



Town of Carrboro

Town Hall
301 W. Main St.
Carrboro, NC 27510

Meeting Agenda Board of Aldermen



Tuesday, September 26, 2017

7:30 PM

Board Chambers - Room 110

7:30-7:35

A. POETRY READING, RESOLUTIONS, PROCLAMATIONS, AND ACKNOWLEDGEMENTS

1. [17-285](#) Charges Issued to Recently Appointed Advisory Board Volunteer

7:35-7:40

B. ANNOUNCEMENT OF UPCOMING MEETINGS

7:40-7:45

C. CONSENT AGENDA

1. [17-283](#) Consideration of an Affordable Housing Funding Request for
Critical Home Repairs
PURPOSE: The purpose of this item is for the Board to consider approving a
request for home repair funds from Habitat for Humanity of Orange County.
Attachments: [Attachment A - Funding Request](#)
[Attachment B - Eligibility Analysis](#)
[Attachment C - Resolution](#)
2. [17-284](#) Consider Option to Lease Parking at 300 East Main Street Parking
Deck
PURPOSE: The purpose of this agenda item is for the Board to consider
entering into an lease option with Main Street Partners to lease parking in the parking
deck at 300 East Main
Attachments: [Option and Parking Lease Agreement rev reh 9-15-2017](#)

3. [17-282](#) Revised Scope of Work and Renaming of the HOME Program Review Committee
- PURPOSE:** The purpose of this item is for the Board to consider approving an expanded scope of work and a renaming of the HOME Program Review Committee to the Orange County Local Government Affordable Housing Collaborative, “the Collaborative”.
- Attachments:** [Attachment A - Proposal to Amend HOME Consortium Scope and Name](#)
[Attachment B - Resolution](#)

D. OTHER MATTERS

7:45-8:15

1. [17-286](#) Discussion regarding funding priorities and the charge for Human Services Advisory Board
- PURPOSE:** For the Board to discuss funding priorities for the Human Services grants and a possible change to the Human Services Advisory Board charge.
- Attachments:** [Attachement 1 - A RESOLUTION TO AMEND THE CHARGE OF THE HUMAN SERVICES ADVISORY COMMISSION](#)

8:15-9:00

E. PUBLIC HEARING

1. [17-279](#) Public Hearing on Land Use Ordinance Text Amendments Related to Flood Damage Prevention Provisions to Reflect New Maps
- PURPOSE:** The purpose of this item is for the Board of Aldermen to receive public comments on Land Use Ordinance Text Amendments related to flood damage prevention provisions.
- Attachments:** [Attachment A - Resolution](#)
[Attachment B - Draft Article XVI Part 1 2017 Flood Damage Prevention](#)
[Attachment C - Annotated Article XVI Part I Flood Prevention](#)
[Attachment D - Recommendations and Comments](#)

F. MATTERS BY BOARD MEMBERS

G. MATTERS BY TOWN MANAGER

H. MATTERS BY TOWN ATTORNEY

I. MATTERS BY TOWN CLERK



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Agenda Item Abstract

File Number:17-285

Agenda Date: 9/26/2017

File Type:Agendas

In Control: Board of Aldermen

Version: 1

Charges Issued to Recently Appointed Advisory Board Volunteer

The following charges will be issued:

- 1) Gabriel Vinas and Cain Twyman, Affordable Housing Advisory Commission



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Agenda Item Abstract

File Number:17-283

Agenda Date: 9/26/2017

File Type:Agendas

In Control: Board of Aldermen

Version: 1

TITLE:

Consideration of an Affordable Housing Funding Request for Critical Home Repairs

PURPOSE: The purpose of this item is for the Board to consider approving a request for home repair funds from Habitat for Humanity of Orange County.

DEPARTMENT: Town Manager's Office

CONTACT INFORMATION: Nate Broman-Fulks, 919-918-7314, nbroman-fulks@townofcarrboro.org

INFORMATION: Habitat for Humanity of Orange County is requesting a grant of \$534 to be used for repairs at the home of 203 King Street in Carrboro. The repairs to be performed include:

- Trimming trees away from the roof to prevent shingle damage
- Sanding, priming, and painting the support posts and railing on the front porch
- Replacing posts and rails on the side of the carport
- Replacing handrails and posts on the rear steps
- Securing loose deck boards on the front ramp

The complete request for funding can be found in Attachment A.

Town staff has evaluated this request and determined that it meets all eligibility analysis criteria. A full analysis of eligibility can be found in Attachment B.

If the Board chooses to fund this request, it may do so by passing the resolution in Attachment C.

FISCAL & STAFF IMPACT: Habitat for Humanity is requesting a grant of \$534 to come out of the Affordable Housing Fund.

RECOMMENDATION: Staff recommends the Board consider approving the resolution in Attachment C.



Attachment A
88 Vilcom Center Drive, Suite L110
Chapel Hill, NC 27514
P (919) 932-7077, F (919) 932-7079
www.orangehabitat.org
development@orangehabitat.org

Habitat for Humanity of Orange County respectfully requests a grant of \$534 from the Town of Carrboro's Affordable Housing Special Revenue Fund. These funds will be used to repair the home located at 203 King Street in Carrboro. Work to be performed includes:

- Trimming trees away from the roof to prevent shingle damage
- Sanding, priming, and painting the support posts and railing on the front porch
- Replacing posts and rails on the side of the carport
- Replacing handrails and posts on the rear steps
- Securing loose deck boards on the front ramp

This project meets the Fund's criteria of eligible uses under "i. To provide for emergency home repairs and the maintenance of properties in the affordable housing stock that are falling into disrepair." Through its Home Preservation program, Habitat seeks to do just that. Recipients of this program own affordable homes. But living on a low or fixed income can make it difficult to keep up with both critical repairs and preventative maintenance. In order to preserve affordable housing stock, Habitat offers low-cost repairs to homeowners in Orange County. Recipients pay a small fee calculated on a sliding scale, and volunteer on the project as able. If the work allows it, volunteers from the community will also help complete the project. Since 2009, Habitat has completed 101 repair projects in Orange County.

Ms. Elizabeth Carter is the owner of 203 King Street. She is a single mother to three adopted girls, one of whom has severe PTSD. This condition demands a significant portion of Ms. Carter's time, which caused her to retire earlier than planned. At 66 years old, she is living on a fixed income. It is difficult for her to keep up with home repairs and maintenance. She has lived and worked in Carrboro her entire life, and believes in giving back to the community. She has served on the Board of Education, and is currently volunteering for a Carrboro Board of Aldermen candidate's campaign. She also mentors young people in her role as the NAACP's Youth Council Advisor. Ms. Carter says she has always taken care of other people, and has never asked for help in the past. Having this work done on her home means a great deal to Ms. Carter, and she is thankful for those who are helping her receive these repairs.





Affordable Housing Fund Application Eligibility Analysis:
Habitat for Humanity of Orange County
9-26-17

Application Procedures:

Application Procedure	Procedure Met
1) A complete description of the project, including the proposed location;	✓
2) A discussion of how the project meets the criteria of eligible uses and eligible beneficiaries	✓
3) Who the ultimate beneficiaries will be or are intended to be;	✓
4) If appropriate, documented income data for the intended recipients.	✓

AH Fund Eligibility Criteria:

Criteria	Requirement	This Application	Criteria Met
1. Who May Apply	Nonprofit or Individual	Habitat for Humanity of Orange County	✓
2. Eligible Use	Meet the goal of the fund: 1. Established Eligible Use 2. Goal/Strategy of AH Plan	Eligible Use i. To provide for emergency home repairs and the maintenance of properties in the affordable housing stock that are falling into disrepair.	✓
3. Eligible Beneficiary	1. Home located in Carrboro 2. Owner or occupant of the property after acquisition 3. House to have an anticipated life of at least 20 years 4. Household income of 115%, priority given to households at 80% of AMI	1. Home located at 203 King Street in Carrboro 2. The current homeowner will remain the owner 3. House has an anticipated life of greater than 20 years 4. Less than 80% AMI priority met	✓

A RESOLUTION APPROVING A REQUEST FOR GRANT FUNDS FROM THE AFFORDABLE
HOUSING SPECIAL REVENUE FUND TO MAKE CRITICAL HOME REPAIRS
9-26-2017

WHEREAS, the Board of Aldermen on, June 27, 2007, by the adoption of resolution no. 244/2006-07 created the Affordable Housing Special Revenue Fund; and

WHEREAS, the creation of the fund is another way in which the Board can advance its goal of increasing and maintaining the stock of affordable housing within the Town and its planning jurisdiction; and

WHEREAS, the Affordable Housing Special Revenue Fund was also designed to provide critical home repair for Carrboro residents without the means to do them on their own; and

WHEREAS, Habitat for Humanity of Orange County has requested funding from the Affordable Housing Special Revenue Fund for repairs at the home located at 203 King Street; and

WHEREAS, the request is for \$534; and

WHEREAS, Town Staff has reviewed the request and determined that it meets the criteria set forth in the Affordable Housing Special Revenue Fund and the Affordable Housing Goals and Strategies; and

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO:

Section 1. The Board of Aldermen approves the grant to Habitat for Humanity of Orange County for Critical Home Repairs in the amount of \$534.

Section 2. The Board of Aldermen authorizes the Town Manager to develop and execute an agreement as necessary to carry out the Board's action.

Section 3. This resolution shall become effective upon adoption.



