

**Minutes of the  
Mineral Springs Town Council  
Public Legislative Hearing / Regular Meeting  
November 18, 2021 – 7:30 p.m.**

The Town Council of the Town of Mineral Springs, North Carolina, met in Public Legislative Hearing and Regular Session at the Mineral Springs Town Hall located at 3506 Potter Road South, Mineral Springs, North Carolina, at 7:30 p.m. on Thursday, November 18, 2021.

**Present:** Mayor Frederick Becker III, Mayor Pro Tem Valerie Coffey, Councilman Jerry Countryman, Councilwoman Janet Critz, Councilwoman Lundeen Cureton, and Councilwoman Bettylyn Krafft.

**Absent:** None.

**Staff Present:** Town Clerk/Zoning Administrator Vicky Brooks, Attorney Bobby Griffin, and Deputy Town Clerk Janet Ridings.

**Visitors:** None.

**1. Opening**

With a quorum present at 7:30 p.m. on November 18, 2021, Mayor Frederick Becker called the Regular Town Council Meeting to order.

Councilwoman Cureton delivered the invocation.

Pledge of Allegiance.

**2. Public Hearing – Proposed Text Amendments – TA-2021-02 & TA-2021-03**

Mayor Becker opened the Public Legislative Hearing on TA-2021-02 & TA-2021-03 at 7:32 p.m.

There were no comments from the public.

Mayor Becker closed the Public Legislative Hearing on TA-2021-02 & TA-2021-03 at 7:33 p.m.

**3. Consideration of the Proposed Text Amendments – Action Item**

Mayor Becker mentioned Ms. Brooks could present the gist of the text amendments; it looked straightforward, and he knew they worked a lot of time on it.

Ms. Brooks noted her memo was self-explanatory to everyone that had seen it. TA-2021-02 came about because the town was audited by the state (Department of Public Safety, Division of Emergency Management) to make sure the town was doing everything correct with the floodplains. A model ordinance was provided to the town from the state. Ms. Brooks explained as she was comparing that document with the current town ordinance there were significant changes, which is what most of TA-2021-02 contains. Also included in TA-2021-02 were some errors Ms. Brooks had found over the past year and a half or so that needed to be corrected (i.e., the Board of Adjustment hears Special Use Permits instead of the Town Council).

Ms. Brooks explained when the Planning Board was going through the text amendments [in TA-2021-02], she asked them to start looking at the ordinance because there were errors throughout it and more eyes were better. Within 24 hours, Ms. Krafft called to say she had found an error that needed to be corrected quickly, so a special Planning Board meeting was called to make that change and in the course of that time, Ms. Brooks found omissions in the land that would have to be donated to the town should somebody subdivide. The only way that would occur would be through a Conservation Subdivision and that is not all that the town will ever have, but that was the only

language in the current ordinance. Ms. Brooks stated she did not know what had happened to the other stuff.

Mayor Becker reminded the council that the original ordinance (before conservation zoning) required developers to donate 1/35<sup>th</sup> of an acre per dwelling unit for park use or to pay a fee based on the value of the land if the land was unsuitable or there wasn't enough, or the council preferred it. The council adopted conservation language several years later and when there was a Conservation Subdivision it was a totally different set of standards for the land. For conservation land, it would be wooded, creekside, natural, while the park land was supposed to be useable for recreation and accessible to the streets. Mayor Becker thought those had been merged in the course of the rewrite, it was fairly unclear what standards would apply, and then Ms. Brooks noticed that.

Ms. Brooks mentioned the language for conservation land contained the 1/35<sup>th</sup> of an acre, which made no sense, because depending on what zoning district it was, with AR or RR, one would have been 50 percent and one would have been 35 percent.

Mayor Becker noted the council could see what Ms. Brooks had done; very clearly made the standards for conservation subdivisions be of one category and the 1/35<sup>th</sup> of an acre is separated into two categories of park dedication.

Councilwoman Critz asked Ms. Brooks if she had talked with the auditor and if the changes satisfied their concerns with the floodplain portion.

Ms. Brooks responded she had been in contact with him throughout the process. After doing the first rewrite, Ms. Brooks explained she sent it to him and he sent back some other suggestions, which were fixed; "we should be good with that".

Councilwoman Critz thanked Ms. Brooks for all of her hard work.

Ms. Brooks explained the Planning Board recommended both TA-2021-02 and TA-2021-03 unanimously.

Mayor Becker pointed out the procedure in the new section (160D), requires actually adopting an ordinance saying "this ordinance amends the development ordinance".

Ms. Brooks noted the statement of reasonableness and consistency is found in the ordinances.

Councilwoman Coffey motioned that we adopt the changes as presented to make us compliant with the North Carolina Department of Public Safety and Division of Emergency Management, which includes O-2021-04 and Councilwoman Cureton seconded. The motion passed unanimously. Ayes: Coffey, Countryman, Critz, Cureton, and Krafft. Nays: None.

O-2021-04 is as follows:

STATE OF NORTH CAROLINA  
TOWN OF MINERAL SPRINGS

**AN ORDINANCE AMENDING THE TEXT OF ARTICLES 2, 3, 4, 5, & 9 OF THE MINERAL SPRINGS  
DEVELOPMENT ORDINANCE  
O-2021-04**

**WHEREAS**, the Town of Mineral Springs maintains an ordinance concerning numerous development regulations; and

**WHEREAS**, pursuant to NC General Statutes 160D-601; 160D-604, and Article 3, Section 3.10.1 of the Mineral Springs Development Ordinance, the Mineral Springs Town Council may amend its development regulations after holding a public hearing and after the Mineral Springs Planning Board has had the opportunity to review, comment, and make a recommendation to the Town Council regarding the amendment as well as whether the same is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable; and

## FLOODPLAIN DAMAGE PREVENTION STANDARDS

### EXHIBIT A

DELETION: STRIKE THROUGH

INSERTION: RED

OPTIONAL: BOARD DISCUSSION

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#### 5.3.3 FLOODPLAIN DAMAGE PREVENTION STANDARDS

##### 5.3.3.1 STATUTORY AUTHORIZATION

The Legislature of the State of North Carolina has in ~~Part 6, Article 21 of Chapter 143; Article 6 of Chapter 153A; Article 8 of Chapter 160A and Article 7, 9, and 11 of Chapter 160D of the North Carolina General Statutes~~ ~~NCGS Ch. 143, Art. 21, Part 6 and NCGS 160D-9-23 (formerly NCGS, Ch. 160A, Art. 10, Part 3, 5 and 8)~~, delegated to local governmental units the responsibility ~~authority~~ to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry including the regulations set out in this chapter.

Therefore, the Town Council of Mineral Springs, North Carolina, does ordain as follows in this Section.

##### 5.3.3.2 FINDINGS OF FACT

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

These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood prone areas by uses vulnerable to floods or ~~other hazards. hazardous to other lands which are inadequately elevated, floodproofed, or otherwise unprotected from flood damages.~~

##### 5.3.3.3 STATEMENT OF PURPOSE

- A. It is the purpose of this chapter 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:
- B. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or which ~~that~~ result in damaging increases in erosion, flood heights or velocities;
- C. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- D. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
- E. Control filling, grading, dredging, and all other development which ~~that~~ may increase erosion or flood damage; and
- F. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

##### 5.3.3.4 OBJECTIVES

The objectives of this chapter are ~~to~~:

- A. To protect human life and health;
- B. To minimize expenditure of public money for costly flood control projects;
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general

public;

- D. To minimize prolonged business losses and interruptions;
- E. 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;
- F. To minimize damage to private and public property due to flooding;
- G. To make flood insurance available to the community through the National Flood Insurance Program;
- H. To maintain the natural and beneficial functions of floodplains;
- I. To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas; and
- J. To insure ~~ensure~~ that potential home-buyers are notified ~~aware~~ that property is in a Special Flood Hazard Area

#### 5.3.3.5 LANDS TO WHICH THIS CHAPTER APPLIES

This chapter shall apply to all Special Flood Hazard Areas within the jurisdiction of Mineral Springs.

