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ARTICLE II. - FLOOD DAMAGE PREVENTION [40]

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Sec. 22-31. - Statutory authorization, findings of fact, purpose and objectives.

- (a) *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, 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.
- (b) *Findings of fact.*
- (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.
 - (2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.
- (c) *Statement of purpose.* It is the purpose of this article to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:
- (1) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
 - (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
 - (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;
 - (4) Control filling, grading, dredging and other development which may increase erosion or flood damage; and
 - (5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.
- (d) *Objectives.* The objectives of this article are to:
- (1) Protect human life, safety and health;

- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business losses and interruptions;
- (5) Minimize damage to public facilities and utilities, such as water and gas mains, electric, telephone, cable and sewer lines, streets and bridges, located in flood prone areas;
- (6) Help maintain a stable tax base by providing for the sound use and development of flood-prone areas; and
- (7) To ensure that potential homebuyers are notified that property is in a special flood hazard area.

(Ord. No. 06-08-030, § 1, 8-2-2006)

Sec. 22-32. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory structure (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 urban accessory structures.

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

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

Area of special flood hazard. See "Special flood hazard area (SFHA)".

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

Basement means any area of the building which has its floor subgrade on all sides.

Base flood elevation (BFE) means a determination of the water surface elevations of the base flood as published in the flood insurance study. This elevation, when combined with the "freeboard", establishes the "regulatory flood protection elevation".

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.

Building. See "structure".

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 North Carolina Department of Environment and Natural Resources (NCDENR) Division of Coastal Management (DCM).

CBRS means Coastal Barrier Resources System.

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

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

Coastal high hazard area means a special flood hazard area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM, or other adopted flood map as determined in subsection 22-33(b) of this article, as zone VE.

Crawl space construction means the enclosed under-floor space between the bottom of the floor joists and the earth, not to exceed five feet vertical distance, under any building.

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

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.

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.

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.

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) is completed before January 16, 1978.

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

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

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.

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).

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 article, 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 this article 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.

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 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.

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, bridge openings, and the hydrological effects of urbanization on the watershed. The base flood elevation plus the freeboard establishes the "regulatory flood protection elevation".

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

Hazardous waste facility means, as defined in NCGS 130, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

Highest adjacent grade 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 U.S. 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 U.S. 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.

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 this article.

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

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

Market value means the physical value of the structure based upon either the annually adjusted tax assessed value of the building or an independent appraisal prepared by a certified professional appraiser, not including the land value and that of any accessory structures or other improvements on the lot.

Mean sea level means, for the purpose of this article, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which base flood elevations (BFE's) shown on a FIRM are referenced. Refer to each FIRM panel to determine the datum used.

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.

OPA means an otherwise protected area.

Post-FIRM means construction of other development for which the "start of construction" commenced on or after February 3, 1975, the effective date of the initial flood insurance rate map for the area.

Pre-FIRM means construction or other development for which the "start of construction" occurred before February 3, 1975, the effective date of the initial flood insurance rate map for the area.

Primary frontal dune means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and over-topping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively

steep slope to a relatively mild slope.

Principally above ground means that at least 51 percent of the actual cash value of the structure is above ground.

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 passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal or basin.

Recreational vehicle 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; and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

Reference level is the top of the lowest floor for structures within special flood hazard areas designated as zone AE. 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.

Regulatory flood protection elevation means the "base flood elevation" plus the "freeboard" as specified in the North Carolina Building Codes.

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.

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.

Solid waste disposal facility means, as defined in NCGS 130A-290(a)(35), any facility involved in the disposal of solid waste.

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.

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 subsection [22-33\(b\)](#) of this article.

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.

Structure means, for floodplain management purposes, a walled and roofed building, a manufactured home, or a gas or liquid, or liquefied gas storage tank that is principally above ground.

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.

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 correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to 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.

Variance means a grant of relief from the requirements of this article.

Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in sections [22-34](#) and [22-35](#) is presumed to be in violation until such time as that documentation is provided.

Water surface elevation (WSE) means the height, in relation to mean sea level of floods of various magnitudes and frequencies in coastal or riverine floodplains.

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.

(Ord. No. 06-08-030, § 1, 8-2-2006; Ord. No. 07-03-006, § II, 3-7-2007; Ord. No. 12-05-013, Pt. I, 5-2-2012)

Sec. 22-33. - General provisions.

- (a) *Lands to which this article applies.* This article shall apply to all special flood hazard areas within the jurisdiction of the town.
- (b) *Basis for establishing the special flood hazard areas.* The special flood hazard areas are those identified under the cooperating technical state agreement between the State of North Carolina and FEMA in its flood insurance study (FIS) 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.
- (c) *Establishment of floodplain development permit.* A floodplain development permit shall be required in conformance with the provisions of this article prior to the commencement of any development activities within special flood hazard areas determined in accordance with subsection [22-33\(b\)](#) of this article.

- (d) *Compliance.* No structure or land shall hereafter be located, extended, converted, altered or developed in any way without full compliance with the terms of this article and other applicable regulations.
- (e) *Abrogation and greater restrictions.* This article is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this article and another provision conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- (f) *Interpretation.* In the interpretation and application of this article, all provisions shall be considered as minimum requirements; liberally construed in favor of the board of commissioners; and deemed neither to limit nor repeal any other powers granted under state statutes.
- (g) *Warning and disclaimer of liability.* The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur; actual flood heights may be increased by manmade or natural causes. This article does not imply that land outside the special flood hazard areas or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the town or by an officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.
- (h) *Penalties for violations.* Violation of the provisions of this article or failure to comply with of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this article or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$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 Article XV, Chapter 48 of the Town Code.

(Ord. No. 06-08-030, § 1, 8-2-2006)

Sec. 22-34. - Administration.

- (a) *Designation of floodplain administrator.* The chief building inspector or his designee is hereby appointed to administer and implement the provisions of this article.
- (b) *Duties and responsibilities of the floodplain administrator.* Duties of the floodplain administrator shall include, but not be limited to:
 - (1) Review of all floodplain development applications and issue permits for all proposed development within special flood hazard areas to assure that all requirements of this article have been satisfied.
 - (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.
 - (3) Notifying adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alterations or relocation of a watercourse, and submitting evidence of such notification to FEMA.
 - (4) Ensuring that maintenance is provided within the altered or relocated portion of such watercourse so that the flood-carrying capacity is not diminished.

- (5) Obtaining the actual elevation (in relation to mean sea level) of the reference level (including the basement) and all attendant utilities of all new or substantially improved structures in accordance with subsection (e)(1) of this section.
- (6) Obtaining the actual elevation (in relation to mean sea level) to which all new or substantially improved structures and utilities have been floodproofed in accordance with subsection (e)(1) of this section.
- (7) Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with subsection (e)(1) of this section.
- (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 (e)(2) of this section and subsection 22-35(b)(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), 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 article.
- (10) When 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. Maintain a copy of the letter of map amendment (LOMA) issued by FEMA in the floodplain development permit file.
- (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.
- (12) Issue stop work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this article, the floodplain administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing 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.
- (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.
- (14) Permanently maintain all records pertaining to the administration of this article and making these records available for public inspection.
- (15) Providing the North Carolina Department of Crime Control and 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.
- (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.