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Agenda Item Abstract

File Number:17-284

Agenda Date: 9/26/2017

File Type:Agendas

In Control: Board of Aldermen

Version: 1

TITLE:

Consider Option to Lease Parking at 300 East Main Street Parking Deck

PURPOSE: The purpose of this agenda item is for the Board to consider entering into an lease option with Main Street Partners to lease parking in the parking deck at 300 East Main

DEPARTMENT: Economic and Community Development

CONTACT INFORMATION: Annette Stone, AICP Economic and Community Development Director
(919) 918 7319

INFORMATION: This is an option for the Town to extend a lease agreement with Main Street Partners for a 3 year period on or before February 19, 2018 prior to August 2018, which is when the current lease agreement expires. The agreement has the town leasing the same number of spaces currently leased with the same payment of \$90,000 annually, until the issuance of the CO for the second hotel at which time the annual payment goes up to \$120,000.00. In addition, the town has the option to exercise up to eight (8) calendar days a year that the deck can be used during Town events without time constraints on the spaces.

FISCAL & STAFF IMPACT: The lease cost the town \$45,000 annually, the other \$45,000 is paid by the TDA.

RECOMMENDATION: Staff recommends the Board consider the resolution authorizing the Town Manager to execute the option to extend lease agreement.

OPTION TO EXTEND LEASE AGREEMENT

THIS OPTION TO EXTEND LEASE AGREEMENT ("Agreement") is made this ____ day of _____, 2017, by and between Main Street Properties of Chapel Hill, LLC, a North Carolina Limited Liability Company, ("Lessor"), having a mailing address of _____ and the Town of Carrboro, a North Carolina municipal corporation, ("Lessee"), having its offices at 201 W. Main Street, Carrboro, NC 27510.

I. OPTION TO EXTEND LEASE

1. **Grant of Option.** Lessor is the owner of certain real property and improvements thereon, known as 300 East Main Street in Carrboro (the "Property"). Presently there is a parking garage and a parking lot owned and operated by Lessor situated on a portion of the Property, and the Town and Lessor are parties to an existing Parking Lease and Agreement with a term that expires in August 2018. A copy of that Parking Lease and Agreement is attached hereto as Exhibit A. In accordance with the conditions attached to a Conditional Use Permit Modification for the Property granted on March ____, 2016, Lessor hereby grants to the Town and the Town accepts from the Lessor an option to extend the Parking Lease and Agreement as more particularly stated below.

2. **Option Term.** The Town may exercise its right to extend the Parking Lease and Agreement by notifying Lessor in writing of its intention to do so at any time on or before February 19, 2018.

3. **Consideration for Option.** Consideration for the Initial Term of the Option granted hereunder shall be Ten and No/100 Dollars (\$10.00) ("Option Consideration"), the receipt and sufficiency of which Lessor acknowledges..

4. **Extension of Option.** This Option may be further extended by written agreement of Lessor and the Town at any time prior to the expiration of the then-existing term of this Option.

5. **Title.** Lessor warrants that Lessor is seized of good and marketable title to the Property and Premises and has the full authority and power to enter into and execute this Agreement. Lessor further warrants that there are no deeds to secure debt, mortgages, liens, judgments, restrictive covenants, or other encumbrances on the title to the Property and Premises that would prevent Lessee from using the Premises for the uses intended by Lessee as set forth in this Agreement.

6. **Transfer of Option.** The provisions of this Agreement shall inure to the benefit of, and shall be binding upon, the parties hereto and their respective heirs, successors, and assigns, as may be applicable. Lessor may not assign or otherwise transfer its rights under this Option without Lessor's written consent.

7. **Lapse of Option.** Should the Town fail to timely exercise its option within the term of the Option, all rights and privileges granted in this Agreement shall be deemed

completely surrendered, this Option terminated, no additional money shall be payable by either party to the other in connection with this Option, and the parties shall have no further rights, obligations or liabilities with respect to each other in connection with this Option.

9. **Exercise of Option.** Should the Town exercise this Option, notice shall be given to the Lessor by regular as well as certified mail, return receipt requested, addressed to Lessor's mailing address set forth in the introductory paragraph of this Agreement. Mailed notice shall be deemed effective on the date it is posted. Upon the tender of written notice of the Town's intent to exercise the Option, the terms of this Agreement applying to the lease of the Premises shall govern the relationship of the parties and this Agreement shall thereafter be referred to as the "Lease."

II. LEASE AGREEMENT

The terms of the existing Parking Lease and Agreement (Exhibit A) shall remain in effect upon exercise by the Town of its option to extend such Agreement, except that the existing Agreement shall be modified as follows:

1. **Term and Rental.** The Parking Lease and Agreement may be extended for up to three (3) years beyond its current expiration date of August 19, 2018. During any such extension term, the Town shall pay to Lessor as "rent" for the number and type of parking spaces described in paragraph 2 below, an annual payment equal to three percent (3%) of the combined gross receipts of the Hampton Inn & Suites hotel now existing on the Property and the Hilton Garden Inn hotel planned to be constructed on the Property up to a maximum annual rate of \$90,000.00 and (b) upon the issuance of a certificate of occupancy for the proposed Hilton Garden Inn to be built at 107 Padgett Lane the maximum annual rent shall increase to \$120,000.00.

2. **Parking Spaces Leased – Number, Location and Time.** During any option term, the Town may lease from Lessor, and Lessor shall make available "public parking", at least 150 undesignated parking spaces at the Property during daytime hours (7:00 a.m. until 5:30 p.m.) and at least 250 undesignated parking spaces during night time hours (5:30 p.m. until 3:00 a.m.). These "public parking" spaces shall be available free of charge to the public for increments of at least three (3) consecutive hours per user on terms at least as favorable as the most favorable terms offered for other "undesignated" parking spaces at the Property. During any option term, Lessor may not reduce the number of undesignated parking spaces made available to the public pursuant to the terms of the Parking Lease and Agreement without the Town's consent, which consent shall not be unreasonably withheld, conditioned or delayed.

3. **Town's Right to Opt Out.** Upon six (6) months advance written notice to Lessor, the Town may during any "option year" (i.e., during any year beginning on or after August 19, 2018), (a) "opt out" of the remaining term of the Parking Lease and Agreement, or (b) reduce the number of parking spaces available to the Town and the public as "public parking", and if the Town does so then the annual rent payable at that time shall be reduced proportionately.

4. **Roberson Street/Main Street Parking Lot.** Lessor and the Town acknowledge that Lessor owns additional property used as a parking lot, located at the corner of Roberson Street and Main Street, and that parking spaces at this lot are now counted toward satisfying Lessor's parking requirements at the Property. Should any of the parking spaces located in the Roberson Street/Main Street parking lot be eliminated by Lessor for any reason, the elimination of such parking spaces shall not reduce the number of undesignated parking spaces required by the Parking Lease and Agreement to be made available as "undesignated public parking".

5. **Special Event Parking Coordination.** Lessor and the Town acknowledge that better coordination of parking spaces available at the Property during "special events", including Town-sponsored events, would be mutually beneficial to Lessor and the Town. Therefore, and with this mutual interest in mind, Lessor and the Town agree to work together to develop a plan to improve communication and coordination concerning the availability and use of parking spaces at the Property and at the parking garage, particularly during events for which the Lessor or the Town anticipate significant extraordinary demand for parking. Furthermore, Lessor and Town agree that notwithstanding any provision in this Agreement to the contrary, Lessor shall suspend the maximum time limitation on parking established in paragraph 2 above (relating only to spaces covered by this Agreement) for up to eight (8) days each calendar year for Town-sponsored special events, provided that the Town must give Lessor at least sixty (60) days advance written notice of each date for which the time limitation is to be suspended. The Town may request additional suspensions of the time limitations on a case-by-case basis in connection with special events sponsored by Carrboro-area community organizations. Provided that the Town provides parking monitoring services at its expense for large or weekend special events, Lessor will use reasonable efforts not to refuse access to parking spaces available for Town use during special events unless the maximum number of undesignated available parking spaces are occupied, and the Town and Lessor shall cooperate to provide sufficient qualified staff to be paid by the Town to monitor the use of parking spaces on the Property during Town-sponsored special events.

6. **Survival of Existing Parking Lease and Agreement Terms.** Except as specifically set forth herein, the terms of the existing Parking Lease and Agreement shall remain in full force and effect during any option year under this agreement. To the extent that there may be any conflict between the terms of this Option to Extend Lease Agreement and the Parking Lease and Agreement, the terms of this Agreement shall control.

LESSOR:

Main Street Properties of Chapel Hill, LLC

By: _____

Name: _____

Title: _____

TOWN OF CARRBORO

By: _____

David Andrews, Town Manager

EXHIBIT A TO LEASE

Deed/Legal Description of Property

(TO BE PROVIDED)



Town of Carrboro

Town Hall
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Carrboro, NC 27510

Agenda Item Abstract

File Number:17-282

Agenda Date: 9/26/2017

File Type:Agendas

In Control: Board of Aldermen

Version: 2

TITLE:

Revised Scope of Work and Renaming of the HOME Program Review Committee

PURPOSE: The purpose of this item is for the Board to consider approving an expanded scope of work and a renaming of the HOME Program Review Committee to the Orange County Local Government Affordable Housing Collaborative, “the Collaborative”.

DEPARTMENT: Town Manager’s Office

CONTACT INFORMATION: Nate Broman-Fulks, nbroman-fulks@townofcarrboro.org
<<mailto:nbroman-fulks@townofcarrboro.org>>, 919-918-7314

INFORMATION: The Orange County HOME Program Review Committee was formed in 2000 to provide an opportunity for elected officials and staff from the participating jurisdictions to discuss program activities and develop future spending plans. Recent discussions among elected officials indicate an interest in the staff and the HOME Program Review Committee to broaden its scope to include broader discussions about affordable housing issues.

The full proposal, found in Attachment A, was created as a joint effort between the Towns of Carrboro, Chapel Hill, Hillsborough, and Orange County. The new structure and name is intended to serve as a mechanism for increased collaboration and information sharing around affordable housing issues within the county.

If the Board chooses to approve this proposal, it may do so by approving the resolution found in Attachment B.

FISCAL & STAFF IMPACT: There is no fiscal impact anticipated from this proposal.