#### 5.3.3.6 BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS

The Special Flood Hazard Areas are those identified ~~under the Cooperating Technical State (CTS) agreement between the State of North Carolina and by the Federal Emergency Management Agency (FEMA) in its FIS dated October 16, 2008 for Mineral Springs, Union County, North Carolina and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of this chapter, and all revisions thereto.~~ ~~or produced under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Hazard Boundary Map (FHM) or Flood Insurance Study (FIS) and its accompanying flood maps such as the most recent Flood Insurance Rate Map (e) (FIRM), which with accompanying supporting data, and any revision thereto, including Letters of Map Amendment or Revision, are adopted by reference and declared to be a part of this chapter.~~ The Special Flood Hazard Areas also include those defined through standard engineering analysis for private developments or by governmental agencies, but which have not yet been incorporated in the FIRM. This includes, but is not limited to, detailed flood data:

- A. ~~Generated as a~~ requirement of section 5.3.3.15 (K) and (L) of this chapter;
- B. ~~Preliminary FIRMs~~ where more ~~stringent than the effective FIRM;~~ or
- C. ~~Post-disaster flood recovery maps.~~

#### 5.3.3.7 ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT

A Floodplain development permit shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities within Special Flood Hazard Areas as determined in section 5.3.3.6.

#### 5.3.3.8 COMPLIANCE

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

#### 5.3.3.9 ABROGATION AND GREATER RESTRICTIONS

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

#### 5.3.3.10 INTERPRETATION

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

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and

C. Deemed neither to limit nor repeal any other powers granted under state statutes.

#### 5.3.3.11 WARNING AND DISCLAIMER OF LIABILITY

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

#### 5.3.3.12 PENALTIES FOR VIOLATION

Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a **Class 1** misdemeanor pursuant to NCGS 143-215.58. Any person who violates this chapter or fails to comply with any of its requirements shall be subject, upon conviction thereof, to the penalties set forth in Section 2.7. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent Mineral Springs from taking such other lawful action as is necessary to prevent or remedy any violation.

#### 5.3.3.13 DESIGNATION OF FLOODPLAIN ADMINISTRATOR

The Administrator or designee is hereby appointed to administer and implement the provisions of this Section.

#### 5.3.3.14 FLOODPLAIN DEVELOPMENT PERMIT AND CERTIFICATION REQUIREMENTS

- A. Plans and application requirements. Application for a floodplain development permit shall be made to the Floodplain Administrator on forms furnished by him or her prior to any development activities proposed to be located within ~~flood-prone~~ **Special Flood Hazard Areas**. The following items/information shall be presented to the Floodplain Administrator to apply for a floodplain development permit.
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, the location of utility systems, proposed grading/pavement areas, fill materials, storage areas, drainage facilities, and other proposed development;
    - b. The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Section 5.3.3.6 or a statement that the entire lot is within the Special Flood Hazard Area;
    - c. Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in section 5.3.3.6;
    - d. The boundary of the floodway(s) or non-encroachment area(s) as determined in section 5.3.3.6;
    - e. The Base Flood Elevation (BFE) where provided as set forth in section 5.3.3.6; section 5.3.3.15 (K) and (L) ; sections 5.3.3.20, 5.3.3.21 and section 5.3.3.19 (E);
    - f. The old and new location of any watercourse that will be altered or relocated as a result of proposed development;  
and
    - g. **The certification of the plot plan by a registered land surveyor or professional engineer.**
  2. Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:
    - a. 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 Zones A, AE, AH, AO, A99 will be floodproofed;
  - 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 086-0-34) with supporting data, an operational plan, and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of floodproofing measures, and back-up plans from a registered professional engineer or architect certifying that the non-residential flood-proofed development will meet the floodproofing criteria in section 5.3.3.19 (B).
  4. A foundation plan drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this Section 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. ~~Should solid foundation perimeter walls be used in floodplains, details of sufficient openings to facilitate the unimpeded movements of floodwaters in accordance with section 5.3.3.19 (D);~~ Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with section 5.3.3.19 (D) when solid foundation perimeter walls are used in Zones A, AE, AH, AO, A99.
  5. Usage details of any enclosed areas below the lowest floor space below the regulatory flood protection elevation.
  6. Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage;
  7. Copy of Certification that all other local, state and federal permits required prior to floodplain development permit issuance (i.e. wetlands, erosion and sedimentation control, riparian buffers, mining, etc.) have been received.
  8. ~~If a floodplain development permit is issued~~ Documentation for placement of recreational vehicles and/or temporary structures, when applicable, documentation to ensure that the provision of section 5.3.3.19 (F) and (G) of this code chapter are met.
  9. ~~If a watercourse is~~ A description of proposed watercourse alteration or relocation, when applicable, including to be altered and/or relocated, a description of the extent of watercourse alteration or relocation; an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.
- B. ~~The Floodplain Development Permit shall include, but not be limited to: Floodplain development permit data requirements. The following information shall be provided at a minimum on the floodplain development permit to ensure compliance with this code.~~
1. A complete description of the development to be permitted under the floodplain development permit issuance (e.g. house, garage, pool, septic, bulkhead, cabana, pier, bridge, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc.).
  2. The Special Flood Hazard Area determination for the proposed development per available data specified in section 5.3.3.6.
  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. State **A statement** that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse, if applicable unless the requirements of section 5.3.3.22 (A) have been met.
7. The flood openings requirements.
8. Limitations of below BFE enclosure uses (if applicable) (i.e., parking, building access and limited storage only) if applicable.
9. State that all materials below BFE/RFPE must be flood resistant materials.

**C. Certification requirements**

**1. Elevation Certificates**

- a. *An elevation certificate (FEMA Form 086-0-33) 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 elevation of the reference level, in relation to NAVD 1988. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.*
- b. *An elevation certificate (FEMA Form ~~84-34~~ 086-0-33) or Floodproofing Certificate (FEMA Form 81-65) is required after the reference level is completed established. Within 24 ~~calendar days of establishment of the reference level~~ **seven (7)** calendar days of establishment of the reference level elevation, or floodproofing, by whatever construction means, whichever is applicable, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, or flood-proofed elevation, whichever is applicable in relation to mean sea level NAVD 1988. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When floodproofing is utilized, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work done within the 24-day **seven (7)** calendar period and prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the certification or failure to make said corrections required shall be cause to issue a stop-work order for the project.*
- c. *A final as-built **finished construction** elevation certificate (FEMA Form ~~84-34~~ 086-0-33) or floodproofing certificate (FEMA Form 81-65) is required after construction is completed and prior to certificate of compliance/occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation or floodproofed elevation of the reference level and all attendant utilities. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When floodproofing is utilized, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder, 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 said corrections required **corrections** shall be cause to withhold the issuance of a certificate of compliance/occupancy.*

## 2. Floodproofing Certificate

- (a) If non-residential floodproofing is used to meet the Regulatory Flood Protection Elevation requirements, a Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy. *(OPTIONAL) (THE FEMA FLOODPROOFING CERTIFICATE IS OPTIONAL AT THE TIME OF PERMITTING THE STRUCTURE BUT RECOMMENDED TO ENSURE COMPLIANCE WITH THIS ORDINANCE AND PROPERLY PERMIT THE STRUCTURE.)*
- (b) A final Finished Construction Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the issuance of a Certificate of Compliance/Occupancy. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certificate shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to Certificate of Occupancy. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to deny a Certificate of Compliance/Occupancy.

3. If a manufactured home is placed within ~~zones A, AE, AH, AO, A99~~ ~~an A, AO, AE, or AI-30 zone~~ and the elevation of the chassis is ~~above~~ ~~more than~~ 36 inches in height ~~above grade~~, an engineered foundation certification is required per section [5.3.3.19](#) (C).

4. If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; ~~an engineering~~ ~~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.

5. Certification exemptions. The following structures, if located within ~~zones A, AE, AH, AO, A99~~ ~~A, AO, AE or AI-30 zones~~, are exempt from the elevation/floodproofing certification requirements specified in items (1) and (2) above:

- a. Recreational vehicles meeting requirements of section [5.3.3.19](#) (F 1);
- b. Temporary structures meeting requirements of section [5.3.3.19](#) (G); and
- c. Accessory structures less than 150 square feet ~~or \$5,000 or less and~~ meeting requirements of section [5.3.3.19](#) (H).

### 6. Determinations for existing buildings and structures

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

- (a) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
- (b) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
- (c) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
- (d) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the NC



Building Code and this ordinance is required.

