Town, this document should also be recognized in regional transportation plans, including future updates to the Dare County CTP.	Short-term/Ongoing (Beginning 2015)
Policy Orientation	All Stakeholders	NCDOT Bike/Ped Division	Become familiar with State and Federal bicycle and pedestrian policies.	Short-term (2015)



TASK	LEAD AGENCY	SUPPORT	DETAILS	PHASE
Design Orientation	Public Works and NCDOT Division 1	NCDOT Bike/Ped Division	Become familiar with the standards set forth in Appendix A of this Plan, as well as state and national standards for bicycle and pedestrian facility design.	Short-term (2015)
Seek Multiple Funding Sources and Facility Development Options	Public Works	Planning & Development, BPAC	Chapter 3 contains project cost estimates and Appendix B contains potential funding opportunities, updated based on DBPT funding seminar in 2013.	Short-term/Ongoing (2015 onward)
Continue to apply for Safe Routes to School Grants and Infrastructure Funding	Bicycle and Pedestrian Advisory Committee	Albemarle RPO, NCDOT Division 1, Dare County Schools	In addition to current efforts, establish regular 'walking school buses' or other similar activities for children through the Safe Routes to School Program. Inquire about pedestrian infrastructure funding for projects within 1.5 miles of schools through NCDOT Division 1.	Short-term/Ongoing (2015 onward)
Improve Existing Programs and Launch New Programs	Bicycle and Pedestrian Advisory Committee	Planning & Development, Public Works, Nags Head Police Department, Dare County Department of Public Health, Parks and Recreation Committee, OBX Bicycle and Pedestrian Safety Coalition	These groups should coordinate to improve existing bicycle and pedestrian programs and to launch new programs, such as those described in Chapter 3.	Short-term/Ongoing (2015 onward)
Maintain Pedestrian Facilities	Public Works, NCDOT Division 1	BPAC, General Public (for reporting maintenance needs), Planning & Development	Public Works and NCDOT should maintain existing sidewalks, crosswalks, and shoulders and address crosswalks that are missing	Short-term/Ongoing (2015 onward)
Notify the Public Works Department of all upcoming roadway reconstruction or resurfacing/restriping projects, no later than the design phase.	Public Works Director, NCDOT Division 1	Planning & Development, NCDOT Bike/Ped Division	Provide sufficient time for comments; Incorporate bicycle pedestrian recommendations from this Plan into future updates to the CTP and into future project design plans. If a compromise to the original recommendation is needed, then contact NCDOT Division of Pedestrian and Pedestrian Transportation for guidance on appropriate alternatives.	Short-term/Ongoing (2015 onward)
Design, develop and distribute bicycle and pedestrian safety information in rental check-in packages.	Planning & Development	Police Department, BPAC, OBX Bicycle and Pedestrian Safety Coalition	Info should include safety tips for motorists, bicyclists and pedestrians, with a focus on trail use etiquette and caution at trail-driveway crossings. Other methods of distribution could include web sites, social media, and 'on-the-ground' in trail kiosks.	Short-term/Ongoing (2015 onward)
Establish maintenance program for existing crosswalks	Public Works + NCDOT Division 1	Planning & Development, BPAC	Establish a program for the regular review and maintenance of existing crosswalks.	Short-term/Ongoing (2015 onward)