RECOMMENDATION: Staff recommends the Board approve the resolution in Attachment B revising the scope of work and renaming the HOME Program Review Committee to the Orange County Local Government Affordable Housing Collaborative.

MEMORANDUM

TO: Carrboro Board of Aldermen
Chapel Hill Town Council
Board of Orange County Commissioners
Hillsborough Board of Aldermen

FROM: David Andrews, Town Manager, Town of Carrboro
Roger Stancil, Town Manager, Town of Chapel Hill
Bonnie Hammersley, County Manager, Orange County
Eric Peterson, Town Manager, Town of Hillsborough

SUBJECT: Approve Revised Scope and Renaming of the HOME Program Review Committee to the Orange County Local Government Affordable Housing Collaborative

DATE: September 26, 2017

The purpose of this memorandum is to share an expanded scope of the HOME Program Review Committee with the elected officials of the jurisdictions participating in the Orange County HOME Consortium.

Overview: The Orange County HOME Program Review Committee was formed in 2000 to provide an opportunity for elected officials and staff from the participating jurisdictions to discuss program activities and develop future spending plans. Recent discussions among elected officials indicate an interest in the staff and the HOME Review Committee to broaden its scope to include broader discussions about affordable housing issues.



Recommendations

That the Governing Body of each jurisdiction approve the resolution to expand the scope of the HOME Program Review Committee and rename the Committee to the Orange County Local Government Affordable Housing Collaborative.

Background

- The Orange County HOME Program Consortium was formed in 1992 to receive federal HOME Program funds.
- The Towns of Chapel Hill, Carrboro, Hillsborough and Orange County are partners in the Consortium.
- Through the HOME Program, the Consortium provides grants to non-profit organizations to build, buy, and/or rehabilitate affordable housing for rent or homeownership, and for rental assistance.
- Orange County staff manages the HOME Program on behalf of the Consortium.

- In 2000, several elected officials from the participating jurisdictions expressed interest in having more involvement in the evaluation of funding applications and development of the annual HOME Program plan.
- A charge for the HOME Program Review Committee was approved by the Council on October 23, 2000, and was also approved by all of the partners in the Consortium.
- The Committee initially met on a quarterly basis. Over recent years the Committee has met during the budget time to evaluate funding applications.
- Staff from the participating jurisdictions also meet to review the status of projects.
- At an Assembly of Governments Meeting, elected officials indicated an interest in the staff and the HOME Program Review Committee to broaden its scope to include broader discussions about affordable housing issues.

Proposal for Consideration

- We propose to rename the group the Orange County Local Government Affordable Housing Collaborative (the Collaborative).
- We propose that the staffs of the Collaborative meet monthly to share information and monitor activities, and that the full Collaborative including elected officials meet quarterly.
- The purpose of the Collaborative would be to:
 - strategize about funding options;
 - provide updates on projects and affordable housing efforts, as well as code or policy changes;
 - provide guidance on administration of the HOME Program activities
 - establish priorities and criteria for HOME Program funding
 - annually evaluate applications for HOME funding and provide a recommendation to the elected bodies of each jurisdiction;
 - provide oversight of performance measures and expenditure rates (to be developed by the staff for review by the Collaborative)
 - establish a scoring system for reviewing applications
 - tell the story of the impact of our affordable housing initiatives;
 - develop shared targets and goals for affordable housing preservation and development and track progress over time; and
 - serve as advocates for affordable housing in Orange County (elected officials)

Fiscal Impact/Resources: Formation of the Collaborative would not have a fiscal impact on our operations.

Next Steps: We recommend that we implement this new design of the Collaborative in October, 2017.

**A RESOLUTION APPROVING A REVISED SCOPE OF THE HOME PROGRAM
REVIEW COMMITTEE**

9-26-17

WHEREAS, the Towns of Carrboro, Chapel Hill, Hillsborough and Orange County are members of the Orange County HOME Consortium; and

WHEREAS, elected officials indicate an interest in the staff and the HOME Program Review Committee broaden its scope to include broader discussions about affordable housing issues; and

NOW, THEREFORE, BE IT RESOLVED that the Carrboro Board of Aldermen approves the following changes to the HOME Program Review Committee:

- Rename the group the Orange County Local Government Affordable Housing Collaborative (the Collaborative).
- The staffs of the Collaborative will meet monthly to share information and monitor activities
- The full Collaborative including elected officials will meet quarterly.
- The purpose of the Collaborative would be to:
 - strategize about funding options;
 - provide updates on projects and affordable housing efforts, as well as code or policy changes;
 - provide guidance on administration of the HOME Program activities
 - establish priorities and criteria for HOME Program funding
 - annually evaluate applications for HOME funding and provide a recommendation to the elected bodies of each jurisdiction;
 - provide oversight of performance measures and expenditure rates (to be developed by the staff for review by the Collaborative)
 - establish a scoring system for reviewing applications
 - help tell the story of the impact of our affordable housing initiatives;
 - develop shared targets and goals for affordable housing preservation and development and track progress over time; and
 - serve as advocates for affordable housing in Orange County (elected officials)

BE IT FURTHER RESOLVED that each jurisdiction will appoint an elected official to the Collaborative.

This the 26th day of September, 2017.



Town of Carrboro

Town Hall
301 W. Main St.
Carrboro, NC 27510

Agenda Item Abstract

File Number:17-286

Agenda Date: 9/26/2017

File Type:Agendas

In Control: Board of Aldermen

Version: 1

TITLE:

Discussion regarding funding priorities and the charge for Human Services Advisory Board

PURPOSE: For the Board to discuss funding priorities for the Human Services grants and a possible change to the Human Services Advisory Board charge.

DEPARTMENT: Economic and Community Development

CONTACT INFORMATION: Annette Stone, AICP ECD Director (919) 918-7319

INFORMATION: On April 19th the Board had a discussion regarding changing the charge of the Human Services Advisory Board (HSAB) to provide direction regarding funding priorities. Staff presented a draft resolution giving the Board three options (Attachment 1). The third option being not to change the charge of the Human Services Advisory Board. Staff was directed to get feedback from the HSAB and to bring the item back to the Board of Aldermen.

The HSAB met on Monday, September 18th and reviewed the draft resolution, the minutes of the Board and the current Outside Agency Application funding priorities. The HSAB made the following recommendation to the Board;

The Human Services Advisory Board recommends 1) the charge remain as is to allow flexibility in administration, 2) given the needs facing our community the town should give priority to agencies that provide direct services to disadvantaged residents and 3) the HSAB is supportive of agencies that work on important institutional systemic policy and cultural change and encourage the Board to fund these agencies outside of human services funding.

FISCAL & STAFF IMPACT: None at this time

RECOMMENDATION: Staff recommends the Board discuss the item.

A RESOLUTION TO AMEND THE CHARGE OF THE HUMAN SERVICES ADVISORY COMMISSION

WHEREAS, the Human Services Advisory Commission was established by Section 3-7 of the Carrboro Town Code; and

WHEREAS, the duties and powers of the Human Services Advisory Commission can be found in Section 3 – 9 of the Town code and reads as;

- (a) The principal function of the commission shall be to study all funding applications received by the town from non- departmental agencies and to make recommendations to the Board of Aldermen on these funding requests. The Board of Aldermen may establish a specific budget amount and direct that the sum total of all the commission's funding recommendations not exceed this budgeted amount.
- (b) The commission shall perform such other duties as may be assigned from time to time by the Board of Aldermen.

WHEREAS, the Board of Aldermen wishes to clarify the duties and responsibilities of the Human Services Advisory Commission and establish funding priorities for human services,

NOW THEREFORE BE IT RESOLVED, the Board of Aldermen do hereby direct the Town Attorney to prepare an ordinance to amend the Town Code Section 3 – 9 Duties and Responsibilities of the Human Services Advisory Commission to read;

___ Option A - (a) The principal function of the commission shall be to study all funding applications received by the town from non- departmental agencies and to make recommendations to the Board of Aldermen on these funding requests. **Funding priority should be given to agencies that provide direct services to disadvantage residents.** The Board of Aldermen may establish a specific budget amount and direct that the sum total of all the commission's funding recommendations not exceed this budgeted amount.

--OR--

___ Option B - The principal function of the commission shall be to study all funding applications received by the town from non departmental agencies and to make recommendations to the Board of Aldermen on these funding requests. **The BOA recognizes the value of agencies that do direct service as well as organizations that work on systemic change at the level of institutions, policy and/or culture.** The Board of Aldermen may establish a specific budget amount and direct that the sum total of all the commission's funding recommendations not exceed this budgeted amount.



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Agenda Item Abstract

File Number: 17-279

Agenda Date: 9/26/2017

File Type: Agendas

In Control: Board of Aldermen

Version: 1

TITLE:

Public Hearing on Land Use Ordinance Text Amendments Related to Flood Damage Prevention Provisions to Reflect New Maps

PURPOSE: The purpose of this item is for the Board of Aldermen to receive public comments on Land Use Ordinance Text Amendments related to flood damage prevention provisions.

DEPARTMENT: Planning

CONTACT INFORMATION: Patricia McGuire, pmcguire@townofcarrboro.org
<<mailto:pmcguire@townofcarrboro.org>>, 919-918-7327; Christina Moon, cmoon@townofcarrboro.org
<<mailto:cmoon@townofcarrboro.org>>, 919-918-7325

INFORMATION: Revisions to the Flood Insurance Rate Maps (FIRMs) have been underway for several years. Updated LIDAR data have significantly increased the clarity and accuracy of elevation data and the digital modeling used to create these maps. State and Federal flood mapping officials have informed the Town that the maps are ready to become effective. Associated updates to flood modelling used to determine flood impacts have been developed as well. Changes from the existing maps includes the following: addition of special flood hazard areas in two unnamed tributaries of Bolin Creek (near the Fox Meadow neighborhood and near the Cates Farm neighborhood), addition of floodway along Jones Creek adjoining the boundary of Lake Hogan Farms and Ballentine), and extension of flood hazard area and floodway on Toms Creek north of James Street and along the unnamed tributary of Morgan Creek that flows through the Rocky Brook Mobile Home Park. Base flood elevations and flood hazard areas contracted along portions of Toms Creek and Morgan Creek with a reduction in the number of structures within the special flood hazard area along Morgan Creek.