### 5.3.3.15 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

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

- A. Review all floodplain development applications and issue permits for all proposed development within flood-prone areas **Special Flood Hazard Areas** to assure that the requirements of this chapter have been satisfied.
- ~~B. Advise permittee that additional federal or state permits (i.e., wetlands, erosion and sedimentation control, riparian buffers, mining, etc.) may be required, and if specific federal or state permits are known, require that copies of such permits be provided and maintained on file with the floodplain development permit. Review all proposed development within Special Flood Hazard Areas to assure that all necessary local, state and federal permits have been received, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C 1334.~~
- C. 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.
- D. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- E. Prevent encroachments within floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of section [5.3.3.22](#) are met.
- F. Obtain actual elevation (in relation to mean-sea-level **NAVD 1988**) of the reference level (including basement) of all attendant utilities of all new or substantially improved structures, in accordance with section [5.3.3.14](#) (C).
- G. Obtain the actual elevation (in relation to mean-sea-level **NAVD 1988**) to which the new or substantially improved structures and all utilities have been floodproofed, in accordance with section [5.3.3.14](#) (C).
- H. Obtain actual elevation (in relation to mean-sea-level **NAVD 1988**) of all public utilities, in accordance with section [5.3.3.14](#) (C).
- I. When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with section [5.3.3.14](#) (C) and section [5.3.3.19](#) (B).
- J. Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas, **floodways, and non-encroachment areas** (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Section.
- K. When Base Flood Elevation (BFE) data has not been provided in accordance with section [5.3.3.14](#), obtain, review, and reasonably utilize any Base Flood Elevation (BFE) data, along with floodway data and/or non-encroachment area data available from a federal, state, or other source, including data developed pursuant to section [5.3.3.19](#) (D), in order to administer the provisions of this Section.
- L. When Base Flood Elevation (BFE) data is provided but no floodway nor non-encroachment area data has been provided in accordance with section [5.3.3.6](#), obtain, review, and reasonably utilize any floodway data, and/or non-encroachment area data available from a federal, state, or other source in order to administer the provisions of this chapter.
- ~~M. When the exact location of boundaries of the Special Flood Hazard Areas conflict with the current, natural topography information at the site, the property owner may apply and be approved for a Letter of Map Amendment (LOMA) by FEMA. A copy of the Letter of Map Amendment issued from FEMA will be maintained by the Floodplain Administrator in the floodplain development permit file.~~

- M. Permanently maintain all records that pertain to the administration of this ordinance and make these records available for public inspection.
- N. Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.
- O. Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this chapter, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing the work **or in charge of the work**. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.
- P. Revocation of floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable state or local law may also be revoked.
- Q. Make periodic inspections throughout all Special Flood Hazard Areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
- R. Follow through with corrective procedures of section [5.3.3.16](#).
- S. **Review, provide input, and make recommendations for variance requests.**
- T. **Maintain a current map repository to include, but not limited to, historical and effective FIS Report, historical and effective FIRM and other official flood maps and studies adopted in accordance with the provisions of [section 5.3.3.6 of this chapter](#), including any revisions thereto including Letters of Map Change, issued by FEMA. Notify state and FEMA of mapping needs.**
- U. **Coordinate revisions to FIS reports and FIRMS, including Letters of Map Revision Bases on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).**
- V. ***When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a Special Flood Hazard Area is above the BFE, advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the LOMA issued by FEMA in the floodplain development permit file (OPTIONAL)***

### **5.3.3.16 CORRECTIVE PROCEDURES**

- A. Violations to be corrected. When the Floodplain Administrator finds violations of applicable state and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law **cited in such notification** ~~pertaining to their property.~~
- B. Actions in event of failure to take corrective action. If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:
  1. That the building or property is in violation of the Flood Damage Prevention Ordinance;

2. That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
  3. That following the hearing, the Floodplain Administrator may issue such order to alter, vacate, or demolish the building; or to remove fill as **applicable** ~~appears appropriate~~.
- C. Order to take corrective action. If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, he or she shall make an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than **sixty (60) calendar days, nor more than one-hundred-eighty (180) calendar days**. Where the Floodplain Administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.
- D. Appeal. Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the clerk within 10 days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.
- E. Failure to comply with order. If the owner of a building or property fails to comply with an order to take corrective action from which no appeal has been taken, or fails to comply with an order of the governing body following an appeal, he or she shall be guilty of a **Class 1 misdemeanor pursuant to NCGS 143-215.58** and shall be punished in the discretion of the court.

#### **5.3.3.17 VARIANCE PROCEDURES**

- A. The Board of Adjustment ~~serving as the Watershed Review Board~~ as established by Mineral Springs, hereinafter referred to as the "Appeal Board", shall hear and decide requests for variances from the requirements of this chapter.
- B. Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in NCGS Ch. 7A.
- C. Variances may be issued for:
1. The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure;
  2. **Functionally dependent facilities if determined to meet the definition as stated in section 5.3.3.28, provided provisions of section 5.3.3.17 I (2), (3), and (5) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety, or**
  3. **Any other type of development provided it meets the requirements of this chapter.**
- D. In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Section and
1. The danger that materials may be swept onto other lands to the injury of others;
  2. The danger to life and property due to flooding or erosion damage;
  3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  4. The importance of the services provided by the proposed facility to the community;
  5. The necessity to the facility of a waterfront location, where applicable;
  6. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

7. The compatibility of the proposed use with existing and anticipated development;
  8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area; ~~(this sentence was separated from #7 – no words were amended)~~
  9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  10. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
  11. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- E. A written report addressing each of the above factors shall be submitted with the application for a variance.
- F. Upon consideration of the factors listed above and the purposes of this Section, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Section.
- G. ~~Variances shall not be issued within any designated floodway or non-encroachment area if any increase in flood levels during the base flood discharge would result.~~ Any applicant to whom a variance is granted shall be given written notice specifying the difference between the BFE and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct below the BFE may result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.
- H. The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the FEMA and the State of North Carolina upon request.
- I. Conditions for variances:
1. Variances may not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or ordinances.
  2. ~~Variance shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.~~
  3. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  4. ~~Variance shall only be issues prior to development permit approval.~~
  5. Variances shall only be issued upon:
    - a. A showing of good and sufficient cause;
    - b. A determination that failure to grant the variance would result in exceptional hardship; and
    - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
  6. ~~Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Base Flood Elevation (BFE) and the elevation to which the structure is to be built and a written statement that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced reference level elevation. Such notification shall be maintained with a record of all variance actions.~~
  7. ~~The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.~~

- J. A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all the following conditions are met.
1. The use serves a critical need in the community.
  2. No feasible location exists for the use outside the Special Flood Hazard Area.
  3. The reference level of any structure is elevated or floodproofed to at least the Regulatory Flood Protection Elevation.
  4. The use complies with all other applicable federal, state and local laws.
  5. The Town of Mineral Springs has notified the Secretary of the North Carolina Department of Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

#### 5.3.3.18 GENERAL STANDARDS

In all Special Flood Hazard Areas the following provisions are required;

- A. All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure.
- B. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage in accordance with the FEMA Technical Bulletin 2, Flood Damage-Resistant Materials Requirements.
- C. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damages.
- D. All new electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment facilities shall be designed and/or located at or above the RFPE or designed and installed so as to prevent water from entering or accumulating within the components during the occurrence of the base flood 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 (i.e., washers, dryers, refrigerator, etc.), hot water heaters, electric outlets/switches.
1. Replacements part of a substantial improvement, electrical, heating, ventilations, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.
  2. Replacements that are for maintenance and not part of a substantial improvement, may be installed at the original location provided the addition and/or improvements only comply with the standards for new construction consistent with the code and requirements for the original structure.
- E. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- F. 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.
- G. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- H. Any alteration, repair, reconstruction, or improvements to a structure which is in compliance with the provisions of this chapter, shall meet the requirements of "new construction" as contained in this Section.
- I. ~~Non-conforming structures or other development may not be enlarged, replaced, or rebuilt unless such enlargement or reconstruction is accomplished in conformance with the provisions of this chapter. Provided, however, Nothing in this Section shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this chapter and located totally or partially within the floodway, non-encroachment area, or stream setback, provided that the bulk of the building or structure there is no additional encroachment below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback, is not increased and provided that such repair, reconstruction, or replacement meets all of the other requirements of this Section.~~

- J. New solid waste disposal facilities ~~and sites~~, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, ~~except by variance as specified in section 5.3.3.17 in Special Flood Hazard Areas~~. 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 section 5.3.3.14 (C) of this Ordinance.
- K. All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.
- L. All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- M. All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- N. 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.
- O. When a structure is partially located in a Special Flood Hazard Area, the entire structure shall meet the requirements for new construction and substantial improvements.
- P. When a structure is located in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest BFE shall apply.
- Q. Buildings and structures that are located in more than one flood hazard area shall comply with the provisions associated with the most restrictive flood hazard area.

