

Chapter 18. FLOOD DAMAGE PREVENTION¹

State law reference(s)—Authority to regulate flood hazard areas, G.S. 143-215.54 et seq.

Town of Vanceboro, North Carolina, Code of Ordinances

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

Sec. 18-1. 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, delegated to local governmental units the authority to adopt regulations designed to promote the public health, safety, and general welfare.

Therefore, the Board of Aldermen of Town of Vanceboro, North Carolina, does ordain as follows.

Sec. 18-2. Findings of fact.

- (1) The floodprone areas within the jurisdiction of Town of Vanceboro are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- (2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in floodprone areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

Sec. 18-3. Statement of purpose.

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 floodprone areas by provisions designed to:

- (1) Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion, flood heights or velocities;
- (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
- (4) Control filling, grading, dredging, and all other development which may increase erosion or flood damage; and
- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

Sec. 18-4. Objectives.

The objectives of this chapter are:

- (1) To protect human life and health;
- (2) To minimize expenditure of public money for costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business losses and interruptions;
- (5) To minimize damage to public facilities and utilities (i.e., water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in floodprone areas;
- (6) Minimize damage to private and public property due to flooding;
- (7) Make flood insurance available to the community through the National Flood Insurance Program;
- (8) Maintain the natural and beneficial functions of floodplains;
- (9) To help maintain a stable tax base by providing for the sound use and development of floodprone areas in such a manner as to minimize flood blight areas; and
- (10) To ensure that potential homebuyers are notified that property is in a special flood hazard area.

ARTICLE II. DEFINITIONS

Sec. 18-5. Definitions.

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

Access means 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) means an extension or increase in the floor area or height of a building or structure.

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

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

Area of shallow flooding means a designated Zone AO or AH on a community's flood insurance rate map (FIRM) with base flood depths determined to be from one to three feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

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

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

Base flood elevation (BFE) means a determination of the water surface elevations of the base flood as published in the flood insurance study. When the BFE has not been provided in a "special flood hazard area", it may be obtained from engineering studies available from a federal, state, or other source using FEMA approved engineering methodologies. This elevation, when combined with the "freeboard", establishes the "regulatory flood protection elevation".

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

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

Building: See "structure".

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

Design flood: See "regulatory flood protection elevation."

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

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

Digital flood insurance rate map (DFIRM) means the digital official map of a community, issued by the Federal Emergency Management Agency (FEMA), on which both the special flood hazard areas and the risk premium zones applicable to the community are delineated.

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

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

Encroachment means the advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

Existing building and *existing structure* means any building and/or structure for which the "start of construction" commenced before May 4, 1987, the effective date of the initial FIRM.

Existing manufactured home park or manufactured home subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) completed before the effective date of the initial floodplain management regulations for the community, dated April 6, 1987.

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

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

Flood boundary and floodway map (FBFM) means an official map of a community, issued by the Federal Emergency Management Agency, on which the special flood hazard areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the flood insurance rate map (FIRM).

Flood hazard boundary map (FHBM) means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the special flood hazard areas have been defined as zone A.

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

Flood insurance rate map (FIRM) means an official map of a community, issued by the Federal Emergency Management Agency, on which both the special flood hazard areas and the risk premium zones applicable to the community are delineated.

Flood insurance study (FIS) means 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.

Floodprone area: See "floodplain".

Flood zone means a geographical area shown on a flood hazard boundary map or flood insurance rate map that reflects the severity or type of flooding in the area.

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

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

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

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

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

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

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

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

Floodway encroachment analysis means an engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and hydraulic models meeting the minimum requirement of the National Flood Insurance Program.

Freeboard means the height added to the BFE to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, storm surge or precipitation exceeding the base flood, and the hydrological effect of urbanization of the watershed. The BFE plus the freeboard establishes the "regulatory flood protection elevation".

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

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

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

Historic structure means any structure that is:

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

Certified local government (CLG) programs are approved by the U.S. Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

Letter of map change (LOMC) means an official determination issued by FEMA that amends or revises an effective flood insurance rate map or flood insurance study. Letters of map change include:

- (a) *Letter of map amendment (LOMA)*. An official amendment, by letter, to an effective National Flood Insurance Program map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the base flood elevation. A LOMA amends the current effective flood insurance rate map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.
- (b) *Letter of map revision (LOMR)*. A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.
- (c) *Letter of map revision based on fill (LOMR-F)*. A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.

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- (d) *Conditional letter of map revision (CLOMR)*. A formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective flood insurance rate map or flood insurance study; upon submission and approval of certified as-built documentation, a letter of map revision may be issued by FEMA to revise the effective FIRM.

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

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

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

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

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

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

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

Market value means 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.

New construction means structures for which the "start of construction" commenced on or after April 6, 1987, the effective date of the initial floodplain management regulations and includes any subsequent improvements to such structures.

Nonconforming building or development means any legally existing building or development which fails to comply with the current provisions of this Chapter.

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

Obstruction 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 means construction or other development which started on or after May 4, 1987, the effective date of the initial flood insurance rate map.

