NOTICE OF MEETING
OF THE HYDE COUNTY
BOARD OF EQUALIZATION AND REVIEW
PURSUANT TO N. C.G.S. 105-322,
THE HYDE COUNTY BOARD OF EQUALIZATION AND REVIEW
WILL MEET AS REQUIRED BY LAW.

PURPOSE OF MEETING
To hear, upon request, any and all taxpayers
Who own or control taxable property assessed for
Taxation in Hyde County, with respect to the
Valuation of such property, or the property of others.
And to fulfill duties and responsibilities as required by
Law.

TIME OF MEETING

The Board will convene for its meeting on

May 4, 2020
At
5:00 P.M. to 6:00 P.M.

The meeting will be held at the
Multi-purpose Room
Hyde County Government Center
Ocracoke Community Building

Final adjournment is scheduled for

May 14, 2020
At 5:00 P.M.

REQUEST FOR HEARING MUST BE RECEIVED NO LATER THAN
1:00 P.M. APRIL 28, 2020

In the event of
An earlier or a later adjournment, notice to
That effect will be published in this newspaper.

All request for hearing should be made to

Linda M. Basnight
252 926 4188
Sue Gurganus
252 926 4186
P O Box 279
Swan Quarter, NC 27885

Hyde County Board of Commissioners
AGENDA ITEM SUMMARY SHEET

Meeting Date: May 4, 2020
Presenter: Chairman Earl Pugh, Jr.
Attachment: No

ITEM TITLE: OPENING

SUMMARY:
Call to Order
Opening Prayer
Pledge of Allegiance

Hyde County Board of Commissioners
AGENDA ITEM SUMMARY SHEET

Meeting Date: May 4, 2020
Presenter: Chairman Earl Pugh, Jr.
Attachment: Yes

ITEM TITLE: CONSIDERATION OF AGENDA

SUMMARY: Attached is the proposed Agenda for the May 4, 2020 Regular Meeting of the Hyde County Board of Commissioners.

RECOMMEND: Review, Amend and Approve.

MOTION MADE BY:	MOTION SECONDED BY:	VOTE:
___ PUGH	___ PUGH	___ PUGH
___ SIMMONS	___ SIMMONS	___ SIMMONS
___ PAHL	___ PAHL	___ PAHL
___ SWINDELL	___ SWINDELL	___ SWINDELL
___ TOPPING	___ TOPPING	___ TOPPING

AMENDED AGENDA

HYDE COUNTY BOARD OF COMMISSIONERS'

MONDAY, MAY 4, 2020

BOARD OF EQUILIZATION & REVIEW 5:00 PM

PURSUANT TO N.C.G.S. 105-322 the Board of E&R will meet as required by law to hear, upon request, any and all taxpayers who own or control taxable property assessed for taxation in Hyde County with respect to the valuation of such property or the property of others and to fulfill duties and responsibilities as required by law.

REGULAR MEETING 6:00 PM

CALL TO ORDER

CONSIDERATION OF AGENDA

CONSIDERATION OF MINUTES

April 6, 2020

- **Regular Meeting Minutes**

PUBLIC HEARINGS

- **Ocracoke Development Ordinance Amended ..... Mgr. Noble**
- **Hyde County Flood Damage Prevention Ordinance ..... Jane Hodges**

PRESENTATIONS

- **Tax Collections Report – April 2020 ..... Justin Gibbs**
- **District Two Recovery Court ..... Kristen Smith Beasley, MPH**
- **COVID-19 Update ..... Luana Gibbs**

RECOGNITION OF HYDE COUNTY COMMISSIONER JOHN FLETCHER ..... Mgr. Noble

PUBLIC COMMENTS

Public Comments are a time for the public to make comments to the County Commissioners. Comments should be kept to three (3) minutes or less and comments should be directed to the entire Board and not to individual members, the staff or to other members of the public. Comments requesting assistance will typically be referred to the County Manager for follow-up or for Board action at a future meeting.

ITEMS OF CONSIDERATION

1) **Ordinances – Resolutions – Proclamations**
   - **Proclamation – Older Americans Month 2020 ..... Mgr. Noble**
   - **Project Budget Ordinance – NCCORR Temporary Cash Assistance Program ..... Mgr. Noble**
   - **Project Budget Ordinance – NCCORR State Grant ..... Mgr. Noble**
   - **Resolution to Ratify Board Action – Amendment No. Four ..... Justin Gibbs**

2) **Appointments**
   - **Appointment – Hyde County Minimum Housing Code Officer ..... Mgr. Noble**

3) **Solar Energy Facilities Building Inspections Fee Schedule ....., Jane Hodges**

4) **FAA Approval of Agreement for Transfer of Entitlement ..... Jane Hodges**

5) **DAA Form – Designation for COVID-19 ..... Mr. Noble**

6) **Life & Health Insurance Renewal ..... Tammy Blake**

7) **CDBG-NR Asbestos Inspection Services Contract Award ..... Mgr. Noble**

8) **NC PDS Community Program – County Funding Plan ..... Mgr. Noble**

BUDGET MATTERS

Department of Social Services

- **Maintenance & Repairs ..... $ 9,900.00**
- **Vehicle Maintenance ..... $ 2,000.00**
- **Drug Testing ..... $ 2,000.00**
- **LIEAP ..... $ 11,467.00**
- **SSBG Legal Services ..... $ 10,000.00**
- **Office Supplies ..... $ 3,000.00**

Health Department

- **Bioterrorism 17-20 ..... $ 750.00**
- **Healthy Communities 18-20 ..... $ 1,802.73**
- **Bioterrorism 19-20 ..... $52,439.00**
- **Travel 20-20 ..... $ 100.00**
- **Supplies 20-21 ..... $ 1,640.00**
- **Contract Nurse Peacrtitioner 22-20 ..... $10,500.00**
- **Departmdent Supplies, Equipment ..... $ 7,756.15**

Sheriff's Department

- **Equipment $5,500.00**

MANAGEMENT REPORTS

The Commissioners, County Manager and Assistant County Manager will share with the public their various activities and ideas for continuous improvement of government services to the citizens.

PUBLIC COMMENTS

The public is invited to use this time to make comments to the County Commissioners on items discussed during this meeting and/or matters not discussed earlier in the meeting.

CLOSED SESSION (discussion and possible action if required)

ADJOURN

SUPPLEMENTAL INFORMATION

Department Reports

Department Heads reports will be attached to update the public with departmental activities and ideas for continuous improvement of government services to the citizens.

Informational Items

1) **Tourists: A double-edged sword during COVID-19 pandemic**
2) **Gaston County – Letter to Governor Cooper**
3) **Beaufort County – Resolution Regarding Refugee Settlement in North Carolina**
4) **Craven County – Letter to Governor Cooper**
5) **Alamance County – Letter to Governor Cooper**
6) **Cape Chronicle – Seashore Update Article**

Hyde County Board of Commissioners
AGENDA ITEM SUMMARY SHEET

Meeting Date: May 4, 2020
Presenter: Lois Stotesberry, Clerk
Attachment: Yes

ITEM TITLE: CONSIDERATION OF MINUTES

SUMMARY: Attached are the April 6, 2020 Regular Meeting Minutes of the Hyde County Board of Commissioners.

RECOMMEND: Review, Amend and Approve.

MOTION MADE BY:	MOTION SECONDED BY:	VOTE:
___ PUGH	___ PUGH	___ PUGH
___ SIMMONS	___ SIMMONS	___ SIMMONS
___ PAHL	___ PAHL	___ PAHL
___ SWINDELL	___ SWINDELL	___ SWINDELL
___ TOPPING	___ TOPPING	___ TOPPING

REGULAR MEETING MINUTES

HYDE COUNTY BOARD OF COMMISSIONERS
MONDAY, APRIL 6, 2020

Following opening prayer by Commissioner Simmons; and, Pledge of Allegiance, Chairman Pugh called the Regular Meeting of the Hyde County Board of Commissioners to order at 6:00p.m., on Monday, April 6, 2020 in the Hyde County Government Center Multi-Use Room and the Ocracoke Community Center.