#### **5.3.3.19 SPECIFIC STANDARDS**

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in section 5.3.3.6 or section 5.3.3.15 (K), the following provisions are required:

- A. Residential construction. New construction or substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation.
- B. Non-residential construction. New construction or substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation. Structures located in ~~A, AO, AE and AI-30~~ Zones **A, AE, AH, AO, A99** may be floodproofed to the regulatory flood protection elevation in lieu of elevation provided that all areas of the structure, ~~together with attendant utility and sanitary facilities~~, below the required **regulatory** flood protection elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. **For AO Zones, the floodproofing elevation shall be in accordance with section 5.3.3.23.** A registered professional engineer or architect shall certify that the **floodproofing** standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in section 5.3.3.14 (C), **along with the operational plan and the inspection and maintenance plan.**
- C. Manufactured homes
  1. New or replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation.
  2. Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, **either by certified engineered foundation system**, or in accordance with the **most current edition of the State of North Carolina Regulations for Manufactured/Mobile Homes, 1995 Edition, and any revision thereto** adopted by the

Commissioner of Insurance pursuant to NCGS 143-143.15 ~~or a certified engineered foundation~~. 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** ~~other foundation elements of at least equivalent strength~~. When the elevation of the chassis is above **thirty-six (36)** inches in height, an engineering certification is required.

3. All ~~foundation enclosures or skirting~~ **below the lowest floor** shall be in accordance with section **5.3.3.19 (D)**.
4. An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management coordinator.

D. Elevated buildings

~~New construction or substantial improvements of elevated buildings that include fully enclosed areas that are below the regulatory flood protection elevation shall not be designed to be used for human habitation, but shall be designed to be used only for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises, be constructed entirely of flood resistant materials below the regulatory flood protection level in A, AO, AE, and AI-30 zones and meet the following design criteria:~~ **Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:**

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 at least to the Regulatory Flood Protection Elevation, and;~~
4. ~~Measures for complying with this requirement shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. 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 foundation openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:~~
  - a. ~~Provide a minimum of two (2) 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 each enclosed area subject to flooding;~~
  - c. ~~If a building has more than one enclosed area, each enclosed area must have flood openings on exterior walls to allow floodwaters to directly automatically enter and exit;~~
  - d. ~~The bottom of all required flood openings shall be no higher than one (1) foot above the higher of the interior or exterior adjacent grade; and~~
  - e. ~~Flood openings may be equipped with screens, louvers, or other opening coverings or devices provided they permit the automatic flow of floodwaters in both directions; and,~~
  - f. ~~Foundation Enclosures made of flexible skirting are not :~~
    1. ~~Vinyl or sheet metal skirting is not considered an enclosure for regulatory and flood insurance rating purposes, and, therefore do not require flood openings. such skirting does not require hydrostatic openings as outlined above. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires hydrostatic flood openings as outlined above to comply with this Section.~~

5. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be partitioned or finished into separate rooms, except to enclose storage areas.
- E. Release of restrictive covenant. If a property which is bound by a non-conversion agreement is modified to remove enclosed areas below BFE, then the owner may request of restrictive covenant after staff inspection and submittal of confirming documentation.**
- F. Additions/improvements**
1. Additions and/or improvements to pre-FIRM structures **when** whereas the addition and/or improvements in combination with any interior modifications to the existing structure **are**:
    - a. Are not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.
    - b. Are a substantial improvement, **with modifications/rehabilitations/improvements to the existing structure or the common wall is structurally modified more than installing a doorway**, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
  2. Additions to **pre-FIRM or post-FIRM structures that are a substantial improvement with no modifications/rehabilitations/improvements** to the existing structure **other than a standard door in the common wall**, shall require only the addition to comply with the standards for new construction.
  3. Additions and/or improvements to post-FIRM structures **when** whereas the addition and/or improvements in combination with any interior modifications to the existing structure:
    - a. Are not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction **consistent with the code and requirements for the original structure**.
    - b. Are a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
  4. **~~Where a fire wall or independent perimeter load-bearing wall is provided between the addition and the existing building, the addition(s) shall be considered a separate building and only the addition must comply with the standards for new construction.~~ Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a one (1) year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the one (1) year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this ordinance. *Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. (The repetitive loss portion is in italics is OPTIONAL, but will be required for flood insurance policy holders to be eligible for Increased Cost of Compliance (ICC) benefits for repetitive losses.)* If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:
 
    1. *Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assume safe living conditions.*
    2. *Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.***
- G. Recreational vehicles**
- Recreation vehicles placed on sites within a Special Flood Hazard Area shall either:
1. **Temporary placement**
    - a. Be on site for fewer than 180 consecutive days; **or and**
    - b. Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and has no permanently attached additions ); **or**



2. **Permanent placement.** Recreational vehicles that do not meet all the limitations of temporary placement shall meet all the requirements for new construction, including anchoring and elevation requirements of section [5.3.3.14](#) and sections [5.3.3.18](#) and [5.3.3.19 \(C\)](#).

#### H. Temporary non-residential structures

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

~~1. Applicants must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane or flash flood warning notification. The plan must include the following information:~~

1. A specified time period for which the temporary use will be permitted; Time specified may not exceed three (3) months, renewable up to one (1) year;
2. The name, address, and phone number of the individual responsible for the removal of the temporary structure;
3. The time frame prior to the event at which a structure will be removed (i.e. minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
4. A copy of the contract or other suitable instrument with a trucking company with the entity responsible for physical removal of the structure to insure the availability of removal equipment when needed; and
5. Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area to which the temporary structure will be moved.

~~2. The above information shall be submitted in writing to the Floodplain Administrator for review and written approval.~~

#### I. Accessory structures

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

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 [5.3.3.18](#) (A);
6. All service facilities such as electrical and heating equipment shall be installed in accordance with section [5.3.3.18](#) (D); and
7. Flood openings to facilitate automatic equalization of relieve hydrostatic flood forces pressure during a flood shall be provided below regulatory flood protection elevation in conformance with section [5.3.3.19](#) (D) (1).

An accessory structure with a footprint less than 150 square feet or that is a minimal investment of \$3,000 or less and satisfies the criteria outlined above is does not required to meet the an elevation or floodproofing standards certificate of [section 5.3.3.19 \(B\)](#).

Elevation or floodproofing certifications are required for all other accessory structures in accordance with section [5.3.3.14](#) (C).

#### J. Tanks

When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, 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 5.3.3.19 of this chapter 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 contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions.
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 5.3.3.22 of this chapter.
2. Retaining walls, sidewalks and driveways in regulated floodways and NEAs. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Section 5.3.3.22.
3. Roads and watercourse crossings in regulated floodways and NEAs. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of Section 5.3.3.22 of this chapter.
4. Commercial storage facilities are not considered "limited storage" as noted in this chapter, and shall be protected to the Regulatory Flood Protection Elevation as required for commercial structures.

**5.3.3.20—SUBDIVISIONS, MANUFACTURED HOME PARKS AND MAJOR DEVELOPMENTS**

~~A.—All subdivision, manufactured home park and major development proposals located within Special Flood Hazard Areas shall:~~

- ~~1.—Be consistent with the need to minimize flood damage;~~
- ~~2.—Have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;~~
- ~~3.—Have adequate drainage provided to reduce exposure to flood hazards; and~~
- ~~4.—Have Base Flood Elevation (BFE) data provided if development is greater than the lesser of five (5) acres or 50 lots/manufactured home sites. Such Base Flood Elevation (BFE) data shall be adopted by reference per section 5.3.3.6 to be utilized in implementing this code.~~

**5.3.3.2420 STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS**

Within the Special Flood Hazard Areas established in section 5.3.3.6, where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of Section 5.3.3.18 shall apply:

- A. No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of **twenty (20)** feet each side from top of bank or five times the width of the stream whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- ~~B.—If section 5.3.3.20 (A) is satisfied and Base Flood Elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this chapter and shall be elevated or floodproofed in accordance with elevations established in accordance with section 5.3.3.15 (K) and (L). When Base Flood Elevation (BFE) data is not available from a federal, state, or other source, the reference level, including basement, shall be elevated at least two (2) feet above the highest adjacent grade. The BFE used in determining the regulatory flood protection elevation shall be determined based on the following criteria:~~

1. When BFE data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or floodproofed in accordance with standards in Sections 5.3.3.18 and 5.3.3.19.
2. When floodway or non-encroachment data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of Sections 5.3.3.19 and 5.3.3.22.
3. All subdivision, manufactured home park and other development proposals shall provide BFE data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such BFE data shall be adopted by reference in accordance with Section 5.3.3.6 and utilized in implementing this ordinance.
4. When BFE data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the Regulatory Flood Protection Elevation, as defined in Section 5.3.3.28. All other applicable provisions of Section 5.3.3.19 shall also apply.