An updated state model ordinance has been made available. This update includes definitional changes and other provisions, and the reference to the date of the new FIRMs.

A draft ordinance has been prepared that incorporates the updated map reference and additional revisions from the model ordinance provided by State floodplain mapping. An annotated excerpt of Article XVI, Part I, Flood Damage Prevention, is also provided (*Attachment B and C*). The new flood maps may be viewed at this location <<http://fris.nc.gov/fris/Home.aspx?ST=NC>> .

FEMA has notified the Town that its regulations must be updated to reference the revised maps by November

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17th. In order to provide time for state and federal review of the Town's flood damage prevention ordinance provisions prior to November 17, a public hearing must be held. Action on the draft ordinance on that date or soon after is recommended.

Review by Orange County, the Planning Board and the Environmental Advisory Board has been completed. Comments are provided (*Attachment D*).

Staff will report at the hearing on the effect of the designation of special flood hazard areas and floodway on the mobile homes at Rocky Brook, following a question raised during advisory board review. Aldermen Slade also requested staff to comment on provisions of President Obama's Executive Order 13690 which were recently rescinded. The full text of the order may be found at this link; comments are noted in italic text below.

[<https://www.gpo.gov/fdsys/pkg/DCPD-201500068/pdf/DCPD-201500068.pdf>](https://www.gpo.gov/fdsys/pkg/DCPD-201500068/pdf/DCPD-201500068.pdf)

i) Section 6(c) is amended by striking ", including at a minimum, that area subject to a one percent or greater chance of flooding in any given year" and inserting in lieu thereof:

". The floodplain shall be established using one of the following approaches:

"(1) Unless an exception is made under paragraph (2), the floodplain shall be:

"(i) the elevation and flood hazard area that result from using a climate-informed science approach that uses the best-available, actionable hydrologic and hydraulic data and methods that integrate current and future changes in flooding based on climate science. This approach will also include an emphasis on whether the action is a critical action as one of the factors to be considered when conducting the analysis; *Staff is seeking confirmation from NC Floodplain Mapping regarding the standards used to develop the new FIRMS.*

"(ii) the elevation and flood hazard area that result from using the freeboard value, reached by adding an additional 2 feet to the base flood elevation for non- critical actions and by adding an additional 3 feet to the base flood elevation for critical actions; *Carrboro's LUO provisions require two feet of freeboard above the base flood elevation.*

"(iii) the area subject to flooding by the 0.2 percent annual chance flood; or *The special flood hazard area in Carrboro's LUO is based on the one-percent annual change flood event.*

"(iv) the elevation and flood hazard area that result from using any other method identified in an update to the FFRMS.

FISCAL & STAFF IMPACT: None noted with adoption of the ordinance.

RECOMMENDATION: It is recommended that the Board of Aldermen consider adoption of the resolution finding consistency (*Attachment A*) and the draft ordinance (*Attachment B*).

A RESOLUTION ADOPTING A
STATEMENT EXPLAINING THE BOARD OF ALDERMEN'S REASONS FOR
ADOPTING AN AMENDMENT TO THE TEXT OF THE CARRBORO LAND USE
ORDINANCE

WHEREAS, an amendment to the text of the Carrboro Land Use Ordinance has been proposed, which amendment is described or identified as follows: AN ORDINANCE AMENDING TOWN OF CARRBORO LAND USE ORDINANCE TO UPDATE THE PROVISIONS RELATING TO FLOOD DAMAGE PREVENTION TO REFLECT NEW FLOOD MAPS

NOW THEREFORE, the Board of Aldermen of the Town of Carrboro Resolves:

Section 1. The Board concludes that the above described amendment is consistent with Carrboro Vision2020.

Section 2. The Board concludes that its adoption of the above described amendment is reasonable and in the public interest because the Town seeks to protect drainageways and proactively manage stormwater.

Section 3. This resolution becomes effective upon adoption.

This the 26th day of September in the year 2017.

A RESOLUTION ADOPTING A
STATEMENT EXPLAINING THE BOARD OF ALDERMEN'S REASONS FOR
REJECTING AN AMENDMENT TO THE TEXT OF THE CARRBORO LAND USE
ORDINANCE

WHEREAS, an amendment to the text of the Carrboro Land Use Ordinance has been proposed, which amendment is described or identified as follows: AN ORDINANCE AMENDING TOWN OF CARRBORO LAND USE ORDINANCE TO UPDATE THE PROVISIONS RELATING TO FLOOD DAMAGE PREVENTION TO REFLECT NEW FLOOD MAPS

NOW THEREFORE, the Board of Aldermen of the Town of Carrboro Resolves:

Section 1. The Board concludes that the above described amendment is not consistent with Town of Carrboro Land Use Ordinance.

Section 2. The Board concludes that its rejection of the above described amendment is reasonable and in the public interest because existing policies are sufficient.

Section 3. This resolution becomes effective upon adoption.

This the 26th day of September in the year 2017.

**AN ORDINANCE AMENDING TOWN OF CARRBORO LAND USE ORDINANCE
TO UPDATE THE PROVISIONS RELATING TO FLOOD DAMAGE PREVENTION
TO REFLECT NEW FLOOD MAPS**

Draft 8-25-2017

THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO ORDAINS:

Section 1. Section 15-251 (Purpose and Objective), subsection (b) is amended with three new provisions added as ((b)(6) through (b)(8) and the existing provision (b)(6) renumbered to (b)(9) to read as follows:

(b) The objectives of this part are:

- (1) To protect human life and health;
- (2) To minimize expenditure of public money for costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business losses and interruptions;
- (5) To 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) To minimize damage to private and public property due to flooding;
- (7) To make flood insurance available to the community through the National Flood Prevention Program;
- (8) To maintain the natural and beneficial functions of floodplains;
- (9) To ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

Section 2. Section 15-251.1 (Definitions) is rewritten as follows:

Section 15-251.1 Definitions

Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this article.

1. Accessory Structure (Appurtenant Structure). 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.
2. Addition (to an existing building). An extension or increase in the floor area or height of a building or structure.
3. Alteration of a Watercourse. A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.
4. Appeal. A request for a review of the administrator's interpretation of any provision of this ordinance.
5. Area of Special Flood Hazard. See "Special Flood Hazard Area (SFHA)"
6. Basement. Any area of the building having its floor subgrade (below ground level) on all sides.
7. Base Flood. The flood having a one (1) percent chance of being equaled or exceeded in any given year.
8. Base Flood Elevation (BFE). A determination of the water surface elevations of the base flood as published in the Flood Insurance Study or, for areas not covered in the Flood Insurance Study, as may be obtained from engineering studies available from a Federal or State or other source using FEMA approved engineering methodologies. This elevation, when combined with the "Freeboard," establishes the "Regulatory Flood Protection Elevation."
9. Chemical Storage Facility. A building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.
10. Design Flood. See "Regulatory Flood Protection Elevation."
11. Development. 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.
12. Development Activity. 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.

13. Development Permit. A zoning, special use, conditional use, or sign permit required under the provisions of Article IV of this chapter.
14. Digital Flood Insurance Rate Map (DFIRM). The digital official map of the Town, 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.
15. Disposal. As defined in NCGS 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.
16. Elevated Building. A non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.
17. Encroachment. The advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.
18. Existing Building and Existing Structure. Any building and/or structure for which the “start of construction” commenced before the date the Town’s first floodplain management ordinance was adopted.
19. Existing Manufactured Home Park or Manufactured Home Subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the original effective date of the floodplain management regulations adopted by the town.
20. Flood or Flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - (a) the overflow of inland waters; and/or
 - (b) the unusual and rapid accumulation of runoff of surface waters from any source.
21. Flood Insurance. The insurance coverage provided under the National Flood Insurance Program.
22. Flood Insurance Rate Map (FIRM). An official map provided to the town by the Federal Emergency Management Agency, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

23. Flood Insurance Study (FIS). An examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data provided to the town by the Federal Emergency Management Agency. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.
24. Flood Prone Area. See Floodplain.
25. Floodplain. Any land area susceptible to being inundated by water from any source.
26. Floodplain Management. The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.
27. Floodplain Management Regulations. This ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.
28. Floodproofing. Any combination of structural and nonstructural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.
29. Flood-resistant Material. Any building product, material, component, or system capable of withstanding direct and prolonged contact (minimum of 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*, available from FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.
30. Floodway. 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.
31. Floodway Encroachment Analysis. An engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge.

The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and models.

32. 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.
33. Freeboard. The height added to the Base Flood Elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization on the watershed. The Base Flood Elevation plus the freeboard establishes the “Regulatory Flood Protection Elevation”. The freeboard shall be two feet.
34. Functionally Dependent Facility. A facility which cannot be used for its intended purpose unless it is located in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.
35. Hazardous Waste Facility. As defined in NCGS 130A-290(a)(9), a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.
36. Highest Adjacent Grade (HAG). The highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.
37. Historic Structure. 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; or
 - (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; or
 - (c) certified as contributing to the historical significance of any historic district that may be designated by the town.
38. Letter of Map Change (LOMC). 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 based 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 planimetric 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 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.
39. Light Duty Truck. Any motor vehicle rated at 8,500 pounds Gross Vehicular Weight 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 the 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.
40. Lowest Adjacent Grade (LAG). The elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.
41. Lowest Floor. 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.
42. Manufactured Home. 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."