Due to COVID-19 restrictions, the April 6, 2020 Hyde County Board of Commissioners meeting was live streamed via the Hyde County Facebook page. The video is available on Facebook and on the County's YouTube channel for download to a personal device.

The following members were present on the mainland: Chairman Earl Pugh, Jr.; Commissioners Ben Simmons, Shannon Swindell and James Topping; County Manager Kris Cahoon Noble; Attorney Franz Holscher; Clerk to the Board Lois Stotesberry; IT Director Donnie Shumate; and, Sheriff Guire Cahoon.

Vice-chairman Tom Pahl and Emergency Manager Justin Gibbs attended via live stream from Ocracoke.

Superintendent Dave Hallac and Health Director Luana Gibbs also attended via live stream.

Everyone wished Chairman Pugh a happy birthday.

CONSIDERATION OF AGENDA:

Commissioner Simmons moved to approve the Monday, April 6, 2020 Regular Meeting Agenda as presented by the Clerk with addition of Public Hearing on the Hyde County Flood Damage Prevention Ordinance. Commissioner Swindell seconded the motion. The motion passed on the following vote: Ayes – Pugh, Pahl, Simmons, Swindell and Topping; Nays – None; Absent or not voting – None.

After discussion on March 2, 2020, Commissioner Pahl withdrew motion to adopt Proclamation County of Hyde Designating The Month of April 2020 As North Carolina 811 Safe Digging Month. The proclamation was tabled until the April 6 Board of Commissioners meeting.

Due to COVID-19 restrictions, Proclamation to Designate the Month of April as "North Carolina 811 Safe Digging Month" was further continued to the May 4, 2020 Board of Commissioners meeting. Manager Noble will invite "North Carolina 811" to present at the May 4 meeting.

CONSIDERATION OF MINUTES:

March 2, 2020 – Regular Meeting Minutes

Commissioner Pahl moved to approve the March 2, 2020 regular meeting minutes as amended on page 1-line 28 to further amend the January 6, 2020 regular meeting minutes as previously amended on page 3 line 13-14 – Section 34.1 be changed. ~~and on page 7 line 33-34 – Plans to be more diligent in his role as a county commissioner in 2020~~.; on page 2-line 48 – Tom ~~Payne~~ Cain and on line 51 – do not support ~~proposed changes~~ resolution to the Second Amendment; and, on page 3-line 45 – Ayes – Pugh, ~~Pahl~~, Simmons, Swindell and ~~Topping~~; Nays – ~~None~~ Pahl and Topping. Commissioner Swindell seconded the motion. The motion passed on the following vote: Ayes – Pugh, Pahl, Simmons, Swindell and Topping; Nays – None; Absent or not voting – None.

March 18, 2020 – Special Called Meeting Minutes

Commissioner Swindell moved to approve the March 18, 2020 regular meeting minutes as presented. Commissioner

DRAFT

Simmons seconded the motion. The motion passed on the following vote: Ayes – Pugh, Pahl, Simmons, Swindell and Topping; Nays – None; Absent or not voting – None.

PUBLIC HEARING:

Flood Damage Prevention Ordinance

Commissioner Pahl moved to further continue public hearing on the Hyde County Flood Damage Prevention Ordinance to the May 4, 2020 Board of Commissioners meeting in order to receive as much public comment as possible. Commissioner Simmons seconded the motion. The motion passed on the following vote: Ayes – Pugh, Pahl, Simmons, Swindell and Topping; Nays – None; Absent or not voting – None.

PRESENTATIONS:

National Park Service 2019 Year In Review

NPS Superintendent Dave Hallac presented overview of visitation patterns and park activities at Cape Hatteras National Seashore, Fort Raleigh National Historical Site and the Wright Brothers National Memorial during 2019.

Superintendent Hallac reported the highest number (3.25 million) visitors seen in the past sixteen years at the Eastern North Carolina National Seashore in 2019. He reported Hurricane Dorian recovery efforts are ongoing.

COVID-19 Update

Luana Gibbs, Health Director presented update on COVID-19. Ms. Gibbs reported ten out of 90 counties have no confirmed cases of corona virus which includes Hyde County. She recommended everyone remain vigilant - stay home and be safe.

Hurricane Dorian Recovery Efforts

Emergency Manager Justin Gibbs presented update on Hurricane Dorian recovery efforts. Mr. Gibbs reported the temporary housing program is moving forward. Twenty-three trailers are set up; one is ready to use; ten need electrical service; four need inspection; one needs electricity and three are waiting for meter installation. He also reported debris removal is near completion.

Manager Noble reported roadside debris collection on Ocracoke has ended. She recommended citizens use containers if the item is too large for the county convenience site.

Tax Report

Emergency Manager Justin Gibbs presented the March 2020 TR-407 Daily Distribution Report. Mr. Gibbs reported total collections in March 2020 are down from March 2019 by $75,854.34.

Commissioner Swindell moved to accept the TR-407 report as presented. Commissioner Simmons seconded the motion. The motion passed on the following vote: Ayes – Pugh, Pahl, Simmons, Swindell and Topping; Nays – None; Absent or not voting – None.

Employee of the Month

Kris Cahoon Noble, County Manager, commended Jan Moore who headed up distribution of eggs donated by Rose Acre Farms; Superintendent Basnight, bus drivers and volunteers from Hyde County School System for their food service to children countywide. Ms. Noble also commended Senior Center staff, Lovie Miller of BRACE, Alice Peele of Life Saving Food Pantry, Corey and Callie Carawan who donated use of a truck for Ocracoke Island distribution.

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PUBLIC COMMENT:
Mike Noles, Ocracoke – non-resident property owner. He is concerned about the safety and health of Island residents.

Diana Williams, Fairfield – is concerned about non-resident entry into Hyde County. She reported many non-resident visitors are fishing on Lake Mattamuskeet and are hunting.

Dennis Osborne, Midlothian, Virginia – is concerned workers who come to Ocracoke might increase the risk of COVID-19 to Island residents.

Hearing no further comment from the public, Chairman Pugh continued the meeting.

ITEMS OF CONSIDERATION:

Appointment to Albemarle RC&D

Kris Cahoon Noble, County Manager, reported Hyde County currently holds two vacant seats on the Albemarle Resource Conservation and Development Council, Inc. (RC&D).

Commissioner Simmons moved to appoint Currituck Township Commissioner Shannon Swindell as the Board of Commissioners appointee (replacing Dick Tunnell); and, Hyde Soil and Water District Administrator Debbie Cahoon as Hyde S&W representative (replacing Allison Mulligan) on the RC&D Council. Commissioner Pahl seconded the motion. The motion passed on the following vote: Ayes – Pugh, Pahl, Simmons, Swindell and Topping; Nays – None; Absent or not voting – None.

Manager Noble will invite Brian Lannon, Chairman of Albemarle RC&D to present services provided to Hyde County at a later Board of Commissioners meeting.

Proclamation – Ratify COVID-19 Proclamation Amendments

Emergency Manager Justin Gibbs presented resolution to ratify proclamations enacted by Chairman Pugh on behalf of the Hyde County Board of Commissioners during a declared "State of Emergency – Coronavirus 2019".