#### **5.3.3.221 STANDARDS FOR RIVERINE FLOODPLAINS WITH BFE BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS**

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

1. Standards of Section 5.3.3.18 and 5.3.3.19.
2. Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.

#### **5.3.3.2322 FLOODWAYS AND NON-ENCROACHMENT AREAS**

Located within the Special Flood Hazard Areas established in Section 5.3.3.6 are areas designated as floodways or non-encroachment areas. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions shall apply to all development within such areas:

- A. No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood. Such certification and technical data shall be presented to the Floodplain Administrator prior to issuance of floodplain development permit, or a Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained within six months of completions of the proposed encroachment.
- B. If Section 5.3.3.2322(A) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this chapter.
- C. 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 Section 5.3.3.19 (C); and
  2. The no encroachment standards of Section 5.3.3.2322 (A) are met.

#### **5.3.3.23 STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AO)**

Located within the Special Flood Hazard Areas established in Section 5.3.3.6, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined

channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to [Sections 5.3.3.18 and 5.3.3.19](#), all new construction and substantial improvements shall meet the following requirements:

- A. The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of four (4) feet above the highest adjacent grade; or at least four (4) feet above the highest adjacent grade if no depth number is specified.
- B. Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in [Section 5.3.3.18 and Section 5.3.3.19](#) so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with [Section 5.3.3.14 \(C\)\(1\)](#) and [Section 5.3.3.14 \(C\)\(2\)](#).
- C. Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

#### **5.3.3.24 STANDARDS FOR AREA OF SHALLOW FLOODING (ZONE AH)**

Located within the Special Flood Hazard Areas established in [Section 5.3.3.6](#), are areas designated as shallow flooding areas. These areas are subject to inundation by 1-percent-annual-chance shallow flooding (usually areas of ponding) where average depths are one (1) to three (3) feet. Base Flood Elevations are derived from detailed hydraulic analyses are shown in this zone. In addition to [Sections 5.3.3.18 and 5.3.3.19](#), all new construction and substantial improvements shall meet the following requirements:

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

#### **5.3.3.25 EFFECT ON RIGHTS AND LIABILITIES UNDER THE EXISTING FLOOD DAMAGE PREVENTION STANDARDS CHAPTER**

This chapter in part comes forward by re-enactment of some of the provisions of the Flood Damage Prevention Ordinance enacted April 1, 2002, as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the Flood Damage Prevention Ordinance of Mineral Springs enacted on April 1, 2002, as amended, which are not reenacted herein are repealed.

The date of the initial Flood Damage Prevention Ordinance for Union County, North Carolina is [July 18, 1983](#).

#### **5.3.3.26 EFFECT UPON OUTSTANDING FLOODPLAIN DEVELOPMENT BUILDING PERMITS**

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

#### **5.3.3.27 SEVERABILITY**

If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

#### **5.3.3.28 DEFINITIONS (WILL BE REMOVED FROM ARTICLE 9 – DEFINITIONS)**

##### **FLOOD DAMAGE PREVENTION DEFINITIONS**

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

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

**Alteration of a watercourse.** Any dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

**Appeal.** A request for a review of the Floodplain Administrator's interpretation of any provision of Flood Damage Prevention Regulations.

**Area of shallow flooding.** Any designated Zone AO or AH on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one (1) to three (3). These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

**Area of Special Flood Hazard.** See "Special Flood Hazard Area (SFHA)".

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

**Basement.** Any area of the building having its floor subgrade (below ground level) on all sides.

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

**Base Flood Elevation (BFE).** A determination as published in the Flood Insurance Study of the water surface elevations of the base flood of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a "Special Flood Hazard Area", it may be obtained from engineering studies available from a Federal, State, or other source using FEMA approved engineering methodologies. This elevation, when combined with the "Freeboard", establishes the "Regulatory Flood Protection Elevation".

**Building.** See "Structure".

**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.

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

**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.

**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.

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

**Disposal.** Means, as defined as in NCGS 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

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

**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.

**Existing building and existing structure.** Any building and/or structure for which the "start of construction" commenced before the effective date of the floodplain management regulations were adopted.

**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) is pre-FIRM.

**Flood or flooding.** A general and temporary condition of partial or complete inundation of normally dry land areas from: The overflow of inland or tidal waters; and The unusual and rapid accumulation of runoff of surface waters from any source.

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

**Flood Hazard Boundary Map (FHBM).** An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the Special Flood Hazard Areas have been defined as Zone A.

**Flood insurance.** The insurance coverage provided under the National Flood Insurance Program.

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

**Flood Insurance Study (FIS).** An examination, evaluation, and determination of flood hazard areas, corresponding water surface elevations (if appropriate), flood insurance risk zones, and other flood data in a community issued by FEMA. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

**Floodplain or flood prone area.** Any land area susceptible to being inundated by water from any source.

**Floodplain Development Permit.** Means any type of permit that is required in conformance with the provisions of this ordinance, prior to the commencement of any development activity.

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

**Floodplain Administrator.** The individual appointed to administer and enforce the floodplain management regulations. (should be located before Floodplain Development Permit)

**Floodplain management regulations.** This chapter 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.

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

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

**Flood prone area.** See "Floodplain".

**Floodway.** 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.

**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 hydraulic models meeting the minimum requirements of the National Flood Insurance Program.

**Flood zone.** 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.

**Floor.** See "Lowest Floor".

**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.

**Freeboard.** Means 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, blockage of bridge openings, and the hydrological effect of urbanization of the watershed. The Base Flood Elevation (BFE) plus the freeboard establishes the "Regulatory Flood Protection Elevation."

**Hazardous waste management facility.** A facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste as defined in NCGS. Ch. 130A, Art. 9.

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

**Historic structure.** Any structure that is:

- 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;
- 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;
- Individually listed on a state inventory of historic places;
- Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by an approved state program as determined by the Secretary of Interior or directly by the Secretary of Interior in states without approved programs.

Certified Local Government (CLG) Programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

**Letter of Map Change (LOMC).** 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:

- Letter of Map Amendment (LOMA): An official amendment, by letter, to an effective National Flood Insurance Program map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the base flood elevation. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.
- 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.

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

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

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

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

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

**Manufactured home.** A structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

**Manufactured Home Park or Subdivision.** Means a parcel (or contiguous parcels) of land divided into (2) two or more manufactured home lots for rent or sale.

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

**Market value.** The building value, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. Market value can be established by independent certified appraisal, replacement cost depreciated by age of building (Actual Cash Value) or adjusted assessed values.

~~**Mean Sea Level.** For purposes of the NFIP, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988 or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which Base Flood Elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.~~

**New construction.** Structures for which the "start of construction" commenced on or after the effective date of the original Flood Damage Prevention Regulations and includes any subsequent improvements to such structures.

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

**Nonconforming building or development.** Any legally existing building or development which fails to comply with the current provisions of the Flood Damage Prevention Regulations.

**Non-encroachment area. Non-Encroachment Area (NEA).** 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.

**Obstruction.** This term includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

**Post-FIRM.** Construction or other development which started on or after January 1, 1975 or on or after the effective date of the initial Flood Insurance Rate Map for the area, whichever is later.

**Pre-FIRM.** Construction or other development, which started before January 1, 1975 or before the effective date of the initial Flood Insurance Rate Map for the area, whichever is later.

**Principally above ground.** Means that at least 51% of the actual cash value of the structure is above ground.

**Public safety 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, or river, bay, stream, canal, or basin.

**Recreational Vehicle (RV).** A vehicle, which is:

- Built on a single chassis;
- 400 square feet or less when measured at the largest horizontal projection;
- Designed to be self-propelled or permanently towable by a light duty truck; and
- Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.
- Is fully licensed and ready for highway use.
- For the purpose of this chapter, "Tiny Homes/Houses" and Park Models that do not meet the items listed about are not considered Recreational Vehicles and should meet the standards of and be permitted as Residential Structures.