- (17) Follow through with corrective procedures of subsection [22-34\(f\)](#).
 - (18) Review, provide input, and make recommendations for variance requests.
 - (19) Maintain a current map repository to include, but not limited to, the FIS report, FIRM and other official flood maps and studies adopted in accordance with subsection [22-33\(b\)](#) of this article, including any revisions thereto including letters of map change, issued by FEMA. Notify state and FEMA of mapping needs.
 - (20) Coordinate revisions to FIS reports and FIRMS, including letters of map revision based on fill (LOMR-F) and letters of map revision (LOMR).
- (c) *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:
- (1) Plot plans in duplicate drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
 - a. 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;
 - b. The boundary of the special flood hazard area as delineated on the firm or other flood map as determined in subsection [22-33\(b\)](#) or a statement that the entire lot is within the special flood hazard area;
 - c. Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in subsection [22-33\(b\)](#);
 - d. The base flood elevation (BFE) where provided as set forth in subsection [22-33\(b\)](#);
 - e. The old and new location of any watercourse that will be altered or relocated as a result of proposed development;
 - f. The boundary and designation date of the CBRS area or OPA, if applicable; and
 - g. Certification of the plot plan by a registered land surveyor or professional engineer.
 - (2) Proposed elevation, and method thereof, of all development within a special flood hazard area including but not limited to:
 - a. The elevation in relation to mean sea level of the proposed reference level (including the basement) of all new and substantially improved structures; and
 - b. Elevation in relation to mean sea level to which any non-residential structure in zone AE will be floodproofed; and
 - c. Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed;
 - (3) If floodproofing, a floodproofing certificate (FEMA Form 81-65) with supporting data and an operational plan that includes, but is not limited to, installation, exercise, and maintenance of floodproofing measures.
 - (4) A foundation plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this article are met. These details include but are not limited to:

- a. 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).
- b. Openings to facilitate equalization of hydrostatic flood forces on walls in accordance with subsection 22-35(b)(5) when solid foundation perimeter walls are used in zones AE.
- c. The following, in coastal high hazard areas, in accordance with subsection 22-35(b)(5)d. and subsection 22-35(c):
 1. V-Zone certification with accompanying plans and specifications verifying the engineered structure and any breakaway wall designs.
 2. Plans for open wood lattice or insect screening, if applicable.
 3. Plans for non-structural fill, if applicable. If non-structural fill is proposed, it must demonstrated 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 on to the subject structure or adjacent properties.
- (5) Usage details of any enclosed areas below the regulatory flood protection elevation.
- (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.
- (7) Copies of all other local, state and federal permits required prior to floodplain development permit issuance (wetlands, endangered species, erosion and sedimentation control, CAMA, riparian buffers, mining, etc.)
- (8) Documentation for placement of recreational vehicles and/or temporary structures, when applicable, to ensure subsections 22-35(b)(4) and (b)(6) of this article are met.
- (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 to 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.
- (d) *Floodplain development permit requirements.* The floodplain Development permit shall include, but not be limited to:
 - (1) A description of the development to be permitted under the floodplain development permit.
 - (2) The special flood hazard area determination for the proposed development per available data specified in subsection 22-33(b).
 - (3) The regulatory flood protection elevation required for the reference level and all attendant utilities.
 - (4) The regulatory flood protection elevation required for the protection of all public utilities.
 - (5) All certification submittal requirements with timelines.
 - (6) The flood openings requirements, if in zones AE.
 - (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).
 - (8) A statement, if in zone VE, that there shall be no alteration of sand dunes which would increase potential flood damage.
 - (9) A statement, if in zone VE, that there shall be no fill used for structural support.
- (e) *Floodplain development certification requirements.*
 - (1) Elevation certificates.