Commissioner Pahl moved to adopt Resolution To Ratify Board Action Related To State of Emergency Declaration Coronavirus-2019 (COVID-19) – April 6, 2020 to incorporate Amendment Number Two – Suspending Public

Visitation To Government Offices & Limiting Entry By Ocracoke Non-resident Property Owners – March 23, 2020; and, Amendment Number Three – Adopting Gubernatorial Executive Order 121, Further Limiting Entry By Ocracoke Non-resident Property Owners and Prohibiting Visitors From Entering Mainland Hyde County – March 30, 2020. Commissioner Simmons seconded the motion. The motion passed on the following vote: Ayes – Pugh, Pahl, Simmons, Swindell and Topping; Nays – None; Absent or not voting – None.

Clerk's Note: A copy of "Amendment Number Two – Suspending Public Visitation To Government Offices & Limiting Entry By Ocracoke Non-resident Property Owners – March 23, 2020" is attached herewith as Exhibit A and incorporated herein by reference.

Clerk's Note: A copy of "Amendment Number Three – Adopting Gubernatorial Executive Order 121, Further Limiting Entry By Ocracoke Non-resident Property Owners and Prohibiting Visitors From Entering Mainland Hyde County – March 30, 2020" is attached herewith as Exhibit B and incorporated herein by reference.

Clerk's Note: A copy of "Resolution To Ratify Board Action Related To State of Emergency Declaration Coronavirus-2019 (COVID-19) – April 6, 2020" is attached herewith as Exhibit C and incorporated herein by reference.

Hyde County Mowing Contract

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Commissioner Swindell moved to recuse Chairman Pugh from participation in the Hyde County Mowing Contract due to one of the bidders being a family member. Commissioner Simmons seconded the motion. The motion passed on the following vote: Ayes – Pahl, Simmons, Swindell and Topping; Nays – None; Absent or not voting – Pugh.

Kris Cahoon Noble, County Manager, reported bids were sent out and the two that came back were from John and Tammy Investments, LLC for a monthly total of $1345.00 and EM's Mowing Service/Ray's Trucking and Main Street Lawn Maintenance for a monthly total of $1275.00. Ms. Noble reported this is a three year contract.

Commissioner Simmons moved to award the Hyde County Mowing Contract to EM's Mowing Service/Ray's Trucking and Main Street Lawn Maintenance. Commissioner Topping seconded the motion. The motion passed on the following vote: Ayes – Pahl, Simmons, Swindell and Topping; Nays – None; Absent or not voting – Pugh.

Award of Solid Waste Hauling Services Agreement Contract

Kris Cahoon Noble, County Manager, reported in February the County Manager's Office issued a Request for Proposals for Solid Waste Hauling Services in an effort to seek bids from companies to provide hauling services from six convenience sites (5 on Hyde County mainland and 1 on Ocracoke Island) to various locations. A mandatory pre-bid conference was held and a selection committee ranked the five proposals received. After compiling the rankings Republic Services of North Carolina, LLC based in Aulander, N.C. was selected and interviewed. The selection committee recommended that Republic Services be awarded the contract for Solid Waste Hauling Services.

Commissioner Swindell moved to award the Hyde County Solid Waste Hauling Services Agreement Contract to Republic Services of North Carolina, LLC. Commissioner Pahl seconded the motion. The motion passed on the following vote: Ayes – Pugh, Pahl, Simmons, Swindell and Topping; Nays – None; Absent or not voting – None.

MOA's Between NCORR and Hyde County

Kris Cahoon Noble, County Manager, reported the Memorandum of Agreement (MOA) for State Grant Agreement is for an amount of $500,000.00 from the North Carolina Office of Recovery and Resiliency (NCORR) to Hyde County. This agreement shall be effective April 6, 2020 or after approval of the County Attorney and signed by the County Manager. The agreement shall terminate on March 16, 2023 or upon the full expenditure of grant funds and the submission of recipient's final report, whichever comes first.

The grant fund will be utilized to:

- Contract with experienced individual(s) to assist the County with FEMA programs, reimbursement and managing project documentation. This individual will also assist the county with long-term recovery and funding opportunities for resilient housing and business recovery. This is a 3 year contract position.

- Hire a full time Grant Administrator to work with local government staff, consulting staff, state and federal partners and individual citizen applicants to manage grant funding including but not limited to CDBG DR, HMBP, FMA, Golden LEAF, OSBM and other funding sources.

- Complete an affordable housing study for Ocracoke Village

The MOA for State Loan Agreement is for an amount of $1,000,000.00 from the NCORR to Hyde County. This agreement shall be effective April 6, 2020 or after approval of the County Attorney and signed by the County Manager. The agreement shall terminate on March 16, 2023 of upon the full expenditure of grant funds and the submission of recipient's final report, whichever comes first.

DRAFT

The grant fund will be utilized to:

- Temporary Cash Assistance to Local Governments

- This principal-only loan does not carry interest charges or administrative fees. Upon signature of this agreement by the parties, the funds will be transferred to recipient according to the agreed upon schedule.

Commissioner Simmons moved to approve MOA for grant funds ($500,000.00) between NCORR and Hyde County pending County Attorney approval; and, approve MOA for loan funds ($1,000,000.00 between NCORR and Hyde County pending County Attorney approval. Commissioner Pahl seconded the motion. The motion passed on the following vote: Ayes – Pugh, Pahl, Simmons, Swindell and Topping; Nays – None; Absent or not voting – None.

Approval of Job Descriptions into the Hyde County Pay Plan

Kris Cahoon Noble, County Manager, requested commissioner's approval of two job descriptions and adoption into the County's Pay Plan.

- Grant Administrator – one time-limited grant funded position as per grant agreement between NCORR and Hyde County. Funding for this position is for 3 years.

- Land Records Manager – performs complex skilled technical work planning, organizing and directing the activities of the land records program and related work as apparent or assigned. Work is performed under the limited supervision of the County Assessor.

Commissioner Pahl moved to approve the Grant Administrator and Land Records Manager job descriptions and to adopt both into the County's Pay Plan. Commissioner Simmons seconded the motion. The motion passed on the following vote: Ayes – Pugh, Pahl, Simmons, Swindell and Topping; Nays – None; Absent or not voting – None.

Award of CDBG-NR Professional Services Contract

Kris Cahoon Noble, County Manager, submitted two rating sheets by HCP as backup documentation for the recommendation of professional services awards for the CDBG-Neighborhood Revitalization project. Holland Consulting Planners (HCP) recommended award of surveying services to Sorrell Land Surveying and award of legal services to Rodman, Holscher, Peck and Edwards.

Commissioner Simmons moved to award CDBG-NR professional surveying services contract to Sorrell Land Surveying and to award CDBG-NR professional legal services contract to Rodman, Holscher, Peck and Edwards. Commissioner Swindell seconded the motion. The motion passed on the following vote: Ayes – Pugh, Pahl, Simmons, Swindell and Topping; Nays – None; Absent or not voting – None.

Tram Operations Contract

Kris Cahoon Noble, County Manager, presented the Ocracoke Tram System Operations Agreement made between the North Carolina Department of Transportation and Hyde County. Through the Ocracoke Tram project, the NCDOT purchased a Tram System to help facilitate pedestrian route transit activities related to the passenger ferry project. NCDOT entered into a Lease and Operations Agreement with the County on October 15, 2018.

As a result of Hurricane Dorian, the Tram System vehicles were damaged beyond repair. Hyde County is in the process of obtaining replacement vehicles utilizing Golden LEAF Grant funds. This agreement dictates that funds from the auction of the previously damaged vehicles will be used for the operation and service of the tram system. It also binds

DRAFT

the County to participate in the project.