**Reference level.** ~~The portion of a structure or other development that must be compared to the regulatory flood protection elevation to determine regulatory compliance of such building. Within Special Flood Hazard Areas designated as zones A1-A30, AE, A, A99, AO, or AH, the reference level is the top of the lowest floor.~~ Is the top of the lowest floor for structures within Special Flood Hazard Areas designated as Zones A, AE, AH, AO, A99. The reference level is the bottom of the lowest horizontal structural member of the lowest floor for structures within Special Flood Hazard Areas designated as Zone VE.

**Regulatory flood protection elevation.** ~~The elevation to which all structures and other development located within the Special Flood Hazard Areas must be elevated or floodproofed, if non-residential. Within areas where Base Flood Elevations (BFE's) have been determined, this elevation shall be the BFE. In areas where no BFE has been established, all structures and other development must be elevated or floodproofed, if non-residential, to two (2) feet above the highest adjacent grade. The "Base Flood Elevation" plus "Freeboard". In "Special Flood Hazard Areas" where Base Flood Elevations (BFE's) have been determined, this elevation shall be the BFE plus Insert freeboard [four (4) feet (four feet is the state recommended freeboard)] feet freeboard). In "Special Flood Hazard Areas" where no BFE has been established, this elevation shall be at least Insert feet [four (4) feet is a state-recommended elevation, two (2) feet is a state-recommended minimum] feet above the highest adjacent grade.~~

**Remedy a violation.** To bring the structure or other development into compliance with state or 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 this chapter or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

**Retrofitting.** Measures, such as floodproofing, elevation, construction of small levees, and other modifications, taken on an existing building or its yard to protect it from flood damage.

**Riverline.** Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

**Salvage yard.** Property used for the storage, collection, and/or recycling of any type of equipment whatsoever, whether industrial or noncommercial, and including but not limited to vehicles, appliances and related machinery.

**Special Flood Hazard Area (SFHA).** The land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year.

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

**Solid waste disposal site.** Defined as in NCGS 130A-290(a)(36).

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

**Structure.** A walled and roofed building, a manufactured home, a gas or liquid storage tank that is principally above ground.

**Substantial damage.** Damage of any origin sustained by a structure during any one year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred. See definition of "substantial improvement".

**Substantial improvement.** Any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one year period whereby the cost of which equals or exceeds 50% 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:

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



historic structure.

**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.

It should be noted that Technical Bulletins and Technical Fact Sheets provide guidance on the minimum requirements of the NFIP regulations. State or community requirements that exceed those of the NFIP take precedence. Design professionals should contact the community officials to determine whether more restrictive State or local regulations apply to the building or site in question. All applicable standards of the State or local building code must also be met for any building in a flood hazard area.

**Temperature Controlled.** Having the temperature regulated by a heating and/or cooling system, built-in or appliance.

**Variance (FDPO).** A grant of relief from the requirements of the Flood Damage Prevention Regulations.

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

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

**Water Surface Elevation (WSE).** The height, in relation to **NAVD 1988** mean-sea-level, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

Councilwoman Critz motioned that we adopt ordinance O-2021-05, which amends Articles 3, 4, & 5 and Councilman Countryman seconded. The motion passed unanimously. Ayes: Coffey, Countryman, Critz, Cureton, and Krafft. Nays: None.

O-2021-05 is as follows:

STATE OF NORTH CAROLINA  
TOWN OF MINERAL SPRINGS

**AN ORDINANCE AMENDING THE TEXT OF ARTICLES 3, 4, & 5 OF THE MINERAL SPRINGS  
DEVELOPMENT ORDINANCE  
O-2021-05**

**WHEREAS**, the Town of Mineral Springs maintains an ordinance concerning numerous development regulations; and

**WHEREAS**, pursuant to NC General Statutes 160D-601; 160D-604, and Article 3, Section 3.10.1 of the Mineral Springs Development Ordinance, the Mineral Springs Town Council may amend its development regulations after holding a public hearing and after the Mineral Springs Planning Board has had the opportunity to review, comment, and make a recommendation to the Town Council regarding the amendment as well as whether the same is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable; and

**WHEREAS**, the Mineral Springs Planning Board has reviewed the proposed amendments at a special meeting that was opened on November 3, 2021, held in accordance with law; and

**WHEREAS**, the Mineral Springs Planning Board recommended in a vote of 5 to 0 on November 3, 2021, that the Mineral Springs Town Council adopt the proposed amendments; and

**WHEREAS**, in accordance with NC General Statute 160D-601 and the provisions set forth in Article 3, Section 3.10.1 of the Mineral Springs Development Ordinance, the Town Council duly advertised and held a public hearing to consider the proposed amendments; and

**WHEREAS**, after reviewing the written recommendation of the Mineral Springs Planning Board, the proposed amendments, conducting a public hearing on November 18, 2021, and careful review, the Town Council determines that:

3. The proposed amendments are consistent with the Mineral Springs Land Use Plan adopted October 12, 2006 and the Vision Plan November 18, 2021

contained therein, which specifically calls for periodic review to make sure the Ordinance is as up to date and effective as possible.

4. The proposed amendments are reasonable as they are corrections to reference errors (Town Council vs. Board of Adjustment), corrections to language errors (CUP vs. SUP / Public Hearing vs. Evidentiary Hearing / Conditional Use vs. Special Use), modifications to the Conservation Subdivision open space language, additional language clarifying the requirements of open space requirements for "other" types of subdivisions to the existing Ordinance, and alignment with the Mineral Springs Land Use Plan on the number of dwellings allowed per acre in the TC/MU Zoning Districts.

**NOW THEREFORE, BE IT ORDAINED BY THE MINERAL SPRINGS, NORTH CAROLINA THAT:**

- Section 1. That this Town Council does hereby adopt the proposed amendments as outlined in TA-2021-03 attached hereto.
- Section 2. That if any section, subsection, clause or phrase of this ordinance is, for any reason, held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance; and
- Section 3. That all ordinances and clauses of ordinance in conflict herewith be and are hereby repealed to the extent of such conflict.
- Section 4. This ordinance is effective upon adoption.

**ADOPTED** this 18<sup>th</sup> day of November 18, 2021.

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Frederick Becker III, Mayor

ATTEST:

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Vicky Brooks, CMC, NCCMC, CZO

**TEXT AMENDMENTS TO THE MINERAL SPRINGS DEVELOPMENT ORDINANCE**  
TA-2021-03

Article	Section #	Subsection #	Current Language	Amendment
5	5.23	Table 5.2 Maximum Residential Density (DUA) - TC	6	5
5	5.23	Table 5.2 Maximum Residential Density (DUA) - MU	6	5
5	Multiple Sections		See Exhibit 1 for details on proposed amendments relating to open space requirements	See Exhibit 1 for details on proposed amendments relating to open space requirements
4	4.4.2.2	D	...Special Use Permit is issued by the Town Council. (proposed amendment is to correct it twice in this Section)	...Special Use Permit is issued by the Board of Adjustment. (proposed amendment is to correct it twice in this Section)
4	4.4.4.3	E	...issuance of a Special Use Permit by the Town Council...	...issuance of a Special Use Permit by the Board of Adjustment...
4	4.4.5.3		...shall present the following items to the Administrator for consideration by the Town Council for Special Use Permits or Conditional Zoning district map amendment requests.	...shall present the following items to the Administrator for consideration by the Board of Adjustment for Special Use Permits or to the Town Council for Conditional Zoning district map amendment requests.
4	4.4.7.6	E	In the absence of such documentation the Town Council may solicit...	In the absence of such documentation the Board of Adjustment may solicit...
4	4.4.7.6	H	Minimum setback requirements may be reduced by the Town Council....	Minimum setback requirements may be reduced by the Board of Adjustment....
4	4.4.7.6	O (9)	Expert testimony and related documentation that demonstrated to the satisfaction of the Town Council...	Expert testimony and related documentation that demonstrated to the satisfaction of the Board of Adjustment...
4	4.4.7.6	P (1)	Telecommunications Act of 1996, the Town Council must clearly state the...	Telecommunications Act of 1996, the Board of Adjustment must clearly state the...
4	4.4.7.6	P (3) first bullet	Decisions by the Town Council to approve or deny...	Decisions by the Board of Adjustment to approve or deny...
4	4.4.7.6	P (3) second bullet	...addressing the Town Council at the public hearing...	...addressing the Board of Adjustment at the evidentiary hearing...
4	4.4.7.6	P (3) third bullet	The decision of the Town Council must be...	The decision of the Board of Adjustment must be...
4	4.4.7.6	P (3) fourth bullet	...the Town Council may take into account... / ... the Town Council may request the...	...the Board of Adjustment may take into account... / ... the Board of Adjustment may request the...
4	4.4.8.6		...issued by the Town Council to any civic...	...issued by the Board of Adjustment to any civic...
4	4.4.8.6		The CUP shall be issued for a period of up to one (1) year and may be renewed by the Town Council for subsequent...	The SUP shall be issued for a period of up to one (1) year and may be renewed by the Board of Adjustment for subsequent...
4	4.4		...placed on the approval of the Special Use Permit or Conditional Zoning District by the Town Council.	...placed on the approval of the Special Use Permit by the Board of Adjustment or Conditional Zoning District by the Town Council.
3	3.11	3.11.1 Step 6 (E)	...development plan is submitted is a conditional use...	...development plan is submitted is a special use...