Pre-FIRM means construction or other development which started before May 4, 1987, the effective date of the initial flood insurance rate map for the area, whichever is later.

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

Public safety and/or nuisance means anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

Recreational vehicle (RV) means a vehicle, which is:

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

Reference level is the top of the lowest floor for structures within the special flood hazard areas designated as zones A, AE, A99, AO, AH. The reference level is the bottom of the lowest horizontal structural member of the lowest floor for structures within special flood hazard areas designated as zone VE.

Regulatory flood protection elevation means the base flood elevation plus the freeboard. In special flood hazard areas where base flood elevations (BFEs) have been determined, this elevation shall be the BFE plus two feet of freeboard. In special flood hazard areas where no BFE has been established, this elevation shall be at least two feet above the highest adjacent grade.

Remedy a violation means 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 impact may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

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

Salvage yard means 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.

Shear wall means walls used for structural support but not structurally joined or enclosed at the end (except by breakaway walls). Shear walls are parallel or nearly parallel to the flow of the water.

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

Special flood hazard area (SFHA) means the land in the floodplain subject to a one percent or greater chance of being flooded in any given year as determined in article III, section 18-7 of this chapter.

Solid waste disposal site defined as in G.S. 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

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

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

Substantial improvement means any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period whereby the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- (a) Any correction of existing violations of state or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (b) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and the alteration is approved by variance issued pursuant to article IV, section 18-29 of this chapter.

Technical bulletin and technical fact sheet means a FEMA publication that provides guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at Section 60.3. The bulletins and fact sheets are intended for use primarily by state and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations.

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

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

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

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

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

ARTICLE III. GENERAL PROVISIONS

Sec. 18-6. Lands to which this chapter applies.

This chapter shall apply to all special flood hazard areas within the jurisdiction of Town of Vanceboro.

Sec. 18-7. Basis for establishing the special flood hazard areas.

The special flood hazard areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its FIS dated June 19, 2020, for Craven County and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of this chapter, and all revisions thereto.

Sec. 18-8. 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 article III, section 18-7.

Sec. 18-9. 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.

Sec. 18-10. 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 conflict overlap, whichever imposes the more stringent restrictions shall prevail.

Sec. 18-11. Interpretation.

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

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

Sec. 18-12. 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 manmade 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 Town of Vanceboro 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.

Sec. 18-13. 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 G.S. 143-215.58. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$100.00 or imprisoned for not more than 30 days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent Town of Vanceboro from taking such other lawful action as is necessary to prevent or remedy any violation.

Secs. 18-14—18-24. Reserved.

ARTICLE IV. ADMINISTRATION

Sec. 18-25. Designation of floodplain administrator.

The Town Clerk, hereinafter referred to as the "floodplain administrator", is hereby appointed to administer and implement the provisions of this chapter. In instances where the floodplain administrator receives assistance from others to complete tasks to administer and implement this chapter, the floodplain administrator shall be responsible for the coordination and community's overall compliance with the National Flood Insurance Program and the provisions of this chapter.

Sec. 18-26. Floodplain development permit and certification requirements.

- (1) *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 floodprone areas. The following items/information shall be presented to the floodplain administrator to apply for a floodplain development permit:
 - (a) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:

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- (i) 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;
 - (ii) The boundary of the special flood hazard area as delineated on the FIRM or other flood map as determined in article III, section 18-7 or a statement that the entire lot is within the special flood hazard area;
 - (iii) Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in article III, section 18-7;
 - (iv) The boundary of the floodway(s) or non-encroachment area(s) as determined in article III, section 18-7;
 - (v) The base flood elevation (BFE) where provided as set forth in article III, section 18-7; article IV, section 18-27(11) and (12); or article V, sections 18-40, 18-41(5) and 18-42;
 - (vi) The old and new location of any watercourse that will be altered or relocated as a result of proposed development;
- (b) Proposed elevation, and method thereof, of all development within a special flood hazard area including, but not limited to:
- (i) Elevation in relation to NAVD 1988 of the proposed reference level (including basement) of all structures;
 - (ii) Elevation in relation to NAVD 1988 to which any nonresidential structure in zones A, AE, AH, AO, A99 will be floodproofed; and
 - (iii) Elevation in relation to NAVD 1988 to which any proposed utility systems will be elevated or floodproofed;
- (c) If floodproofing, a floodproofing certificate (FEMA Form 086-0-34) with supporting data, an operational plan, and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of floodproofing measures.
- (d) A foundation plan drawn to scale which shall include details of the proposed foundation system to ensure all provisions of this chapter are met. These details include, but are not limited to:
- (i) Proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/shear walls); and
 - (ii) Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with article V, subsection 18-41(4)(c) when solid foundation perimeter walls are used in zones A, AE, AH, AO, A99.
- (e) Usage details of any enclosed areas below the lowest floor.
- (f) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.
- (g) Certification that all other local, state and federal permits required prior to floodplain development permit issuance (i.e., wetlands, erosion and sedimentation control, riparian buffers, mining, etc.).
- (h) Documentation for placement of recreational vehicles and/or temporary structures, when applicable, to ensure that the provisions of article V, section 18-41, subsections (6) and (7) of this Code are met.
- (i) If a watercourse is proposed to be altered and/or relocated, a description of the extent of watercourse alteration or relocation; including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and
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downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