The project consists of the operation of a tram system to be operated on Ocracoke Island to provide access between the NCDOT ferry dock on Silver Lake and various stops within or near the Village of Ocracoke. This Agreement supersedes the previous agreement between the division and the county. The tram system shall be operated and maintained by the County through a private contractor. Partial funding for operational and maintenance costs associated with the tram system will be provided for under a separate agreement between the NCDOT Integrated Mobility Division (IMD) and Hyde County in an amount of 50% of all expenses, excepting only the maintenance for the tram stops and the repair of the tram building door. Golden LEAF funding has been applied for to repair/upgrade both.

The County agrees to operate and maintain the tram system for a minimum of three (3) years, if funding is available through Federal, State or local sources. NCDOT and/or the County reserve the right to cancel the Agreement with a thirty (30) day written notice to the other party.

Commissioner Pahl moved to authorize the County Manager and County Attorney to negotiate and enter into the Hyde County Ocracoke Tram System Operations Agreement subject to possible revisions. Commissioner Simmons seconded the motion. The motion passed on the following vote: Ayes – Pugh, Pahl, Simmons, Swindell and Topping; Nays – None; Absent or not voting – None.

Revolving Loan Fund Payment Forgiveness Extension

Kris Cahoon Noble, County Manager, reported following the destruction of Hurricane Dorian, RLF Manager Bill Rich, requested the Board forgive loan payments for six (6) months interest free to aid in economic recovery. This extension was granted. Due to COVID-19 crippling the spring economic boost tourism on Ocracoke Island and the mainland many businesses are struggling.

RLF Manager Rich requested an additional 90 day extension on all revolving loan payments interest free effective April 1, 2020 to July 1, 2020 so businesses can continue to recover from these two economically devastating events.

Commissioner Simmons moved to extend Revolving Loan Fund payment forgiveness interest free for all RLF grantees until August 1, 2020 (120 days) so businesses can continue to recover from these two economically devastating events. Commissioner Pahl seconded the motion. The motion passed on the following vote: Ayes – Pugh, Pahl, Simmons, Swindell and Topping; Nays – None; Absent or not voting – None.

BUDGET REVISIONS

Health Department

15-20 – Year-end Transfer $3,500.00

Senior Center

Postage $1,000.00

Social Services

Personnel Contract $3,812.00

Commissioner Simmons moved to approve the Health Department, Senior Center and DSS budget transfers as presented. Commissioner Swindell seconded the motion. The motion passed on the following vote: Ayes – Pugh, Pahl, Simmons, Swindell and Topping; Nays – None; Absent or not voting – None.

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MANAGEMENT REPORTS:

The commissioners and county manager shared with the public their various activities and ideas for continuous improvement of government services in Hyde County.

PUBLIC COMMENT: **(none)**

CLOSED SESSION: (none)

Commissioner Simmons moved to adjourn the meeting. Commissioner Swindell seconded the motion. The motion passed on the following vote: Ayes – Pugh, Pahl, Simmons, Swindell and Topping; Nays – None; Absent or not voting – None.

The meeting adjourned at 9:10p.m.

Respectfully submitted:

Minutes approved on the 4th day of May, 2020.

Attest:

_____	_____
Lois Stotesberry, CMC, NCCCC	Earl Pugh, Jr.
Clerk, Hyde County Board of Commissioners	Chair, Hyde County Board of Commissioners

Attachments

Exhibit A: ***"Amendment Number Two – Suspending Public Visitation To Government Offices & Limiting Entry By Ocracoke Non-resident Property Owners – March 23, 2020"***

Exhibit B: ***"Amendment Number Three – Adopting Gubernatorial Executive Order 121, Further Limiting Entry By Ocracoke Non-resident Property Owners and Prohibiting Visitors From Entering Mainland Hyde County – March 30, 2020"***

Exhibit C: ***"Resolution To Ratify Board Action Related To State of Emergency Declaration Coronavirus-2019 (COVID-19) – April 6, 2020"***

DRAFT

Hyde County Board of Commissioners
AGENDA ITEM SUMMARY SHEET

Meeting Date: May 4, 2020
Presenter: Kris Cahoon Noble, County Manager
Attachment: Yes

ITEM TITLE: Ordinance to Amend Chapter 36, Subdivisions, Sections, Article VII, Ocracoke Development Ordinance

SUMMARY: Section 36-173 Table of Nonconforming Structures of the Code of Ordinances

Section 36-174 Table of Development Standards of the Code of Ordinances

RECOMMEND: APPROVE

MOTION MADE BY: ___ PUGH ___ SIMMONS ___ PAHL ___ SWINDELL ___ TOPPING
(OPEN)

MOTION SECONDED BY: ___ PUGH ___ SIMMONS ___ PAHL ___ SWINDELL ___ TOPPING

VOTE: ___ PUGH ___ SIMMONS ___ PAHL ___ SWINDELL ___ TOPPING

COMMENTS:

MOTION MADE BY: ___ PUGH ___ SIMMONS ___ PAHL ___ SWINDELL ___ TOPPING
(EXIT)

MOTION SECONDED BY: ___ PUGH ___ SIMMONS ___ PAHL ___ SWINDELL ___ TOPPING

VOTE: ___ PUGH ___ SIMMONS ___ PAHL ___ SWINDELL ___ TOPPING

MOTION MADE BY: ___ PUGH ___ SIMMONS ___ PAHL ___ SWINDELL ___ TOPPING
(ACTION)

MOTION SECONDED BY: ___ PUGH ___ SIMMONS ___ PAHL ___ SWINDELL ___ TOPPING

VOTE: ___ PUGH ___ SIMMONS ___ PAHL ___ SWINDELL ___ TOPPING

AN ORDINANCE TO AMEND CHAPTER 36, SUBDIVISIONS, SECTIONS ARTICLE VII, OCRACOKE DEVELOPMENT, SECTION 36-173 TABLE OF NONCONFORMING STRUCTURES OF THE CODE OF ORDINANCES OF THE COUNTY OF HYDE, NORTH CAROLINA

WHEREAS, Article VII, Ocracoke Development, Nonconforming Situations, of Chapter 36, Section 36-173, is hereby amended to read:

(a) Within the jurisdiction of this article there presently exist lots, uses and structures that were lawful before the ordinance from which this article is derived was adopted or amended, but which do not meet the development standards imposed by this article. These nonconforming situations may continue, but there shall be no enlargement, expansion or increase in their nonconformity.

(b) A single-family dwelling may be built on any nonconforming lot which is in existence at the time of the adoption of the ordinance from which this article is derived, for which an improvement permit can be issued by the county health department, but in all other aspects it must comply with this article,

(c) All other buildings and uses established after the effective date of the ordinance from which this article is derived shall comply with the development standards, unless they qualify for a variance under section 36-206.

(d) Any destroyed nonconforming building may be rebuilt to its original dimensions if a permit for rebuilding is applied for within ~~180 days~~ **365 days** from the date of destruction. Thereafter, it shall not be rebuilt, except in conformity with the development standards of this article.

NOW, THEREFORE BE IT ORDAINED the Ocracoke Development was amended and adopted in whole, as amended, on April 20, 1998. It was amended on September 6, 2005, November 20, 2006, December 3, 2007, April 6, 2015, and is further amended this the 4th day of May, 2020.

_____

Earl Pugh, Jr., Chair
Hyde County Board of Commissioners

ATTEST:

_____

Lois Stotesberry, CMC, NCCCC
Clerk to the Board

AN ORDINANCE TO AMEND CHAPTER 36, SUBDIVISIONS, SECTIONS ARTICLE VII, OCRACOKE DEVELOPMENT, SECTION 36-174 TABLE OF DEVELOPMENT STANDARDS OF THE CODE OF ORDINANCES OF THE COUNTY OF HYDE, NORTH CAROLINA

WHEREAS, Article VII, Ocracoke Development, Table of Development Standards, of Chapter 36, Section 36-174, is hereby amended to read:

No structure or appurtenance attached to any structure, except chimneys, antennas, **church steeples and weather instruments shall exceed the 35 feet maximum building height and no exempted structure shall exceed 40 feet.