- a. An elevation certificate (FEMA Form 81-31) 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. 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.
 - b. An elevation certificate (FEMA 81-31) 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. 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.
 - c. A final as-built elevation certificate (FEMA 81-31) is required after construction is completed and prior to certificate of compliance/occupancy issuance. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. 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.
- (2) Floodproofing certificate. If non-residential floodproofing is used to meet the regulatory food protection elevation requirements, a floodproofing certificate (FEMA Form 81-65), with supporting data and an operational 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. 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. 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.
 - (3) If a manufactured home is placed within zone AE and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required per subsection 22-35(b)(3).
 - (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.
- (5) Certification exemptions. The following structures, if located within zone AE, are exempt from the elevation/floodproofing certification requirements specified in subsections (1)a. and (1)b. above:
- a. Recreational vehicles meeting requirements of subsection 22-35(b)(4);
 - b. Temporary structures meeting requirements of subsection 22-35(b)(6) and,
 - c. Accessory structures less than 150 square feet meeting requirements of subsection 22-35(b)(7).
- (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 article are met. A registered professional engineer or architect shall develop or review the structural design, plans and specifications for construction and certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of this article. This certification is not a substitute for an elevation certificate.
- (f) *Corrective procedures.*
- (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.
 - (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 written notice, by certified mail, to his last known address or by personal service that:
 - a. The building or property is in violation of the flood damage prevention ordinance;
 - b. A hearing will be held before the floodplain administrator at a designated place and time, not later than ten 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
 - c. Following the hearing, the floodplain administrator may issue such order to alter, vacate or demolish the building; or to remove fill as appears appropriate.
 - (3) Order to take corrective action. If, upon a hearing held pursuant to the notice prescribed above, the floodplain administrator shall find that the building or development is in violation of this article, he shall make an order in writing to the owner, requiring the owner to remedy the violation within such period not less than 60 days, nor more than 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 may issue an order that corrective action be taken in such lesser period as may be feasible.
 - (4) Appeal. Any owner who has received an order to take corrective action may appeal the order to the board of adjustment by giving notice of appeal in writing to the floodplain administrator and the town clerk within ten days following issuance of the final order. In the absence of an appeal, the order of the floodplain administrator shall be final. The board of adjustment shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.
 - (5) Failure to comply with order. If the owner of a building or property fails to comply with an

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

- (g) *Variance procedures.* Variance procedures shall be in accordance with subsection 48-594(c) and the following additional provisions:
- (1) The board of adjustment, as established by the town, shall hear and decide requests for variances from the requirements of this article.
 - (2) Any person aggrieved by the decision of the board of adjustment may appeal such decision to superior court, as provided in N.C.G.S. ch. 7A.
 - (3) Variances may be issued for:
 - a. The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
 - b. Functionally dependent facilities if determined to meet the definition as stated in section 22-32, of this article, provided provisions of subsections 22-34(g)(10)b. and c. have been satisfied, and such facilities are protected by methods that minimize flood damages.
 - c. Any other type of development, provided it meets the requirements stated in this section.
 - (4) In passing upon such applications, the board of adjustment shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this article and the:
 - a. Danger that materials may be swept onto other lands to the injury of others;
 - b. Danger to life and property due to flooding or erosion damage;
 - c. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - d. Importance of the services provided by the proposed facility to the community;
 - e. Necessity to the facility of a waterfront location as defined under section 22-32 of this article as a functionally dependant facility, where applicable;
 - f. Availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - g. Compatibility of the proposed use with existing and anticipated development;
 - h. Relationship of the proposed use to the current land use plan and floodplain management program for that area;
 - i. Safety of access to the property in times of flood for ordinary and emergency vehicles;
 - j. Expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - k. Costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
 - (5) A written report addressing each of the above factors shall be submitted with the application for a variance.
 - (6) Upon consideration of the factors listed in subsection (g)(4) of this section and the purposes of this article, the board of adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes of this article.