**EXHIBIT 1**  
**STRIKE-THROUGH = DELETIONS**  
**RED PRINT = ADDITIONS**

**5.3.4 OPEN SPACE STANDARDS FOR CONSERVATION SUBDIVISIONS**

**5.3.4.1 APPLICABILITY**

The provisions of this section shall apply to all Major Conservation Subdivisions. See Section 5.35 for other open space standards not relating to Conservation Subdivisions. ~~The provisions shall also apply to all new residential development of more than 10 dwelling units that do not involve the subdivision of land.~~

**5.3.4.2 OPEN SPACE ALLOCATION**

~~At least one thirty-fifth (1/35) of an acre shall be dedicated for each dwelling unit planned or proposed in the subdivision plat or development. The minimum amount of land which shall be dedicated for a public park, recreation, or open space site shall be no less than two (2) acres in size. When the area to be provided is less than two (2) acres, the subdivider shall be required to make payment in lieu of the dedication, subject to Section 5.3.4.8 to be used for the acquisition or development of recreation, park, or open space sites which would serve the needs of the residents of the subdivision. A minimum of 25% of required open space outside of conservation areas shall be active or passive recreational areas in accordance with Section 5.3.4.4 and 5.3.4.5.~~

In the AR District, a minimum of fifty percent (50%) of the gross acreage of the tract will be required to be retained as conservation land. Conservation land in excess of the fifty percent (50%) minimum, while not required by the Ordinance, may be set aside at the property owner's discretion. In the RR District, a minimum of thirty-three percent (33%) of the gross acreage of the tract will be required to be retained as conservation land.

An example of this in the AR District is as follows:

*The tract upon which a conservation subdivision is to be located has a gross area of 100 acres. Forty (40) acres of the tract consists of primary conservation lands. The remaining sixty (60) acres consists of forty (40) acres of farmland and twenty (20) acres of forestland. In order to meet the minimum regulations for retaining conservation lands, all forty (40) primary conservation land acres would be retained. Ten (10) additional acres of secondary conservation lands would also be retained, this consisting entirely of forestlands (i.e. the secondary conservation land use category having the highest priority.) Thus, development would be allowed on the remaining fifty (50) acres.*

**5.3.4.2(C)**

~~The Town Council shall have the authority to accept or reject land dedications made as a requirement of this Section.~~

**5.3.5 DEDICATION OF LAND AND/OR FEES IN LIEU OF PARK, RECREATION, AND OPEN SPACE PURPOSES**

**5.3.5.1 APPLICABILITY**

At least one thirty-fifth (1/35) of an acre shall be dedicated for each dwelling unit planned or proposed in the subdivision plat or development. The minimum amount of land which shall be dedicated for a public park, recreation, or open space site shall be no less than two (2) acres in size. When the area to be provided is less than two (2) acres, the subdivider shall be required to make payment in lieu of the dedication, to be used for the acquisition or development of recreation, park, or open space sites which would serve the needs of the residents of the subdivision, subject to Section 5.3.5.3. The provisions shall also apply to all new residential development of more than 10 dwelling units that do not involve the subdivision of land.

**5.3.5.2 DEDICATION OF LAND**

1. Every subdivider who proposes a subdivision of land for residential purposes shall dedicate a portion of land or pay a fee in lieu thereof, in accordance with this section, for public park, greenway, recreation, and open space sites to serve the recreational needs of the residents of the subdivision or development.
2. Except as otherwise required by the Town Council at the time of preliminary plat approval, all dedications of land shall meet the following criteria:
  - The dedicated land shall form a single parcel of land, except where the Town Council determines that two or more parcels would be in the best interest of the public, given the type and distribution of open spaces needed to adequately serve the proposed development. In such cases, the Town Council may require that such parcels be connected by a dedicated strip of land at least thirty (30) feet in width.
  - Two-thirds (2/3) of the dedicated land shall be useable for active recreation. Furthermore, lakes and other bodies of water may not be included in computing any of the dedicated land area.
  - The shape of the portion of dedicated land which is deemed suitable for active recreation shall be sufficiently square or round to be usable for any or all recreational facilities and activities, such as athletic fields, playgrounds, and tennis courts, when a sufficient amount of land is dedicated to accommodate such facilities. Land dedicated only for greenways need not follow the requirements of this sub-section.
  - The dedicated land shall be located so as to reasonably serve the recreation and open space needs of residents of the subdivision. Land abutting any town-owned property shall be prioritized for acceptance as the dedicated land.
  - Public access to the dedicated land shall be provided either by adjoining public street frontage or by a dedicated public easement, at least thirty (30) feet wide, which connects the dedicated land to a public street or right-of-way. Gradients adjacent to existing and proposed streets shall allow for reasonable access to the dedicated land. Where the dedicated land is located adjacent to a street, the developer or subdivider shall remain responsible for the installation of utilities, sidewalks, and other improvements required along that street segment. Public access or dedicated walkways to greenway dedications only shall be at least twenty (20) feet wide.
  - The average slope of the portion of dedicated land deemed usable for active recreation shall not exceed the average slope of the entire subdivision to be developed. In no case shall a slope on the usable portion of dedicated land exceed fifteen (15) percent.
  - Dedicated parks, recreation, and open space areas shall have sufficient natural or manmade buffer or screen to minimize any negative impacts on adjacent residents.
  - The Town Council shall have the authority to accept or reject land dedications made as a requirement of this Section.

#### **5.3.5.3 PAYMENTS OF FEES IN LIEU OF LAND DEDICATION**

- A. The payment of fees, in lieu of the dedication of land under Section 5.3.5.2 above, may occur at the request of the subdivider or developer. However, the decision to require the dedication of land for recreational purposes, or a payment of a fee in lieu, shall be made by the Town Council after having received a recommendation from the Planning Board and having evaluated the proposed dedication and the relationship such dedication would have with the Town's overall recreational needs.

The Planning Board shall have the right to approve any preliminary plat except for those plats that would require two acres or greater of land to be dedicated for recreational purposes. In those instances, preliminary plat approval and the decision to either accept land for recreational purposes or fee in lieu of shall rest with the Town Council.

- B. **Time of Payment.** The fees in lieu of dedication shall be paid prior to final plat approval by the Town Council.
- C. **Amount of payment.** The amount of the payment shall be the product of:
  - 1. The number of acres to be dedicated, as required by Section 5.3.5.2 above.
  - 2. The assessed value for property tax purposes of the land being subdivided, adjusted to reflect its current fair market value at the time such payment is due to be paid.
    - A. **Procedures for determining the amount is as follows:**
      - 1. An appraisal of the land in the development shall be performed by a professional land appraiser selected by the developer and approved by the Town Council. The appraisal shall not be done prior to submission of the preliminary plat. The cost of the appraisal shall be borne by the developer.
      - 2. Professional land appraiser refers to a land appraiser who, in the opinion of the Town Council, has the expertise and/or certification to perform an adequate appraisal.

#### **4. Public Comments**

There were no public comments.

#### **5. Consent Agenda – Action Item**

Councilman Countryman motioned to approve the consent agenda containing the October 14, 2021 Regular Meeting Minutes and the September 2021 Finance Report and Councilwoman Krafft seconded. The motion passed unanimously. Ayes: Coffey, Countryman, Critz, Cureton, and Krafft. Nays: None.