NOW, THEREFORE BE IT ORDAINED the Ocracoke Development was amended and adopted in whole, as amended, on April 20, 1998. It was amended on September 6, 2005, November 20, 2006, December 3, 2007, April 6, 2015, and is further amended this the 4th day of May, 2020.

_____

Earl Pugh, Jr., Chair
Hyde County Board of Commissioners

ATTEST:

_____

Lois Stotesberry, CMC, NCCCC
Clerk to the Board

COUNTY OF HYDE

Board of Commissioners
Earl Pugh, Jr., Chair
Thomas Pahl, Vice-chair
Ben Simmons, III
Shannon Swindell
James Topping

30 Oyster Creek Road
PO Box 188
SWAN QUARTER, NORTH CAROLINA 27885
252-926-4400
252-926-3701 Fax

Kris Cahoon Noble
County Manager

Franz Holscher
County Attorney

Lois Stotesberry, CMC, NCCCC
Clerk to the Board of Commissioners

Wednesday, April 22, 2020

PUBLIC HEARING

The Hyde County Board of Commissioners will conduct public hearing on the Ocracoke Development Ordinance at its regularly scheduled meeting on Monday, May 4, 2020 beginning at 6:00pm or as soon thereafter as possible in the Hyde County Government Center, Multi-Use Room, and the Ocracoke Community Center using electronic conferencing equipment.

The purpose of this hearing is to receive public comment on proposed amendment to Section 36-173 – Nonconforming Structures and Section 36-174 – Development Standards of the Ocracoke Development Ordinance.

Comments are welcome from April 22nd until the next regularly scheduled Board of Commissioners meeting on May 4, 2020. Comments may be directed to Lois Stotesberry at P.O. Box 188, Swan Quarter, NC 27885 or (252) 926-4178.

Lois Stotesberry, CMC, NCCCC
Clerk to the Board of Commissioners

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Sec. 36-173. - Nonconforming situations.

(a) Within the jurisdiction of this article there presently exist lots, uses and structures that were lawful before the ordinance from which this article is derived was adopted or amended, but which do not meet the development standards imposed by this article. These nonconforming situations may continue, but there shall be no enlargement, expansion or increase in their nonconformity.

(b) A single-family dwelling may be built on any nonconforming lot which is in existence at the time of the adoption of the ordinance from which this article is derived, for which an improvement permit can be issued by the county health department, but in all other aspects it must comply with this article.

(c) All other buildings and uses established after the effective date of the ordinance from which this article is derived shall comply with the development standards, unless they qualify for a variance under section 36-206.

(d) Any destroyed nonconforming building may be rebuilt to its original dimensions if a permit for rebuilding is applied for within ~~180 days~~ 365 days from the date of destruction. Thereafter, it shall not be rebuilt, except in conformity with the development standards of this article.

Sec. 36-174. - Issuance of certificate of occupancy.

All improvements shall be installed in concurrence with the building permit prior to the issuance of an occupancy permit, including site improvements. The building inspector and the Ocracoke development ordinance enforcement officer shall both approve the certificate of occupancy before it is issued.

(1) Table of development standards. The following development standards are adopted for the classes indicated:

Hyde County, North Carolina
Table of Development Standards

Building Classifications	Single-Family and Two-Family Residences,	Buildings Used for any Purpose Other Than Single-family or Two-family Residences less than 1,500 square feet of Floor Area; Greater than 1,500 square feet, but less than 3,000 square feet; Greater than 3,000 square feet.

	Including Those with Less Than 400 Square Feet of Floor Area in Commercial Use	Area	Square Feet of Floor Area	Floor Area

Minimum lot size shall be sufficient to meet the county health department requirements and to provide for the adequate placement of structures and necessary parking spaces, but not less than:	5,000 sq. ft., except for undeveloped lots of less than 5,000 sq. ft. in existence on April 21, 1986. More than one dwelling may be built on lots of 10,000 sq. ft. or larger as long as they meet all requirements of this article, including 5,000 sq. ft. minimum per dwelling and have a minimum of 16 feet between main structures	7,500 sq. ft.	10,000 sq. ft.	25,000 sq. ft.

Minimum setback of structure from property lines and public rights-of-way and all bodies of water*	Front: 8 feet Side: 8 feet Rear: 8 feet	Front: 30 feet Side: 10 feet Rear: 10 feet	Front: 30 feet Side: 15 feet Rear: 15 feet	Front: 30 feet Side: 20 feet Rear: 20 feet
Minimum distance between structures on a lot	8 feet front, side and rear for all sizes listed on this chart			
Maximum structure height**	35 feet for all structure sizes listed on this chart***			
Maximum lot coverage by all structures and any surface impervious to water	50% for all structure sizes on this chart			

*Exempted from the water setback requirement are structures not exceeding 256 square feet in total floor area and not exceeding 15 feet in height and used permanently and primarily to protect store, build or repair boats, nets and other fishing or water-related equipment of the land owner. Fences, bulkheads, driveways, boardwalks, not exceeding five feet in width and one foot in height, and other like structures are exempted from setback requirements.

**No structure or appurtenance attached to any structure, except chimneys, antennas and weather instruments shall exceed the 35 feet maximum building height and no exempted structure shall exceed 40 feet.

Church steeples

***The primary roof of a main structure shall have a minimum slope of four inches per foot. This requirement shall apply to accessory structures over 15 feet in height, as measured from eight feet less than three feet of the building site as shown on the elevation certificate. The primary roof of a main structure is that which shelters the major percentage of heated space within the structure.

****Where the right-of-way (R/W) is in excess of 100 feet, the minimum set back to any part of the structure shall be five feet.

****Sign setbacks shall be in accordance with section 36-176, signs.

(2) Table of Ocracoke Village roads. The following list of roads are those where the state claims right-of-way, listed by state road number (SR) within the Village of Ocracoke, Hyde County, North Carolina. This information is based on state department of transportation correspondence from Gretchen A. Byrum, PE to Earl W. O'Neal Jr, dated June 25, 2004, letter from Mike Kinlaw, division right-of-way agent to Mr. Nathan Sears, subject: Existing R/W on NC 12 on Ocracoke Island, dated June 25, 2004, and August 30, 2004. (To be used with the Table of Development Standards on and this article).

Hyde County, North Carolina

Table of Ocracoke Village Roads

SR 1324	Back Road
SR 1325	Schoolhouse Road

SR 1326	Lighthouse Road
SR 1327	Creek Road
SR 1328	Silver Lake Drive
SR 1332	British Cemetery Road
SR 1333	Cedar Road
SR 1334	Martha Jane Lane
SR 1335	Loop Road
SR 1337	Ocean View Road
SR 1341	Sunset Drive
SR 1341	Trent Road
SR 1342	Live Oak Road
SR 1343	Old Beach Road which turns into SR 1367
SR 1346	Friendly Ridge Road
SR 1347	Cemetery Road
SR 1349	Cabana Drive
SR 1350	Pamlico Shores Road
SR 1351	Northern Pond Road
SR 1356	Sarah Ellen Drive

SR 1357	O'Neal Drive
SR 1358	Middle Road
SR 1359	First Avenue
SR 1360	North Street
SR 1361	Ocean Road
SR 1362	Cutting Sage
SR 1366	Winnie Blount Road
SR 1367	Old Beach Road
SR 1368	Harbor Cove Road
SR 1369	Sandollar Road
SR 1370	Jackson Circle
SR 1371	Cedar Lane
SR 1372	Arretta Street
SR 1373	Stroyon Lane
SR 1374	Fish Camp Lane
SR 1375	Cuttensage Lane
SR 1376	Pintail Drive
NC HWY 12	Irvin Garrish

Hyde County Board of Commissioners
AGENDA ITEM SUMMARY SHEET

Meeting Date: May 4, 2020
Presenter: Jane Hodges
Attachment: Yes

ITEM TITLE: Hyde County Flood Damage Prevention Ordinance Public Hearing

SUMMARY: This is the final public hearing on the new FEMA Flood Maps.