43. Manufactured Home Park or Subdivision. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
44. Market Value. 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.
45. New Construction. Structures for which the “Start of Construction” commenced on or after April 22, 1975 and includes any subsequent improvements to such structures.
46. Non-Encroachment Area. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.
47. Post-FIRM. Means construction or other development for which the “Start of Construction” occurred on or after April 22, 1975.
48. Pre-FIRM. Construction or other development for which the “Start of Construction” occurred before April 22, 1975.
49. Principally Above Ground. At least 51% of the actual cash value of the structure is above ground.
50. Public Safety Hazard and/or Nuisance. Anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, river, bay, stream, canal, or basin.
51. Recreational Vehicle (RV). A vehicle, which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projection; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use, and (v) is fully licensed and ready for highway use.
52. Reference Level. The top of the lowest floor for structures within the Special Flood Hazard Area designated as Zone AE.
53. Regulatory Flood Protection Elevation. The “Base Flood Elevation” plus the “Freeboard.” In “Special Flood Hazard Areas” where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus two (2) feet of freeboard.
54. 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.

55. Riverine. Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.
56. Salvage Yard. 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.
57. Solid Waste. Solid waste as defined in NCGS 130A-290(a) (35).
58. Solid Waste Management Facility. As defined in NCGS 130A-290(a) (35), any facility involved in the disposal of solid waste.
59. Solid Waste Disposal Site. 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.
60. Special Flood Hazard Area (SFHA). The land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year, as determined in Section 15-251.2(b) of this part.
61. Start of Construction. This term 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.
62. Structure. A walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.
63. Substantial Damage. 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.”

64. Substantial Improvement. 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: (i) 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 (ii) any alteration of a historic structure, provided that the alteration will not preclude the structure’s continued designation as a historic structure.
65. Technical Bulletin and Technical Fact Sheet. 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.
66. Temperature Controlled. Having the temperature regulated by a heating and/or cooling system, built-in or appliance.
67. Variance. A grant of relief from the requirements of this ordinance as authorized in Section 15-92 of this chapter. See also Section 15-251.5.
68. Violation. The failure of a structure or other development to be fully compliant with the provisions of this part. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this part is presumed to be in violation until such time as that documentation is provided.
69. Water Surface Elevation (WSE). The height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

Watercourse. A lake, river, creek, stream, wash, channel, or other topographic feature on or over which waters flow at least periodically.

Section 3. Section 15-251.2 (General Provisions), subsection (a), (b)(1) are amended to read as follows:

(a) This part shall apply to all Special Flood Hazard Areas within the town's planning jurisdiction and joint planning transition area (as those latter terms are defined in Section 15-15), as well as the Town's Extra-Territorial Jurisdiction (ETJ).

(b) The provisions of this part shall apply to the following two types of Special Flood Hazard Areas:

(1) Those Special Flood Hazard Areas that are identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) and its accompanying Flood Insurance Rate Maps (FIRM), for Orange County, dated [INSERT DATE OF ADOPTION], which are adopted by reference and declared to be a part of this ordinance.

Section 4. Section 15-251.2 (General Provisions), subsection (g) is rewritten as follows:

(g) A violation of the provisions of this part shall subject the violator to the penalties and remedies set forth in Article VII of this chapter. Additionally, violations of the provisions of this part or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variances or special exceptions, shall constitute a Class 1 Misdemeanor pursuant to N.C.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 the Town from taking such other lawful action as is necessary to prevent or remedy any violation.

Section 5. Section 15-251.3 (Application Requirements), subsection (2) is rewritten as follows:

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

- a. Elevation in relation to North American Vertical Datum (NAVD) 1988 of the proposed reference level (including basement) of all structures;
- b. Elevation in relation to NAVD 1988 to which any non-residential structure in Zone AE will be flood-proofed; and
- c. Elevation in relation to NAVD 1988 to which any proposed utility systems will be elevated or floodproofed.

Section 6. Section 15-251.4 (Permit Requirements), subsections (1) and (6) are amended to read as follows:

- (1) A description of the development to be permitted under the floodplain development permit, (including by not limited to a house, garage, pool, septic, bulkhead, cabana, pier, bridge, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc.).
- (6) 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 Section 15-251.10 of this ordinance have been met.

Section 7. Section 15-251.5 (Certificate Requirements), subsection (b) is rewritten and a new subsection (f) added to read as follows:

(b) Floodproofing Certificate.

1. 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 and an operational plan, is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data and plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make any required corrections shall be cause to deny a building permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.
2. 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 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.

(f) 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: (i) 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; (ii) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined cost of improvements and repairs, if applicable, to the market value of the building or structure; (iii) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and (iv) 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 8. Section 15-251.6 (Duties and Responsibilities of the Administrator), subsection (17) is amended as follows:

(17) Maintain a current map repository to include, but not limited to, the FIS Report, historical and effective FIRM and other official flood maps and studies adopted in accordance with Subsection 15-251.2(b) of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.

Section 9. Section 15-251.8 (General Standards for Flood Hazard Reductions), subsection (3) is rewritten as follows:

(3) All new electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, appliances (washers, dryers, refrigerators, freezers, etc.), hot water heaters, and electric outlets/switches.

- (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 consisted with the code and requirements for the original structure.

Section 10. Section 15-251.8 (General Standards for Flood Hazard Reductions), subsection (8) is deleted, and the subsequent subsections renumbered (8) through (13).

Section 11. Section 15-251.9 (Specific Standards for Flood Hazard Reductions), subsection (c) is amended to read as follows:

(c) 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 by this ordinance. Structures located in the AE Zone may be floodproofed to the regulatory flood protection elevation Regulatory Flood Protection Elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the Regulatory Flood Protection Elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the administrator along with the operational and maintenance plans.

Section 12. Section 15-251.9 (Specific Standards for Flood Hazard Reductions), subsection (e) is reorganized as follows, with a new provision (2) and the existing provisions (2) and (3) renumbered as (3) and (4):

(e) Elevated buildings. Fully enclosed areas of new construction and substantially improved structures that are below the lowest floor of buildings located with a SFHA:

- (1) Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum 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;
- (2) Shall not be temperature controlled or conditioned;
- (3) Shall be constructed entirely of flood resistant materials below the regulatory flood protection elevation;
- (4) Shall include flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:
 - a. A minimum of two flood openings on different sides of each enclosed area subject to flooding;
 - b. 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;
 - c. If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
 - d. The bottom of all required flood openings shall be no higher than one (1) foot above the adjacent grade;
 - e. 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

- f. 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.

Section 13. Section 15-251.9 (Specific Standards for Flood Hazard Reductions), is amended with a new subsection (f) to read as follows, and the existing subsection (f), (g) and (h) renumbered as (g)(h) and (k):

(f) Fill/Grading.

- (1) Fill is prohibited in the SFHA, consistent with this Ordinance.
- (2) Property owners shall be required to execute and record a non-conversion agreement prior to issuance of a building permit declaring that the area below the lowest floor shall not be improved, finished, or otherwise converted to habitable space; the Town will have the right to inspect the enclosed area. The Town will conduct annual inspections. This agreement shall be recorded with the Orange County Register of Deeds and shall transfer with the property in perpetuity.
- (3) Release of Restrictive Covenants. If a property which is bound by a non-conversion agreement is modified to remove enclosed area below BFE, then the owner may request release of restrictive covenants after staff inspection and submittal of confirming documentation.

Section 14. Section 15-251.9 (Specific Standards for Flood Hazard Reductions), is amended with two new subsections (i) and (j) and the existing subsection (h) renumbered as subsection (k) to read as follows:

(i) Tanks. When gas and liquid storage tanks are to be placed within a SFHA, the following criteria shall be met:

- (1) Underground Tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;
- (2) Above-ground Tanks, Elevated. Above-ground tanks in flood hazard areas shall be elevated to or above the Regulatory Flood Protection Elevation on a supporting structure that is designed to prevent flotation, collapse, or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;
- (3) Above-ground Tanks, Not Elevated. Above-ground tanks that do not meet the elevation requirements of Section (2) of this ordinance shall be permitted in 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 the contents in the floodwaters or infiltration of 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.

- (4) Tank Inlets and Vents. Tank inlets, fill openings, outlets, and vents shall be:
- a. 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
 - b. Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

(k) Other Development.

- (1) 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 Section 15-251.10 of this ordinance.
 - (2) Retaining walls, sidewalks, and driveways in regulated floodways or NEAs that involve the placement of fill in regulated floodways shall meet the limitations of Section 15-251.10 of this ordinance.
 - (3) Roads and watercourse crossings in floodways and NEAs, including roads, bridges, culverts, low-water crossings, and similar means for vehicles and pedestrians to travel from one side of a watercourse to the other, that encroach into regulated floodways shall meet the limitations of Section 15-251.10 of this ordinance.
- (j) Subsequent to the effective date of this subsection, no portion of any Special Flood Hazard Area outside of the floodway may be filled in with fill dirt or similar material for the purpose of elevating buildings. Whenever fill is placed within a SFHA for any other permitted purpose, slopes shall be adequately stabilized to withstand the erosive force of the base flood.

Section 15. All provisions of any Town Ordinance in conflict with this Ordinance are repealed.

Section 16. This Ordinance shall become effective upon adoption.

ARTICLE XVI

FLOOD DAMAGE PREVENTION, STORMWATER MANAGEMENT, AND WATERSHED PROTECTION

PART I. FLOOD DAMAGE PREVENTION (REWRITTEN) 1/16/07

Note: Edits in red text reflect proposed edits included in draft ordinance dated 8-25-1017

Section 15-251 Purpose and Objective.

(a) It is the purpose of this part 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.

(b) The objectives of this part are:

- (1) To protect human life and health;
- (2) To minimize expenditure of public money for costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business losses and interruptions;

- (5) To 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) To minimize damage to private and public property due to flooding;
- (7) To make flood insurance available to the community through the National Flood Prevention Program;
- (8) To maintain the natural and beneficial functions of floodplains;
- (69) To ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

Section 15-251.1 Definitions.

Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this article.

1. Accessory Structure (Appurtenant Structure). 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.
2. Addition (to an existing building). An extension or increase in the floor area or height of a building or structure.
3. Alteration of a Watercourse. A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.
4. Appeal. A request for a review of the administrator's interpretation of any provision of this ordinance.
5. Area of Special Flood Hazard. See “Special Flood Hazard Area (SFHA)”
6. Basement. Any area of the building having its floor subgrade (below ground level) on all sides.
7. Base Flood. The flood having a one (1) percent chance of being equaled or exceeded in any given year.

8. Base Flood Elevation (BFE). A determination of the water surface elevations of the base flood as published in the Flood Insurance Study or, for areas not covered in the Flood Insurance Study, as may be obtained from engineering studies available from a Federal or State or other source using FEMA approved engineering methodologies. This elevation, when combined with the “Freeboard,” establishes the “Regulatory Flood Protection Elevation.”
9. Chemical Storage Facility. A building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.
10. Design Flood. See “Regulatory Flood Protection Elevation.”
11. Development. 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.
12. Development Activity. 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.
13. Development Permit. A zoning, special use, conditional use, or sign permit required under the provisions of Article IV of this chapter.
14. Digital Flood Insurance Rate Map (DFIRM). The digital official map of the Town, 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.
15. Disposal. As defined in NCGS 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.
16. Elevated Building. A non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.
17. Encroachment. The advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.
18. Existing Building and Existing Structure. Any building and/or structure for which the “start of construction” commenced before the date the Town’s first floodplain management ordinance was adopted.

19. Existing Manufactured Home Park or Manufactured Home Subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the original effective date of the floodplain management regulations adopted by the town.
20. Flood or Flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from:
- (a) the overflow of inland waters; and/or
 - (b) the unusual and rapid accumulation of runoff of surface waters from any source.
21. Flood Insurance. The insurance coverage provided under the National Flood Insurance Program.
22. Flood Insurance Rate Map (FIRM). An official map provided to the town by the Federal Emergency Management Agency, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.
23. Flood Insurance Study (FIS). An examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data provided to the town by the Federal Emergency Management Agency. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.
24. Flood Prone Area. See Floodplain.
25. Floodplain. Any land area susceptible to being inundated by water from any source.
26. Floodplain Management. The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.
27. Floodplain Management Regulations. This ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

28. Floodproofing. Any combination of structural and nonstructural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.
29. Flood-resistant Material. Any building product, material, component, or system capable of withstanding direct and prolonged contact (minimum of 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*, available from FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.
30. Floodway. 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.
31. Floodway Encroachment Analysis. An engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and models.
32. 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.
33. Freeboard. The height added to the Base Flood Elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization on the watershed. The Base Flood Elevation plus the freeboard establishes the "Regulatory Flood Protection Elevation". The freeboard shall be two feet.
34. Functionally Dependent Facility. A facility which cannot be used for its intended purpose unless it is located in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.
35. Hazardous Waste Facility. As defined in NCGS 130A-290(a)(9), a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

36. Highest Adjacent Grade (HAG). The highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

37. Historic Structure. 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; or
- (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; or
- (c) certified as contributing to the historical significance of any historic district that may be designated by the town.

38. Letter of Map Change (LOMC). 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 based 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 planimetric 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 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.

39. Light Duty Truck. Any motor vehicle rated at 8,500 pounds Gross Vehicular Weight 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 the 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.
40. Lowest Adjacent Grade (LAG). The elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.
41. Lowest Floor. 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.
42. Manufactured Home. 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."
43. Manufactured Home Park or Subdivision. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
44. Market Value. 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.
- ~~45. Mean Sea Level. For purposes of this part, the North American Vertical Datum (NAVD) as corrected in 1988 shall be used to determine elevation.~~
46. New Construction. Structures for which the "Start of Construction" commenced on or after April 22, 1975 and includes any subsequent improvements to such structures.
47. Non-Encroachment Area. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.

48. Post-FIRM. Means construction or other development for which the “Start of Construction” occurred on or after April 22, 1975.
49. Pre-FIRM. Construction or other development for which the “Start of Construction” occurred before April 22, 1975.
50. Principally Above Ground. At least 51% of the actual cash value of the structure is above ground.
51. Public Safety Hazard and/or Nuisance. Anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, river, bay, stream, canal, or basin.
52. Recreational Vehicle (RV). A vehicle, which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projection; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use, and (v) is fully licensed and ready for highway use.
53. Reference Level. The top of the lowest floor for structures within the Special Flood Hazard Area designated as Zone AE.
54. Regulatory Flood Protection Elevation. The “Base Flood Elevation” plus the “Freeboard.” In “Special Flood Hazard Areas” where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus two (2) feet of freeboard.
55. 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.
56. Riverine. Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.
57. Salvage Yard. 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.
58. Solid Waste. Solid waste as defined in NCGS 130A-290(a) (35).
59. Solid Waste Management Facility. As defined in NCGS 130A-290(a) (35), any facility involved in the disposal of solid waste.

60. Solid Waste Disposal Site. 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.
61. Special Flood Hazard Area (SFHA). The land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year, as determined in Section 15-251.2(b) of this part.
62. Start of Construction. This term 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.
63. Structure. A walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.
64. Substantial Damage. 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."
65. Substantial Improvement. 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: (i) 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 (ii) any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.
66. Technical Bulletin and Technical Fact Sheet. 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.

67. Temperature Controlled. Having the temperature regulated by a heating and/or cooling system, built-in or appliance.
68. Variance. A grant of relief from the requirements of this ordinance as authorized in Section 15-92 of this chapter. See also Section 15-251.5.
69. Violation. The failure of a structure or other development to be fully compliant with the provisions of this part. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this part is presumed to be in violation until such time as that documentation is provided.
70. Water Surface Elevation (WSE). The height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of riverine areas.
71. Watercourse. A lake, river, creek, stream, wash, channel, or other topographic feature on or over which waters flow at least periodically.

Section 15-251.2 General Provisions.

(a) This part shall apply to all Special Flood Hazard Areas within the town's planning jurisdiction and joint planning transition area (as those latter terms are defined in Section 15-15), as well as the Town's Extra-Territorial Jurisdiction (ETJ).

(b) The provisions of this part shall apply to the following two types of Special Flood Hazard Areas:

(1) Those Special Flood Hazard Areas that are identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) and its accompanying Flood Insurance Rate Maps (FIRM), for Orange County, dated ~~February 2, 2007~~ **INSERT EFFECTIVE DATE**, which are adopted by reference and declared to be a part of this ordinance.

(2) Those Special Flood Hazard Areas that are designated by the town ordinance following appropriate engineering studies. Such SFHAs may be delineated by showing them on a map, by a written description, or any combination thereof. Such description shall be filed with the Orange County Clerk of Superior Court and Register of Deeds.

(c) As set forth in Part I of Article IV of this chapter, no development may take place within Special Flood Hazard Areas unless an appropriate permit has been issued authorizing such development, and no such permit shall be issued unless the proposed development is in full compliance with the provisions of this chapter.

(d) The provisions of this part are not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where the provisions of this part and the provisions or another ordinance conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(e) In the interpretation and application of this part, all provisions shall be considered as minimum requirements, liberally construed in favor of the town, and deemed neither to limit nor repeal any other powers granted under State statutes.

(f) The degree of flood protection required by this part 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 the town or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

(g) A violation of the provisions of this part shall subject the violator to the penalties and remedies set forth in Article VII of this chapter. Additionally, violations of the provisions of this part or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variances or special exceptions, shall constitute a Class 1 Misdemeanor pursuant to N.C.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 the Town from taking such other lawful action as is necessary to prevent or remedy any violation.

Section 15-251.3 Application Requirements

As provided in Section 15-46, no development may occur without a development permit, and no such permit shall be issued unless the administrator determines, based upon the plans and information submitted, that the development will comply with all the provisions of this chapter, including those applicable to development within Special Flood Hazard Areas. Appendix A to this chapter sets forth requirements related to the information that must generally be submitted with a permit application in order to demonstrate compliance with the requirements of this chapter. However, when the lot or tract with respect to which a development permit is sought contains a SFHA, the following information shall also be submitted to the administrator:

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

- a. The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
- b. The boundary of the Special Flood Hazard or a statement that the entire lot is within the Special Flood Hazard Area;
- c. Flood zone(s) designation of the proposed development area as determined on the Flood Insurance Rate Map;
- d. The boundary of the floodway(s) or non-encroachment area(s);
- e. Base Flood Elevation (BFE) information;
- f. The old and new location of any watercourse that will be altered or relocated as a result of proposed development and any changes in Special Flood Hazard Areas that occur as a consequence of such changes.

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

- a. Elevation in relation to ~~mean-sea-level~~NAVD 1988 of the proposed reference level (including basement) of all structures;
- b. Elevation in relation to ~~mean-sea-level~~NAVD 1988 to which any non-residential structure in Zone AE will be flood-proofed; and
- c. Elevation in relation to ~~mean-sea-level~~NAVD 1988 to which any proposed utility systems will be elevated or floodproofed;

(3) If floodproofing, a Floodproofing Certificate (*FEMA Form 81-65*) with supporting data and an operational plan that includes, but is not limited to, installation, exercise, and maintenance of floodproofing measures.

(4) Plans drawn to scale, shall include details of the proposed construction or development, and must demonstrate, among other things, that the foundation system requirements and other provisions of this ordinance are met. These details include but are not limited to:

- a. The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls);
- b. Openings to facilitate equalization of hydrostatic flood forces on walls in accordance with Subsection 15-251.9(e) (3) when solid foundation perimeter walls are used in Zone AE;
- c. Usage details of any enclosed areas below the regulatory flood protection elevation.
- d. 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;
- e. Copies of all other Local, State and Federal permits required prior to development permit issuance (Wetlands, Endangered Species, Erosion and Sedimentation Control, Riparian Buffers, Mining, etc.)
- f. A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on the plot plan) showing the location of the proposed watercourse alteration or relocation and any changes in Special Flood Hazard Areas that occur as a consequence of such changes.