Mayor Becker mentioned the tax report Ms. Ridings completed all the years that the town was allowed to collect and explained the past couple of meetings the tax report was not generated by Ms. Ridings. Mayor Becker suggested, since the county still sends the town a report on what they have collected, that the tax collections still be reported monthly to council. Ms. Ridings decided to leave a copy with the council for this meeting and will in the future put it back into the consent agenda as a tax report just to keep the council informed on what the county has collected on behalf of the town. Mayor Becker stated that was why it was in as an FYI this month, and it will be put in the consent agenda in the future.

#### **6. Consideration of Obtaining an Outside Attorney for Civil Penalties – Action Item**

Mayor Becker explained there was no memo, but this has been discussed. Ms. Brooks has discussed it with Attorney Griffin. The council needs to talk about what to do about getting an outside attorney to begin to address these civil penalties on a special property.

Councilwoman Coffey responded, “hire one, simply hire one.”

Mayor Becker responded that was the final outcome that is wanted.

Councilwoman Critz commented she was sure Attorney Griffin had someone he has recommended.

Ms. Brooks responded Attorney Griffin did recommend someone and she was able to talk with her finally, which is why there was no memo, because she had not talked to her prior to the agenda being sent out.

Councilwoman Critz asked Ms. Brooks what she thought and if she liked her. Councilwoman Critz also stated Attorney Griffin knows her [attorney], he wouldn't recommend her if she wasn't good.

Attorney Griffin responded he didn't know her that well, but he did know that she does do that for the county on a regular basis, very experienced at it even though she is very young in practicing law, but she seems to be very knowledgeable. Attorney Griffin added that all he knew about her

were good things. Attorney Griffin explained under the circumstances at his office, he had a full plate and could not run to the courthouse at this point in time. The town would be better served to hire someone; this attorney was recommended to Attorney Griffin by another lawyer saying she was competent in what she does for the county.

Mayor Becker asked Attorney Griffin if the town would need to execute a retainer agreement or something, which would happen next month.

Ms. Brooks commented she did ask her [attorney], because Attorney Griffin had mentioned the town needing to adopt a resolution, about having to adopt a resolution and she stated the council could include in their motion they were going to hire her for that reason and that would suffice.

Attorney Griffin explained there was an old quirky rule that came out of Stanley County a few years ago that if you don't have a motion to instruct the lawyer or employ the lawyer for the lawsuit you might get kicked out of court. Attorney Griffin suggested the council motion to include hiring her to enforce the penalties; specifically hire her to do that.

Ms. Brooks noted the attorney's name was Lisa Beaman.

Attorney Griffin added she was with the Perry, Bundy office.

Councilman Countryman asked for clarification on whether it was ever determined who really owned the property.

Councilwoman Krafft responded that would be part of her [attorney's] task.

Mayor Becker explained the motion would be to retain Attorney Lisa Beaman to determine ownership as well. Mayor Becker asked if there was a name or tax parcel number.

Ms. Brooks responded it was Shannon and Phillip Donato.

Councilwoman motioned that we retain Attorney Lisa Beaman on the matter of ownership and civil penalty collection for the Shannon and Phillip Donato pending zoning violations that are outstanding and Councilwoman Critz seconded. The motion passed unanimously. Ayes: Coffey, Countryman, Critz, Cureton, and Krafft. Nays: None.

## **7. 2022 Town Hall Holiday Schedule – Action Item**

Mayor Becker explained the town hall holiday schedule for 2022 was just for approval.

Councilman Countryman motioned to approve the schedule 2022 town hall holiday schedule and Councilwoman Coffey seconded. The motion passed unanimously. Ayes: Coffey, Countryman, Critz, Cureton, and Krafft. Nays: None.

## **8. Staff Updates**

Mayor Becker announced he had turned in the audit material and it had been submitted to the state. There is a slight change this year, the state has required the auditors to personally present the audit report (it is no longer optional). The council used to say "oh, you don't need to come", now the auditor is supposed to do it within 90 days of filing, which Mayor Becker believed was October 15, 2021. Mayor Becker told the auditor January was probably a good time. Every year the state seems to regiment this a little more; everything the town does has to be done just according to the LGC rules.

## **9. Other Business**

Councilwoman Critz noted everyone that was re-elected would be sworn in next month and the council will be appointing a mayor pro-tempore. Councilman Countryman was the highest vote getter, and he will not be in attendance next month, which is why Councilwoman Critz was raising this tonight. Councilwoman Critz has asked Councilman Countryman's permission to allow her to recommend him to be the next mayor pro-tempore and he agreed.

Councilwoman Critz mentioned she was approached by over a dozen people, some came to talk to her, and some phoned her concerning the election situation, because her name was the one name left off the recommendations, which in no way hurt her feelings. Councilwoman Critz explained the only reason she was bringing it up is several of these people said, "does this mean there is no cohesion among our council or if there is a problem with the cohesion among our council" and some of these people (if she were to name them) the council would know them and they have been longtime supporters of our council. Councilwoman Critz suggested when the council has a town hall meeting in February or just any chance they get, they need to reenforce the fact that the council is acting cohesively. "We are six unique people with different ideas and opinions, but we are acting cohesively, because that came up. If one or two people had asked me, I would not be saying a word, but it was literally over a dozen and as we all know for every one person that's willing to say something or ask something, there are many people that don't and so I just feel a real need for us to work, every chance, every opportunity we get to reenforce the cohesiveness of this board, because it was brought into question," Councilwoman Critz said.

Councilwoman Coffey asked Councilwoman Critz what recommended list she was referring to.

Councilwoman Critz responded there were things handed out at the voting.

Councilwoman Coffey asked Councilwoman Critz who made them up, this sounds like a personal thing, and not like anything the council did.

Councilwoman Critz responded the person that was handing the most out was Richard Helms, who was running. Councilwoman Critz explained she thought their constituents would have understood if there was a problem child on the council or if there was an open seat on the council, such as Mr. Muller taking Ms. Neill's, but this came out of nowhere among people that supposedly the town has worked with, and it gave people concern.

Councilwoman Coffey commented Richard Helms was not a council member, he is a planning board member and asked how does that...

Councilwoman Critz responded he was running for council, and he was handing out information that left a voting suggestion and the name that was left off was hers, which is why people contacted her. Councilwoman Critz was not offended by that, but it sent the wrong message to several people that there might be a lack of cohesion among the council, because this has never happened in history of our council.

Mayor Becker commented he thought the council could put it to rest and just act cohesively, which is "act by example."

Councilwoman Critz responded, "exactly, I'm just asking us to take example, right, and that's all I'm saying. I think we should take as many opportunities as we can to put it to rest."

Mayor Becker stated the council will continue to act by example, which he applauded the council for doing over the years.

Mayor Becker explained they were doing a native plant/replanting project with a volunteer church group from Charlotte and some of the regular trail volunteers. Mayor Becker noted he got 100 different riparian plants from a wetlands nursery in Siler City. The volunteers will spend a couple hours on Saturday morning. Mayor Becker commented this was the third year of doing a planting after consultation with the Catawba Lands Conservancy botanist. There are invasives - particularly Privet, Elaeagnus, and Microstegium - on the greenway and when there are areas cleared of that "garbage", they try to get some native stuff reestablished.

Councilwoman Critz asked what the hours were.

Mayor Becker responded it was from 10:00 a.m. to 12:30 p.m. This is just one of their little projects. If anyone wants to stop by and say "hello". Mayor Becker has not met this volunteer group, but there are some experienced people who have done these plantings before; anybody can do it.



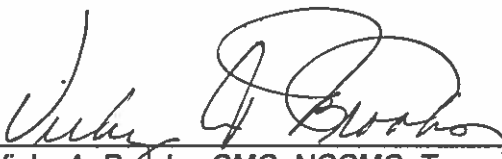
Mayor Becker mentioned there has been a lot of success with repopulating some of the greenway property with the proper native species; some of them have taken very nicely. In 20 years, there will be a better ecosystem than when the town bought the property, when it was overgrown with horrible stuff.

**10. Adjournment – Action Item**


At 8:01 p.m. Councilwoman Coffey motioned to adjourn the meeting and Councilman Cureton seconded. The motion passed unanimously. Ayes: Coffey, Countryman, Cureton, and Krafft. Nays: None.

The next regular meeting will be on Thursday, December 9, 2021 at 7:30 p.m. at the Mineral Springs Town Hall.

Respectfully submitted by:

  
Vicky A. Brooks, CMC, NCCMC, Town Clerk



  
Frederick Becker III, Mayor