RECOMMEND: APPROVE

MOTION MADE BY: ___ PUGH ___ SIMMONS ___ PAHL ___ SWINDELL ___ TOPPING
(OPEN)

MOTION SECONDED BY: ___ PUGH ___ SIMMONS ___ PAHL ___ SWINDELL ___ TOPPING

VOTE: ___ PUGH ___ SIMMONS ___ PAHL ___ SWINDELL ___ TOPPING

COMMENTS:

MOTION MADE BY: ___ PUGH ___ SIMMONS ___ PAHL ___ SWINDELL ___ TOPPING
(EXIT)

MOTION SECONDED BY: ___ PUGH ___ SIMMONS ___ PAHL ___ SWINDELL ___ TOPPING

VOTE: ___ PUGH ___ SIMMONS ___ PAHL ___ SWINDELL ___ TOPPING

MOTION MADE BY: ___ PUGH ___ SIMMONS ___ PAHL ___ SWINDELL ___ TOPPING
(ACTION)

MOTION SECONDED BY: ___ PUGH ___ SIMMONS ___ PAHL ___ SWINDELL ___ TOPPING

VOTE: ___ PUGH ___ SIMMONS ___ PAHL ___ SWINDELL ___ TOPPING

HYDE COUNTY
FLOOD DAMAGE PREVENTION ORDINANCE

Coastal Regular Phase

ARTICLE 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES.

SECTION A. STATUTORY AUTHORIZATION.

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Article 6 of Chapter 153A; Article 8 of Chapter 160A; and Article 7, 9, and 11 of Chapter 160D (Effective January 1, 2021) of the North Carolina General Statutes, delegated to local governmental units the authority to adopt regulations designed to promote the public health, safety, and general welfare.

Therefore, the Board of Commissioners of Hyde County, North Carolina, does ordain as follows:

SECTION B. FINDINGS OF FACT.

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

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

SECTION C. STATEMENT OF PURPOSE.

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

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

(2) Require that uses vulnerable to floods, including facilities that 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 all other development that may increase erosion or flood damage; and

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

SECTION D. OBJECTIVES.

The objectives of this ordinance 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 (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;

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

(7) Make flood insurance available to the community through the National Flood Insurance Program;

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

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

(10) Ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

ARTICLE 2. DEFINITIONS.

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

"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. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

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

"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 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.

"Appeal" means a request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance.

"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)".

"Base Flood" means the flood having a one (1) 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. 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".

"Basement" means any area of the building having its floor subgrade (below ground level) on all sides.

"Breakaway Wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

"Building" see "Structure".

"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 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 North Carolina Department of Environmental Quality (NCDEQ) 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 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 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 3, Section B of this ordinance, as Zone VE.

"Design Flood": See "Regulatory Flood Protection Elevation."

"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.

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

"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.

"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 groundwater.

"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, structures or development into a special flood hazard area, which may impede or alter the flow capacity of a floodplain.

"Existing building and existing structure" means any building and/or structure for which the "start of construction" commenced before February 4, 1987, the effective date of the initial Flood Insurance Rate Map.

"Existing Manufactured Home Park or Manufactured Home Subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the effective date of the initial floodplain management regulations adopted by the community, dated December 15, 1986.

"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; and/or
(b) The unusual and rapid accumulation or runoff of surface waters from any source.

"Flood Boundary and 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 FEMA, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated. (see also DFIRM)

"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 FEMA. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

"Flood Prone Area" see "Floodplain"

"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.

"Floodplain" means any land area 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 ordinance, prior to the commencement of any development activity.

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

"Floodplain Management Regulations" means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power. This term describes federal, state or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

"Floodproofing" 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 lumbers 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.

"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 effect of urbanization of the watershed. The BFE 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 in close proximity to water, limited to 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 Management Facility" means, as defined in NCGS 130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

"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:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;
(b) Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
(c) Individually listed on a local inventory of historic landmarks in communities with a "Certified Local Government (CLG) Program"; or
(d) Certified as contributing to the historical significance of a historic district designated by a community with a "Certified Local Government (CLG) Program."

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 Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

"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:

(a) Letter of Map Amendment (LOMA): 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.
(b) Letter of Map Revision (LOMR): 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 plan metric features.
(c) Letter of Map Revision Based on Fill (LOMR-F): 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.
(d) Conditional Letter of Map Revision (CLOMR): 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:

(a) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
(b) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
(c) 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).

"Lowest Adjacent Grade (LAG)" means the lowest elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

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

elevation design requirements of this ordinance.

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

"Manufactured Home Park or Subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"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 Flood NC 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 certified appraisal; replacement cost depreciated for age of building and quality of construction (Actual Cash Value); or adjusted tax assessed values.

"New Construction" means structures for which the "start of construction" commenced on or after December 15, 1986, the effective date of the initial floodplain management regulations and includes any subsequent improvements to such structures.

"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.

"Otherwise Protected Area (OPA)" see "Coastal Barrier Resources System (CBRS)".

"Post-FIRM" means construction or other development for which the "start of construction" occurred on or after February 4, 1987, the effective date of the initial Flood Insurance Rate Map.

"Pre-FIRM" means construction or other development for which the "start of construction" occurred before February 4, 1987, the effective date of the initial Flood Insurance Rate Map.

"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 overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

"Principally Above Ground" means that at least 51% 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 (RV)" means a vehicle, which is:

(a) Built on a single chassis;
(b) 400 square feet or less when measured at the largest horizontal projection;
(c) Designed to be self-propelled or permanently towable by a light duty truck;
(d) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use, and
(e) Is fully licensed and ready for highway use.

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

"Reference Level" is the top of the lowest floor for structures within Special Flood Hazard Areas designated as Zones A, AE, AH, AO, and A99. 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" In Special Flood Hazard Areas means the "Base Flood Elevation" plus the "Freeboard" 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 standards 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 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 7.5 feet NAVD 1988 , whichever is greater.

In AO zones, the RFPE is the designated base flood depth on the effective FIRM plus three (3) of freeboard above the highest natural adjacent grade OR and elevation to or above 7.5 feet NAVD 1988, whichever is greatest.

In Shaded X and X zones, the RFPE is 3 feet NAVD 1988 OR the natural grade elevation if the natural grade is greater than 3 feet NAVD 1988.

On the Island of Ocracoke, the RFPE is 9.0 feet NAVD 1988 for all zones.

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

"Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

"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.

"Sand Dunes" means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

"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.

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

"Solid Waste Disposal Site" means, as defined in NCGS 130A-290(a) (36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

"Special Flood Hazard Area (SFHA)" means the land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year, as determined in Article 3, Section B of this ordinance.

"Start of Construction" includes substantial improvement, and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

"Structure" means a walled and roofed building, a manufactured home, or a gas, 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 it's 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:

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

(b) 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.

"Technical Bulletin and Technical Fact Sheet" means 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.

"Temperature Controlled" means having the temperature regulated by a heating and/or cooling system, built-in or appliance.

"Variance" is a grant of relief from the requirements of this ordinance.

"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 Articles 4 and 5 is presumed to be in violation until such time as that documentation is provided.

"Water Surface Elevation (WSE)" means the height, in relation to NAVD 1988, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

"Watercourse" means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

ARTICLE 3. GENERAL PROVISIONS.

SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES.

This ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction, of Hyde County.

SECTION B. BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS.

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its FIS dated June 19, 2020 for Hyde 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 change flood hazard data within the jurisdictional authority of Hyde County 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.

SECTION C. ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT.

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement

of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of Article 3, Section B of this ordinance.

SECTION 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 ordinance and other applicable regulations.

SECTION E. ABROGATION AND GREATER RESTRICTIONS.

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

SECTION F. INTERPRETATION.

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

(a) Considered as minimum requirements;
(b) Liberally construed in favor of the governing body; and
(c) Deemed neither to limit nor repeal any other powers granted under State statutes.

SECTION G. WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by man-made or natural causes. This ordinance 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 ordinance shall not create liability on the part of Hyde County or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

SECTION H. PENALTIES FOR VIOLATION.

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a Class 1 misdemeanor pursuant to NC G.S. § 143-215.58. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than $100.00 or imprisoned for not more than thirty (30) days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent Hyde County from taking such other lawful action as is necessary to prevent or remedy any violation.

ARTICLE 4. ADMINISTRATION.

SECTION A. DESIGNATION OF FLOODPLAIN ADMINISTRATOR.

The Building Inspector, hereinafter referred to as the "Floodplain Administrator", or their designee, is hereby appointed to administer and implement the provisions of this ordinance. 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.

SECTION B. FLOODPLAIN DEVELOPMENT APPLICATION, PERMIT AND CERTIFICATION REQUIREMENTS.

(1) **Application Requirements.** Application for a Floodplain Development Permit shall be made to the Floodplain Administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the

Floodplain Administrator to apply for a floodplain development permit:

(a) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:

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

(ii) The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Article 3, Section B, or a statement that the entire lot is within the Special Flood Hazard Area;

(iii) Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Article 3, Section B;

(iv) The boundary of the floodway(s) or non-encroachment area(s) as determined in Article 3, Section B;

(v) The Base Flood Elevation (BFE) where provided as set forth in Article 3, Section B; Article 4, Section C; or Article 5, Section D;

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

(vii) The boundary and designation date of the Coastal Barrier Resource System (CBRS) area or Otherwise Protected Areas (OPA), if applicable.

(b) Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:

(i) Elevation in relation to NAVD 1988 of the proposed reference level (including basement) of all structures;

(ii) Elevation in relation to NAVD 1988 to which any non-residential structure in Zones A, AE, AH, AO, A99 will be floodproofed; and

(iii) Elevation in relation to NAVD 1988 to which any proposed utility systems will be elevated or floodproofed.

(c) If floodproofing, a Floodproofing Certificate (FEMA Form 086-0-34) with supporting data, an operational plan, and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of floodproofing measures.

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

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

(ii) Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Article 5, Section B(4)(d) when solid foundation perimeter walls are used in Zones A, AE, AH, AO, A99.

(iii) The following, in Coastal High Hazard Areas, in accordance with the provisions of Article 5, Section B (4) (e) and Article 5, Section G and (Article 5, Section H if applicable):

(1) V-Zone Certification with accompanying plans and specifications verifying the engineered structure and any breakaway wall designs; 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.

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

(3) Plans for non-structural fill, if applicable. If non-structural fill is proposed, it must be demonstrated through

coastal engineering analysis that the proposed fill would not result in any increase in the BFE or otherwise cause adverse impacts by wave ramping and deflection on to the subject structure or adjacent properties.

(e) Usage details of any enclosed areas below the lowest floor.

(f) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.

(g) Certification that all other Local, State and Federal permits required prior to floodplain development permit issuance have been received.

(h) Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of Article 5, Section B, subsections (6) and (7) of this ordinance are met.

(i) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

(2) **Permit Requirements.** The Floodplain Development Permit shall include, but not be limited to:

(a) A 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.).

(b) The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in Article 3, Section B.

(c) The Regulatory Flood Protection Elevation required for the reference level and all attendant utilities.

(d) The Regulatory Flood Protection Elevation required for the protection of all public utilities.

(e) All certification submittal requirements with timelines.

(f) A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse unless the requirements of Article 5, Section F have been met.

(g) The flood openings requirements, if in Zones A, AE, AH, AO, A99.

(h) Limitations of below BFE enclosure uses. (i.e., parking, building access and limited storage only).

(i) A statement, if in Zone VE, that there shall be no alteration of sand dunes which would increase potential flood damage.

(j) A statement, if in Zone VE, that there shall be no fill used for structural support.

(k) A statement, that all materials below BFE/RFPE must be flood resistant materials.

(3) **Certification Requirements.**

(a) Elevation Certificates

(i) An Elevation Certificate (FEMA Form 086-0-33) is required after the reference level is established. Within seven (7) calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to NAVD 1988. Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.

(ii) A final Finished Construction Elevation Certificate (FEMA Form 086-0-33) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy. The Finished Construction Elevation Certificate certifier shall provide at least 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" × 3". Digital photographs are acceptable.

(b) Floodproofing Certificate

(i) If non-residential floodproofing is used to meet the Regulatory Flood Protection Elevation requirements, a Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to 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, 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.

(ii) 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.

(c) If a manufactured home is placed within Zones A, AE, AH, AO, A99 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of Article 5, Section B(3)(b).

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

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

(i) Recreational Vehicles meeting requirements of Article 5, Section B (6) (a);

(ii) Temporary Structures meeting requirements of Article 5, Section B (7); and

(iii) Accessory Structures that are 150 square feet or less or $5000 or less and meeting requirements of Article 5, Section B (8).

(f) 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 ordinance are met. A registered professional engineer or architect shall develop or review the structural design, plans, and specifications for construction and certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of this ordinance. This certification is not a substitute for an Elevation Certificate. 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.

(4) **Determinations for existing buildings and structures.**

For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

(a) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;

(b) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;

(c) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and

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

SECTION C. DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.

The Floodplain Administrator shall perform, but not be limited to, the following duties:

(1) Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this ordinance have been satisfied.

(2) 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.

(3) Notify 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 alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).

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

(5) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Article 5, Section F are met.

(6) Obtain actual elevation (in relation to NAVD 1988) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with the provisions of Article 4, Section B (3).

(7) Obtain actual elevation (in relation to NAVD 1988) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of Article 4, Section B (3).

(8) Obtain actual elevation (in relation to NAVD 1988) of all public utilities in accordance with the provisions of Article 4, Section B (3).

(9) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of Article 4, Section B (3) and Article 5, Section B (2).

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

(11) When BFE data has not been provided in accordance with the provisions of Article 3, Section B, obtain, review, and reasonably utilize any BFE data, along with floodway data or non-encroachment area data available from a federal, state, or other source, including data developed pursuant to Article 5, Section D (2) (c), in order to administer the provisions of this ordinance.

(12) When BFE data is provided but no floodway or non-encroachment area data has been provided in accordance with the provisions of Article 3, Section B, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a federal, state, or other source in order to administer the provisions of this ordinance.

(13) When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a Special Flood Hazard Area is above the BFE, 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 LOMA issued by FEMA in the floodplain development permit file.

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

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

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

(17) 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, and specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.

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

(19) Follow through with corrective procedures of Article 4, Section D.

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

(21) Maintain a current map repository to include, but not limited to, historical and effective FIS Report, historical and effective FIRM and other official flood maps and studies adopted in accordance with the provisions of Article 3, Section B of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.

(22) Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of

Map Revision (LOMRs).

SECTION D. CORRECTIVE PROCEDURES.

(1) Violations to be corrected: When the Floodplain Administrator finds violations of applicable state and local laws; it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.

(2) Actions in Event of Failure to Take Corrective Action: If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:

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

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

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

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

(4) Appeal: Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

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

SECTION E. VARIANCE PROCEDURES.