Section 15-251.4 Permit Requirements.

To the extent that a development permit is issued for a lot or tract that includes a SFHA, such permit (including the plans incorporated into the permit) shall contain at least the following information:

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

(2) The location of the Special Flood Hazard Area.

(3) The regulatory flood protection elevation required for the reference level and all attendant utilities.

(4) The regulatory flood protection elevation required for the protection of all public utilities.

(5) All certification submittal requirements with timelines.

- (6) A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse, ~~as applicable~~ unless the requirements of Section 15-251.10 of this ordinance have been met.
- (7) The flood openings requirements, if in Zone AE.

Section 15-251.5 Certification Requirements

(a) Elevation certificates or information shall be required for the construction of structures on properties where Special Flood Hazard Areas are located, as set forth in this section.

- (1) An application for a development permit authorizing the construction of a structure on a lot containing a SFHA shall include information designating the elevation of the reference level in relation to mean sea level and demonstrating that the reference level will be elevated to a level that is consistent with the requirements of Section 15-251.9.
 - (2) Upon completion of the foundation survey, the permit holder shall calculate the elevation of the reference level, in relation to mean sea level, based upon the foundation survey and the approved flooring system and shall certify to the administrator that the reference level will be elevated to a level that is consistent with the requirements of Section 15-251.9.
 - (3) A final as-built Elevation Certificate is required after construction is completed and prior to issuance of a Certificate of Compliance/Occupancy. For construction within a FEMA established Special Flood Hazard Area, FEMA Form 81-31 shall be used. For other construction covered by this subsection (a), the administrator may designate an alternative form. It shall be the duty of the permit holder to submit to the administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.
- (b) Floodproofing Certificate.
- (i) ~~If non-residential floodproofing is used to meet the regulatory flood protection elevation~~ Regulatory Flood Protection Elevation requirements, a Floodproofing Certificate (FEMA Form ~~81-65~~ 086-0-34), with supporting data and an operational plan, is required prior to the actual start of any new construction. It

shall be the duty of the permit holder to submit to the ~~building inspector~~ Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to ~~mean sea level~~ NAVD 1988. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The ~~building inspector~~ Floodplain Administrator shall review the certificate data and plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make any required corrections shall be cause to deny a building 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 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) Foundation Certificate. If a manufactured home is placed within Zone AE, and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required per Section 15-253.9(d).

(d) Certificate Exemption. Accessory structures of less than 150 square feet in size, if located within Zone AE, are exempt from the elevation/floodproofing certification requirements specified in subsections (a) and (b) of this section.

(e) 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.

(f) 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: (i) 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; (ii) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined cost of improvements and repairs, if applicable, to the market value of the building or structure; (iii) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and (iv) 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 15-251.6 Duties and Responsibilities of the Administrator

As set forth in Part I of Article IV of this chapter, development permits (including permits for development within Special Flood Hazard Areas), shall not be issued unless the requirements of this chapter have been satisfied. In addition to his or her permit responsibilities, the administrator's responsibilities relating to the administration and enforcement of the provisions of this part shall include but shall not be limited to the following duties:

(1) Advise permit recipients that additional Federal or State permits (Wetlands, Endangered Species, Erosion and Sedimentation Control, Riparian Buffers, Mining, etc.) may be required, and require that copies of such permits be provided and maintained on file with the development permit.

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

(3) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

(4) Prevent encroachments into floodways and non-encroachment areas except as authorized under Section 15-251.10.

(5) Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) and all attendant utilities of all new or substantially improved structures, in accordance with Subsection 15-251.5(a)(3).

(6) Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with Subsection 15-251.5(b).

(7) Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with Subsection 15-251.5(a) (3).

(8) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with Section 15-251.5 and Subsection 15-251.9(b).

(9) Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation in accordance with the following principles:

- a. In areas between official cross-sections on the Flood Insurance Rate Maps, SFHA, floodway, and non-encroachment area boundaries shall be determined by scaling distances on these maps.
- b. The base flood elevation shall in all cases be the controlling factor in locating the outer limits of a SFHA boundary.
- c. Interpretations of floodway and non-encroachment area boundaries shall be based on the current procedures for interpreting such boundaries in accordance with FEMA guidelines.
- d. Appeals of the determinations of the administrator under this subsection may be taken to the board of adjustment in accordance with the provisions of Section 15-91 of this chapter.

(10) When the lowest ground elevation of a parcel or structure in a Special Flood Hazard Area is above the Base Flood Elevation, advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the Letter of Map Amendment (LOMA) issued by FEMA in the floodplain development permit file.

(11) Permanently maintain all records that pertain to the administration of this ordinance and make these records available for public inspection.

(12) Make on-site inspections of work in progress. As the work pursuant to a development permit progresses, the administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of this chapter and the terms of the permit.

(13) Issue stop-work orders as pursuant to Section 15-117 of this chapter.

(14) Revoke or recommend the revocation of development permits for violations of the provisions of this part as set forth in Section 15-115.

(15) Otherwise enforce the provisions of this part as provided in Article VII of this chapter.

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

(17) Maintain a current map repository to include, but not limited to, the FIS Report, historical and effective FIRM and other official flood maps and studies adopted in accordance with Subsection 15-251.2(b) of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.

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

Section 15-251.7 Variance Procedures

Variances from the restrictions of this part may be granted by the board of adjustment in accordance with the provisions of Section 15-92 of this chapter.

Section 15-251.8 General Standards for Flood Hazard Reductions

In all Special Flood Hazard Areas, if and to the extent any development is allowed, the following requirements shall be applicable:

(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.

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

(3) All new electrical ~~Electrical~~, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, appliances (washers, dryers, refrigerators, freezers, etc.), hot water heaters, and electric outlets/switches.

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

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

(10) New solid waste management facilities and sites, hazardous waste facilities, salvage yards, and chemical storage facilities shall not be permitted. A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the regulatory flood protection elevation and certified according to Subsection 15-251.5(b) of this part.

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

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

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

(14) 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.

Section 15-251.9 Specific Standards for Flood Hazard Reductions

(a) New structures generally prohibited within SFHAs. Within a Special Flood Hazard Area, no new structure (as defined in this part) may be constructed or located, and no substantial improvement of an existing structure may take place, unless and to the extent that the permit issuing authority for the proposed use determines that, in the absence of an authorization to do so, the owner would be deprived of all reasonable use of the subject property. Notwithstanding the foregoing, manufactured homes that are nonconforming because they are located within a SFHA may be replaced with another manufactured home. If such construction (or replacement of manufactured homes) is authorized, all such construction (or replacement) shall be in conformity with the remaining provisions of this section in addition to those set forth in Section 15-251.8.

(b) Residential construction. New construction and substantial improvement of any residential structure (including manufactured homes) located within a Special Flood Hazard Area or on any lot where a SFHA is located shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation.

(c) Non-residential construction. New construction and substantial improvement of any commercial, industrial, or other non-residential structure ~~located within a SFHA~~ shall have the reference level, including basement, elevated no lower than the ~~regulatory flood protection elevation~~ Regulatory Flood Protection Elevation as defined by this ordinance. Structures located in the AE Zone may be floodproofed to the regulatory flood protection elevation 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~~ Regulatory Flood Protection Elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the administrator along with the operational and maintenance plans.

(d) Manufactured homes. Manufactured homes that are located within a SFHA or on a lot where a SFHA is located shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by engineer certification, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to 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. Finally, all enclosures or skirting below the lowest floor shall meet the requirements of subsection (e).

(e) Elevated buildings. Fully enclosed areas of new construction and substantially improved structures that are below the lowest floor of buildings located with a SFHA:

(1) Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum 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;

(2) Shall not be temperature controlled or conditioned;

(2)(3) Shall be constructed entirely of flood resistant materials below the regulatory flood protection elevation;

(3)(4) Shall include flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria;

- 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 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.

(5) Fill/Grading.

- i. Fill is prohibited in the SFHA, consistent with this Ordinance.

(6) Property owners shall be required to execute and record a non-conversion agreement prior to issuance of a building permit declaring that the area below the lowest floor shall not be improved, finished, or otherwise converted to habitable space; the Town will have the right to inspect the enclosed area. The Town will conduct annual inspections. This agreement

shall be recorded with the Orange County Register of Deeds and shall transfer with the property in perpetuity.

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

(f) **Additions/Improvements.** With respect to additions and improvements to structures that are nonconforming because they are located within a Special Flood Hazard Area:

- (1) When the addition or improvement constitutes a substantial improvement as defined in Section 15-251.1, both the existing structure and the addition or improvement must comply with the standards for new construction.
- (2) When the addition or improvement does not constitute a substantial improvement, the addition or improvement must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.

(g) **Accessory Structures.** When accessory structures (sheds, detached garages, etc.) are allowed to be placed within a Special Flood Hazard Area pursuant to the provisions of subsection (a) of this section, the following criteria shall be met:

- (1) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);
- (2) Accessory structures shall not be temperature-controlled;
- (3) Accessory structures shall be designed to have low flood damage potential;
- (4) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
- (5) Accessory structures shall be firmly anchored in accordance with Section 15-251.8;
- (6) All service facilities such as electrical shall be installed in accordance with Section 15-251.8; and
- (7) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with Subsection (e) of this section.

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

(h) Subsequent to the effective date of this subsection, no portion of any Special Flood Hazard Area outside of the floodway may be filled in with fill dirt or similar material for the purpose of elevating buildings. Whenever fill is placed within a SFHA for any other permitted purpose, slopes shall be adequately stabilized to withstand the erosive force of the base flood.