- (7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation (BFE) and the elevation to which the structure is to be built and that such construction below the base flood elevation increases risks to life and property, and that the issuance of a variance to construct a structure below the base flood elevation 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.
- (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.
- (9) Conditions for variances.
 - a. Variances may not be issued when the variance will make the structure in violation of other federal, state or local laws, regulations or ordinances.
 - b. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - c. Variances shall only be issued upon:
 1. A showing of good and sufficient cause;
 2. A determination that failure to grant the variance would result in exceptional hardship; and
 3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - d. 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.
 - e. 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.
- (10) A variance may be issued for solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in special flood hazard areas provided that all of the following conditions are met:
 - a. The use serves a critical need in the community.
 - b. No feasible locations exist for the use outside the SFHA.
 - c. The reference level of any structure is elevated or floodproofed to at least the regulatory flood protection elevation.
 - d. The use complies with all other applicable federal, state and local laws.
 - e. The town has notified the Secretary of the North Carolina Department of Crime Control and Public Safety of its intention to grant a variance at least 30 calendar days prior to granting the variance.

(Ord. No. 06-08-030, § 1, 8-2-2006)

Sec. 22-35. - Provisions for flood hazard reduction.

- (a) *General standards.* In all special flood hazard areas, the following provisions are required:

- (1) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure.
 - (2) All new construction or substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
 - (3) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damages.
 - (4) Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility, cable boxes, appliances (washers, dryers, refrigerators, freezers, freezers, etc), hot water heaters, and electric outlets/switches.
 - (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems.
 - (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.
 - (7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
 - (8) Any alteration, repair, reconstruction or improvements to a structure which is in compliance with the provisions of this article shall meet the requirements of "new construction" as contained in this article.
 - (9) 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 22-34(g)(11). 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 22-34(e) of this article.
 - (10) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.
 - (11) All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
 - (12) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
 - (13) All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendment of 1972, 33 U.S.C. 1334.
- (b) *Specific standards.* In all special flood hazard areas where base flood elevation data has been provided as set forth in subsection 22-33(b), the following provisions, in addition to subsection 22-35(a) are required:
- (1) Residential construction. New construction or substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including the basement, elevated no lower than the regulatory flood protection elevation, as defined in section 22-32 of this article.
 - (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 [section 22-32](#) of this article. Structures located in AE 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. 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 [22-34\(e\)](#), along with the operational and maintenance plans.

- (3) Manufactured homes.
 - a. New or replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, as defined in [section 22-33](#) of the article.
 - b. Manufactured homes shall be securely anchored to an adequately anchored foundation to prevent flotation, collapse or lateral movement, either by engineer certification, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes, adopted by the Commissioner of Insurance pursuant to N.C.G.S. 143-143.15 or a certified engineered foundation. Additionally, when the elevation would be met by an elevation of the chassis 36 inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above 36 inches in height, an engineering certification is required.
 - c. All enclosures or skirting below the lowest floor shall meet the requirements of subsections [22-35](#) (b)(5)a., b., and c.
 - d. An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within floodprone areas. This plan shall be filed with and approved by the floodplain administrator and the local emergency management coordinator.
- (4) Recreational vehicles. Recreational vehicles placed on sites shall either:
 - a. Be on-site for fewer than 180 days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions); or
 - b. Meet all the requirements for new construction, including anchoring and elevation requirements of subsection [22-33\(c\)](#) and subsections [22-35\(a\)](#) and (b)(3).
- (5) Elevated buildings. Fully enclosed areas of new construction and substantially improved structures, which are below the regulatory flood protection elevation:
 - a. Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;
 - b. Shall be constructed entirely of flood resistant materials, up to the regulatory flood protection elevation;

- c. Shall, in zones AE, not 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. 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;
1. A minimum of two flood openings on different sides of each enclosed area subject to flooding;
 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;
 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;
 4. The bottom of all required flood openings shall be no higher than one foot above the adjacent grade;
 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
 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.
- d. 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.

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;

- a. 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;
 - b. The name, address and phone number of the individual responsible for the removal of the temporary structure;
 - c. The time frame prior to the event at which a structure will be removed (i.e.: minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
 - d. A copy of the contract or other suitable instrument with a trucking company to ensure the availability of removal equipment when needed; and
 - e. Designation, accompanied by documentation, of a location outside the floodplain to which the temporary structure will be moved.
- (7) Accessory structure. When accessory structures (sheds, detached garages, etc.) are to be placed in the floodplain, the following criteria shall be met:
- a. Any portion of an accessory structure that has the floor located below the regulatory flood protection elevation shall not be used for human habitation, (including working, sleeping, living, cooking or restroom areas).
 - b. Any portion of an accessory structure that has the floor located below the regulatory flood protection elevation shall not be temperature-controlled.