TASK	LEAD AGENCY	SUPPORT	DETAILS	PHASE
Start addressing sight triangles at driveways	Public Works	Planning & Development	Adjust the design of intersections in Nags Head to ensure that all intersections have unobstructed sight triangles. See Appendix A, pages A-35 to A-36 for design guidance.	Short-term/Ongoing (2015/2016 onward)
Provide Enforcement and Education Training for Police Officers	Police Department	NCDOT Bike/Ped Division	Provide police officers with training through free online resources available from the National Highway Traffic Safety Administration, and through webinars available through the Association of Pedestrian and Bicycle Professionals. Provide police officers with an informational handout to be used during bicycle and pedestrian-related citations and warnings. Utilize available WatchForMeNC materials, and request that Nags Head be included when WatchForMeNC is integrated statewide.	Short-term/Ongoing (2015/2016 onward)
Complete two of the top pedestrian priority projects	Public Works + NCDOT Division 1	Albemarle RPO, NCDOT Bike/Ped Division	Chapter 3 provides a list of pedestrian projects with a general priority ranking. Immediate attention to the higher ranking projects will instantly have a large impact on the pedestrian environment in Nags Head. Aim to complete at least two of these projects by the end of 2017.	Short-term (2015-2017)
Develop a long term funding strategy	Public Works	Board of Commissioners, Planning & Development, BPAC	To allow continued development of the overall system, capital funds for pedestrian facility construction should be set aside every year. Powell Bill funds should be programmed for facility construction. Funding for an ongoing maintenance program should also be included in the Town's operating budget.	Short-term (2015-2017)
Communication & Outreach	BPAC, local bike shops, local advocacy groups	Planning & Development, Albemarle RPO, OBX Bicycle and Pedestrian Safety Coalition	The BPAC should establish a communication campaign to celebrate successes as facilities are developed and otherwise raise awareness of the overall pedestrian network and its benefits. A key first task of this group is to design and launch a one-stop website. Set up the one-stop website to provide information to residents and tourists on walking in town. To begin, the website can include the maps included in this plan.	Short-term (2015-2017)
Develop wayfinding system with directional signage	Public Works, Planning & Development	BPAC, Albemarle RPO, OBX Bicycle and Pedestrian Safety Coalition	Develop a wayfinding system for Nags Head to direct pedestrians to destinations and to safe places to cross busier roads. Place signage along sidepaths with pedestrian travel times to destinations. This signage could be integrated as part of a larger regional wayfinding system.	Short- to Mid-term (2015-2020)



TASK	LEAD AGENCY	SUPPORT	DETAILS	PHASE
Create a more climactic end to the MST in Nags Head	NC Division of Parks and Recreation	Nags Head Parks and Recreation Committee, Friends of the MST	Work with partners to create a more distinctive, attractive “finish line” to the MST to attract hikers and other visitors to use the trail.	Short- to Mid-term (2015-2020)
Seek designation as a Walk-Friendly Community (WFC)	Planning & Development	Board of Commissioners, Public Works, BPAC	The development and implementation of this plan is an essential first step toward becoming a designated WFC. With ongoing efforts and the short-term work program recommended here, the Town should be in a position to apply for and receive recognition within a few years.	Short- to Mid-term (2015-2020)
Establish Land Right-of-Way Acquisition Mechanisms	Board of Commissioners	Planning & Development, Public Works, BPAC	Amend development regulations to have developers set aside land for trails whenever a development proposal overlaps with proposed routes, as adopted. Town of Nags Head staff should ensure that an effective review of all pedestrian elements of proposed developments takes place.	Short- to Mid-term (2015-2020)
Improve and Implement Local Policies, including Driveway Access Management	Board of Commissioners	Planning & Development, Public Works, BPAC, NCDOT	Incorporate improvements to local policies in the upcoming Town ordinance update in 2014-2015. Nags Head should also consider developing and adopting a separate Complete Streets Policy, in addition to the suggested town code revisions. An access management policy should also be developed with assistance from NCDOT, especially for commercial corridors.	Mid-term (2017-2020)
Create short connections between soundside neighborhoods	Planning & Development	Local residents, HOAs, Public Works	Work with soundside residents to find short walking/bicycling connections between neighborhoods (creating a safer north-south alternative to US 158).	
Develop Pedestrian Facility Specifications	Public Works	Planning & Development, NCDOT	Town staff could prepare these in-house to save resources using the design guidelines of this plan and the project cut-sheets as starting points. Specifically, the resources listed in Appendix A will be very useful in drafting such documents.	Mid-term (2017-2020)
Establish a Monitoring Program	Planning & Development, Bicycle and Pedestrian Advisory Committee	Public Works, local advocates, general public	Planning & Development and the BPAC should brainstorm specific benchmarks to track through a monitoring program and honor the completion of projects with public events and media coverage.	Mid-term/Ongoing (2017-2020 onward)
Explore possibility of a regional multi-modal coordinator	Board of Commissioners	BPAC, Albemarle RPO, OBX Bicycle and Pedestrian Safety Coalition, neighboring municipalities	Explore the possibility of partnership with neighboring municipalities in hiring a regional full-time Multi-Modal Transportation Coordinator	Mid- to Long-term (2018-2022)