(i) Tanks. When gas and liquid storage tanks are to be placed within a SFHA, the following criteria shall be met:

- i. 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;
- ii. 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;
- iii. Above-ground Tanks, Not Elevated. Above-ground tanks that do not meet the elevation requirements of Section (ii) of this ordinance shall be permitted in 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 the contents in the floodwaters or infiltration of 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.
- iv. Tank Inlets and Vents. Tank inlets, fill openings, outlets, and vents shall be:
 1. At or above the Regulatory Flood Protection Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
 2. Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

(j) Other Development.

- i. 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 Section 15-251.10 of this ordinance.
- ii. Retaining walls, sidewalks, and driveways in regulated floodways or NEAs that involve the placement of fill in regulated floodways shall meet the limitations of Section 15-251.10 of this ordinance.
- iii. Roads and watercourse crossings in floodways and NEAs, including roads, bridges, culverts, low-water crossings, and similar means for vehicles and pedestrians to travel from one side of a watercourse to the other, that encroach into regulated floodways shall meet the limitations of Section 15-251.10 of this ordinance.

Section 15-251.10 Floodways and Non-Encroachment Areas

(a) Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Subsection 15-251.2(b) (1). 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 requirements set forth in the remaining provisions of this section, in addition to the standards set forth in Sections 15-251.8 and 15-251.9 shall apply to all development within such areas.

(b) No encroachments, including fill, new construction, substantial improvements or other development shall be permitted within a floodway or non-encroachment area unless: **(AMENDED 11/23/10).**

- (1) The proposed encroachment would not result in any impact to the flood levels during the occurrence of the base flood, as demonstrated by hydrologic and hydraulic analysis performed in accordance with standard engineering practice and presented to the administrator prior to approval of construction plans authorizing such encroachment; or
- (2) A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. Prior to the issuance of a zoning, special, or conditional use permit, the developer must demonstrate to the permit issuing authority, by the submission to the town of the CLOMR study, that it is reasonably likely that a CLOMR will be issued. The CLOMR must be received by the town prior to approval of construction plans authorizing such encroachment.

(b1) When an encroachment within a floodway or non-encroachment area is authorized pursuant to a CLOMR as provided in subsection (b)(2) of this section, then upon completion of the encroachment, the developer must obtain from FEMA a Letter of Map Revision (LOMR)

pertaining to such encroachment. If such a LOMR is required for an encroachment, then (i) if the encroachment occurs within a subdivided development, a final plat for the phase of the subdivision where the encroachment occurs shall not be approved until the LOMR has been received by the town, and (ii) if the encroachment occurs within an unsubdivided development, such property may not be used or occupied until the LOMR has been received by the town, except that such occupancy, use, or sale of lots shall be allowed if sufficient security is provided pursuant to Sections 15-53 or 15-60 to ensure that the developer does what is necessary to obtain the LOMR (**AMENDED 11/23/10**).

(c) Any development within a floodway or non-encroachment area that is authorized by this section shall comply with all applicable flood hazard reduction provisions of this part.

(d) No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:

- (1) The anchoring and the elevation standards of Subsection 15-251.9(d); and
- (2) The no encroachment standard of Subsection 15-251.10(b) (1).

Section 15-251.11 Special Provisions for Subdivisions

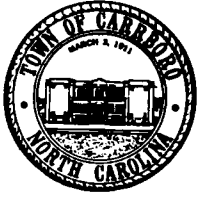
(a) An applicant for a conditional use permit or special use permit authorizing a major subdivision and an applicant for minor subdivision final plat approval shall be informed by the planning department of the use and construction restrictions contained in this Article if any portion of the land to be subdivided lies within a Special Flood Hazard Area.

(b) A conditional use permit or special use permit for a major subdivision may not be issued, and final plat approval for any subdivision may not be granted, if any portion of one or more lots lies within a Special Flood Hazard Area unless it reasonably appears that:

- (1) With respect to each lot that lies wholly or partly within a Special Flood Hazard area, either (i) a building of the type that is consistent with the zoning of the property can practicably be located in accordance with applicable regulations on the portion of such lot that is located outside the SFHA, or (ii) such lot has already been developed, or (iii) such lot is formed as the result of an adjustment of lot lines between lots in existence on the effective date of this section, and such readjustment does not result in a previously developable lot being rendered undevelopable, or (iv) it plainly appears that such lot is intended to be devoted to a permissible use that does not involve the construction of any building (e.g. that such lot is reserved or dedicated for open space purposes).
- (2) Creation of each lot that does not satisfy the criteria set forth in subdivision (1) of this subsection is necessary to avoid depriving the owner of the property of all reasonable use of the tract taken as a whole.

(c) Final plat approval for any subdivision containing land that lies within a Special Flood Hazard Area may not be given unless the plat shows the boundary of the SFHA according to the best information available at the time the final plat is approved and contains in clearly discernible print the following statement: *“Use of land within a special flood hazard area is substantially restricted by Article XVI of Chapter 15 of the Carrboro Town Code.”* If, at the time final plat approval is granted, a Conditional Letter of Map Revision (CLOMR) affecting such subdivision has been approved, or the town is otherwise aware that some action is pending that would likely alter the location of the boundary of the SFHA as it affects such subdivision, then the statement on such plat referenced immediately above shall include a note similar to the following: *“The location of the boundary of the special flood hazard area may be altered by a request for a special flood hazard map revision now pending before the Federal Emergency Management Agency.”*

Section 15-252 through 15-260 Reserved.



TOWN OF CARRBORO

PLANNING BOARD

301 West Main Street, Carrboro, North Carolina 27510

R E C O M M E N D A T I O N

THURSDAY, SEPTEMBER 21, 2017

LAND USE ORDINANCE TEXT AMENDMENTS RELATED TO FLOOD DAMAGE PREVENTION PROVISIONS TO REFLECT NEW MAPS

Motion was made by Susan Poulton and seconded by Andrew Whittemore that the Planning Board recommends that the Board of Aldermen accept the draft ordinance.

VOTE:

AYES: (7) Adamson, Tiemann, Poulton, Foushee, Clinton, Whittemore, Rivera

ABSENT/EXCUSED: (0)

NOES: (0)

ABSTENTIONS: (0)

Associated Findings

By a unanimous show of hands, the Planning Board membership also indicated that no members have any financial interests that would pose a conflict of interest to the adoption of this amendment.

Motion was made by Roberto Rivera and seconded by Susan Poulton that the Planning Board of the Town of Carrboro finds the proposed text amendment, is consistent with Carrboro Vision 2020, particularly Section 5.20, Water, which includes guidance toward protecting drainageways and proactively managing stormwater.

Furthermore, the Planning Board of the Town of Carrboro finds the proposed text amendment, which will conform the provisions of the Land Use Ordinance, with regard to flood damage prevision to the recent changes in federal flood maps, is in the public interest.

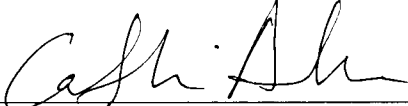
VOTE:

AYES: (7) Adamson, Tiemann, Poulton, Foushee, Clinton, Whittemore, Rivera

ABSENT/EXCUSED: (0)

NOES: (0)

ABSTENTIONS: (0)

 9/21/2017
(Chair) (Date)



Environmental Advisory Board
301 West Main Street, Carrboro, North Carolina 27510

R E C O M M E N D A T I O N

THURSDAY, SEPTEMBER 7, 2017

**LAND USE ORDINANCE TEXT AMENDMENTS RELATED TO FLOOD DAMAGE PREVENTION
PROVISIONS TO REFLECT NEW MAPS**

Motion was made by O'Connor and seconded by Hoban that the EAB recommends that the Board of Aldermen accept the draft ordinance.

VOTE:

AYES: Hoban, O'Connor, Perera, Skelton, Turner

ABSENT/EXCUSED: Patrick, Sinclair

NOES:

ABSTENTIONS:

Associated Findings

By a unanimous show of hands, the EAB membership also indicated that no members have any financial interests that would pose a conflict of interest to the adoption of this amendment.

Motion was made by Hoban and seconded by O'Connor that the EAB of the Town of Carrboro finds the proposed text amendment, is consistent with Carrboro Vision 2020, particularly Section 5.20, Water, which includes guidance toward protecting drainageways and proactively managing stormwater.

Furthermore, the EAB of the Town of Carrboro finds the proposed text amendment, which will conform the provisions of the Land Use Ordinance, with regard to flood damage prevision to the recent changes in federal flood maps, is in the public interest.


VOTE:

AYES: Hoban, O'Connor, Perera, Skelton, Turner

ABSENT/EXCUSED: Patrick, Sinclair

NOES:

ABSTENTIONS:



Sev (Chair) 9/8/2017
(Date)

ORANGE COUNTY PLANNING & INSPECTIONS DEPARTMENT

Craig N. Benedict, AICP, Director

Administration
(919) 245-2575
(919) 644-3002 (FAX)
www.orangecountync.gov



131 W. Margaret Lane
P O Box 8181
Hillsborough,
North Carolina, 27278



TRANSMITTAL DELIVERED VIA EMAIL

September 1, 2017

Christina Moon, AICP
Planning Administrator
Town of Carrboro
301 W. Main St.
Carrboro, NC 27510

SUBJECT: Joint Planning Review of Proposed Ordinance Amendments

Dear Tina:

Thank you for the opportunity to review the following Land Use Ordinance amendments received by us August 26, 2017 and proposed for town public hearing on September 26, 2017:

- *An Ordinance to Update Provisions Relating to Flood Damage Prevention to Reflect the New Flood Maps.*

We have reviewed the amendments and find no inconsistency with the adopted *Joint Planning Area Land Use Plan*.

If you have any questions or need additional information, please let me know.

Sincerely,

A handwritten signature in cursive script that reads "Perdita Holtz".

Perdita Holtz, AICP
Planning Systems Coordinator