- c. Any portion of an accessory structure located below the regulatory flood protection elevation shall not exceed 300 square feet in area.
- d. Accessory structures shall be designed to have low flood damage potential.
- e. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
- f. Accessory structures shall be firmly anchored in accordance with subsection (a)(1) of this section.
- g. All service facilities such as electrical and heating equipment shall be elevated in accordance with subsection (a)(4) of this section.
- h. Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with subsection 22-35(b)(5)c.

An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with subsection 22-34(e).

(8) Additions/improvements.

- a. Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - 1. Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.
 - 2. A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
- b. Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.
- c. Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - 1. Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.
 - 2. A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
- d. 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.

(c) *Coastal high hazard areas (zones VE)*. Coastal high hazard areas are special flood hazard areas established in subsection 22-33(b), and designated as zones VE. 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 this article the following provisions shall apply:

- (1) All new construction and substantial improvements shall:
 - a. Be located landward of the reach of mean high tide;
 - b. Be located landward of the first line of stable natural vegetation; and
 - c.

Comply with all applicable CAMA setback requirements.

- (2) All new 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.
- (3) All new construction and substantial improvements shall have the space below the lowest floor free of obstruction so as not to impede the flow of flood waters, with the following exception: 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 22-35(b)(5)d. Design plans shall be submitted in accordance with subsection 22-34(c)(6)c.
- (4) All new construction and substantial improvements shall be securely anchored to pile or column foundations. All pilings and columns and the structures attached thereto shall be anchored to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.
 - a. Water loading values used shall be those associated with the base flood.
 - b. Wind loading values used shall be those required by the current edition of the North Carolina State Building Code.
- (5) A registered professional engineer or architect shall certify that the design, specifications and plans for construction are in compliance with the provisions contained in subsection 22-34(b), subsections 22-35(c)(3)a and b., subsection 22-35(c)(4) and subsection 22-35(c)(6) of this article on the current version of the North Carolina "National Flood Insurance Program V-Zone Certification" form.
- (6) Fill shall not be used for structural support. Limited non-compacted and non-stabilized fill may be used around the perimeter of a building for landscaping/aesthetic purposes provided 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.
- (7) There shall be no alteration of sand dunes which would increase potential flood damage.
- (8) No manufactured homes shall be permitted except in an existing manufactured home park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring and elevation standards of this section have been satisfied.
- (9) Recreational vehicles may be permitted in coastal high hazard areas provided that they meet the recreational vehicle criteria of subsection 22-35(b)(4) and the temporary structure provisions of subsection 22-35(b)(6).

(Ord. No. 06-08-030, § 1, 8-2-2006)

Sec. 22-36. - Remedies.

Any violation of this article shall be subject to the remedies as stated in Chapter 48, Article XV of this Code.

(Ord. No. 06-08-030, § 1, 8-2-2006)

Sec. 22-37. - Legal status provisions.

- (a) *Effect on rights and liabilities under the existing flood damage prevention ordinance.* This

article in part comes forward by re-enactment of some of the provisions of the flood damage prevention ordinance enacted 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 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.

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

(Ord. No. 06-08-030, § 1, 8-2-2006)

FOOTNOTE(S):

⁽⁴⁰⁾ **Editor's note**— *Ord. No. 06-08-030, § 1, adopted Aug. 2, 2006, amended Art. II in its entirety to read as herein set out. Former Art. II, §§ 22-31—22-37, pertained to similar subject matter, and derived from Code 1990, §§ 14-101—14-106. ([Back](#))*