(1) The Hyde County Board of Commissioners as established by Hyde County, hereinafter referred to as the "appeal board", shall hear and decide requests for variances from the requirements of this ordinance.

(2) Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.

(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 that the variance is the minimum necessary to preserve the historic character and design of the structure;

(b) Functionally dependent facilities if determined to meet the definition as stated in Article 2 of this ordinance, provided provisions of Article 4, Section E(9)(b), (c), and (e) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or

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

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

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

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

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

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

(e) The necessity to the facility of a waterfront location as defined under Article 2 of this ordinance as a functionally dependent facility, where applicable;

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

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

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

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

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

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

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

(6) Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this ordinance.

(7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the BFE and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE may result in increased premium rates for flood insurance up to $25 per $100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.

(8) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the FEMA and the State of North Carolina upon request.

(9) Conditions for Variances:

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

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

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

(d) Variances shall only be issued prior to development permit approval.

(e) Variances shall only be issued upon:

(i) A showing of good and sufficient cause;

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

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

(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.

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

(b) No feasible location exists for the use outside the Special Flood Hazard Area.

(c) The reference level of any structure is elevated or floodproofed to at least the Regulatory Flood Protection Elevation.

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

(e) Hyde County has notified the Secretary of the North Carolina Department of Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

ARTICLE 5. PROVISIONS FOR FLOOD HAZARD REDUCTION.

SECTION 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, and lateral movement of the structure.

(2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage in accordance with the FEMA Technical Bulletin 2, *Flood Damage-Resistant Materials Requirements.*

(3) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.

(4) All new electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall be located at or above the RFPE or designed and installed to prevent water from entering or accumulating within the components during the occurrence of the base flood. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, water heaters, and electric outlets/switches.

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

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

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

(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 flood waters.

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

(8) 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.

(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 Article 4, Section E (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 a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the Regulatory Flood Protection Elevation and certified in accordance with the provisions of Article 4, Section B (3).

(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 Amendments of 1972, 33 U.S.C. 1334.

(14) When a structure is partially located in a Special Flood Hazard Area, the entire structure shall meet the requirements for new construction and substantial improvements.

(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 BFE shall apply.

SECTION B. SPECIFIC STANDARDS.

In all Special Flood Hazard Areas where BFE data has been provided, as set forth in Article 3, Section B, or Article 5, Section D, the following provisions, in addition to the provisions of Article 5, Section A, are required:

(1) Residential Construction. New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Article 2 of this ordinance.

(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 Article 2 of this ordinance. Structures located in Zones A, AE, AH, AO, A99 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 with Article 5, Section I (2). A registered professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Article 4, Section B (3), along with the operational plan and the inspection and maintenance plan.

(3) Manufactured Homes.

(a) New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the Regulatory Flood Protection Elevation, as defined in Article 2 of this ordinance.

(b) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.

(c) All enclosures or skirting below the lowest floor shall meet the requirements of Article 5, Section B(4).

(d) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management Coordinator.

(4) Elevated Buildings. Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor or below the lowest horizontal structural member in VE zones:

(a) Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;

(b) Shall not be temperature-controlled or conditioned;

(c) Shall be constructed entirely of flood resistant materials at least to the Regulatory Flood Protection Elevation; and

(d) Shall include, in Zones A, AE, AH, AO, A99 flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:

(i) A minimum of two flood openings on different sides of each enclosed area subject to flooding;

(ii) The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;

(iii) If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;

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

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

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

(e) Shall, in Coastal High Hazard Areas (Zone VE), meet the requirements of Article 5, Section G.

(5) Additions/Improvements.

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

(i) Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.

(ii) A substantial improvement, with modifications/rehabilitations/improvements to the existing structure or the common wall is structurally modified more than installing a doorway; both the existing structure and the addition

must comply with the standards for new construction.

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

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

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

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

(6) Recreational Vehicles. Recreational vehicles shall either:

(a) Temporary Placement

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

(ii) 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.)

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

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

(a) A specified time period for which the temporary use will be permitted. Time specified may not exceed three (3) months, renewable up to one (1) 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 the entity responsible for physical removal of the structure; and

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

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

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

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

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

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

(d) Accessory structures shall be firmly anchored in accordance with the provisions of Article 5, Section A (1);

(e) Accessory structures, regardless of the size or cost, shall not be placed below elevated buildings in V and VE Zones;

(f) All service facilities such as electrical shall be installed in accordance with the provisions of Article 5, Section A (4); and

(g) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below Regulatory Flood Protection Elevation in conformance with the provisions of Article 5, Section B(4)(d).

An accessory structure with a footprint less than 150 square foot or that is a minimal investment of $5000 or less and satisfies the criteria outlined above is not required to meet the elevation or floodproofing standards of Article 5, Section B (2). Elevation or floodproofing certifications are required for all other accessory structures in accordance with Article 4, Section B (3).

(9) Tanks. When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

(a) 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;

(b) 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;

(c) Above-ground tanks not elevated. Above-ground tanks that do not meet the elevation requirements of Article 5, Section B (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.

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

(i) 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

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

(10) Other Development.

(a) Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Article 5, Section F of this ordinance.

(b) Retaining walls, sidewalks and driveways in regulated floodways and NEAs. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Article 5, Section F of this ordinance.

(c) Roads and watercourse crossings in regulated floodways and NEAs. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of Article 5, Section F of this ordinance.

(d) Commercial storage facilities are not considered "limited storage" as noted in this ordinance, and shall protected to the Regulatory Flood Protection Elevation as required for commercial structures.

SECTION C. RESERVED.

SECTION D. STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS.

Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Article 3, Section B, where no BFE data has been provided by FEMA, the following provisions, in addition to the provisions of Article 5, Section A, shall apply:

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

(2) The BFE used in determining the Regulatory Flood Protection Elevation shall be determined based on the following criteria:

(a) When BFE data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or floodproofed in accordance with standards in Article 5, Sections A and B.

(b) When floodway or non-encroachment data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of Article 5, Sections B and F.

(c) All subdivision, manufactured home park and other development proposals shall **provide BFE data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such BFE data shall be adopted by reference in accordance with Article 3, Section B and utilized in implementing this ordinance.**

(d) When BFE data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the Regulatory Flood Protection Elevation, as defined in Article 2. All other applicable provisions of Article 5, Section B shall also apply.

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 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 G. COASTAL HIGH HAZARD AREA (ZONE VE).

Coastal High Hazard Areas are Special Flood Hazard Areas established in Article 3, Section 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, all new construction and substantial improvements shall meet the following provisions in addition to the provisions of Article 5, Sections A and B:

(1) All new construction and substantial improvements shall:

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

(b) 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 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:

(a) Material shall consist of open wood or plastic lattice having at least 40 percent of its area open, or

(b) Insect screening; or

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

(1) Breakaway walls shall have flood openings that allow for the automatic entry and exit of floodwaters to minimize damage caused by hydrostatic loads, per Article 5, Section B(4)(d) (i-vi); and

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

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

(4) All new construction and substantial improvements shall be securely anchored to pile or column foundations. All pilings and columns and the structure attached thereto shall be anchored to resist flotation, collapse, and lateral movement due to the effect

of wind and water loads acting simultaneously on all building components.

(a) Water loading values used shall be those associated with the base flood.

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

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

(a) 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;

(b) 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);

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

(d) Pad thickness shall not exceed 4 inches; or

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

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

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

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

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

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

(e) 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.

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

(7) All elevators, vertical platform lifts, chair lifts, etc., the following is required:

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

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

(c) 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.

(d) 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.

(e) Flood damage-resistant materials can also be used inside and outside the elevator cab to reduce flood damage. Use only