- (2) *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:
- (a) 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.).
 - (b) The special flood hazard area determination for the proposed development per available data specified in article III, section 18-7.
 - (c) The regulatory flood protection elevation required for the reference level and all attendant utilities.
 - (d) The regulatory flood protection elevation required for the protection of all public utilities.
 - (e) All certification submittal requirements with timelines.
 - (f) A statement that no fill material shall encroach into the floodway or non-encroachment area of any watercourse unless the requirements of article V, section 18-44 have been met.
 - (g) The flood openings requirements, if in zones A, AE, AH, AO, A99.
 - (h) Limitations of below BFE enclosure uses (i.e., parking, building access and limited storage only).
 - (j) A statement, that all materials below BFE/RFPE must be flood-resistant materials.
- (3) *Certification requirements.*
- (a) Elevation certificates.
 - (i) A preliminary 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.
 - (ii) A final as-built elevation certificate (FEMA Form 086-0-33) is required after construction is completed and prior to certificate of compliance/occupancy issuance. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to certificate of compliance/occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make said corrections required shall be cause to withhold the issuance of a certificate of compliance/occupancy. The finished construction elevation certificate certifier shall provide at least two photographs showing the front and rear of the building taken within 90 days from the date of certification. The photographs must be taken with views confirming the building description and diagram number provided in section A of the elevation certificate. To the extent possible, these photographs should show the entire building including foundation. If the building has split-level or multi-level areas, provide at least two additional photographs showing side views of the building. In addition, when applicable, provide a photograph of the foundation showing a representative example of the flood openings or vents. All photographs must be in color and measure at least three inches x three inches. Digital photographs are acceptable.
 - (b) Floodproofing certificate.

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- (i) A final finished construction floodproofing certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the issuance of a certificate of compliance/occupancy. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certificate shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The floodplain administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to certificate of occupancy. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to deny a certificate of compliance/occupancy.
 - (c) If a manufactured home is placed within an A, AE, AO, AH, or A99 zone and the elevation of the chassis is above 36 inches in height, an engineered foundation certification is required per article V, subsection 18-41(3).
 - (d) If a watercourse is to be altered 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 showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.
 - (e) Certification exemptions. The following structures, if located within A, AE, AH, AO, A99 zones are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) above:
 - (i) Recreational vehicles meeting requirements of article V, subsection 18-41(6)(a);
 - (ii) Temporary structures meeting requirements of article V, subsection 18-41(7); and
 - (iii) Accessory structures 600 square feet or less and meeting requirements of article V, subsection 18-41(8).
 - (4) *Determinations for existing buildings and structures.* For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the floodplain administrator, in coordination with the building official, shall:
 - (a) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
 - (b) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
 - (c) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
 - (d) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the North Carolina Building Code and this chapter is required.
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Sec. 18-27. Duties and responsibilities of the floodplain administrator.

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

- (1) Review all floodplain development applications and issue permits for all proposed development within floodprone areas to assure that the requirements of this chapter have been satisfied.
- (2) Review all proposed development within the special flood hazard areas to assure that all necessary local, federal or state permits have been received, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C 1334.
- (3) Notify adjacent communities and the North Carolina Department of 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.
- (4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- (5) Prevent encroachments within floodways and non-encroachment areas.
- (6) Obtain actual elevation (in relation to NAVD 1988) of the reference level (including basement) of all attendant utilities of all new or substantially improved structures, in accordance with article IV, subsection 18-26(3).
- (7) Obtain the actual elevation (in relation to NAVD 1988) to which the new or substantially improved structures and all utilities have been floodproofed, in accordance with article IV, subsection 18-26(3).
- (8) Obtain actual elevation (in relation to NAVD 1988) of all public utilities, in accordance with article IV, subsection 18-26(3).
- (9) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with article IV, subsection 18-26(3) and article V, subsection 18-41(2).
- (10) Where interpretation is needed as to the exact location of boundaries of the special flood hazard areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
- (11) When base flood elevation (BFE) data has not been provided in accordance with article III, section 18-7, 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 article V, subsection 18-42(3), in order to administer the provisions of this chapter.
- (12) When base flood elevation (BFE) data is provided but no floodway nor non-encroachment area data has been provided in accordance with article III, section 18-7, 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.
- (13) 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.
- (14) Permanently maintain all records that pertain to the administration of this chapter and make these records available for public inspection.

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- (15) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the floodplain administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the floodplain administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.
 - (16) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this 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. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.
 - (17) 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.
 - (18) 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.
 - (19) Follow through with corrective procedures of article IV, section 18-28.
 - (20) Review, provide input, and make recommendations for variance requests.
 - (21) Maintain a current map repository to include, but not limited to, historical and effective FIS report, historical and effective FIRM and other official flood maps and studies adopted in accordance with the provisions of article III, section 18-7 of this Chapter, including any revisions thereto including letters of map change, issued by FEMA. Notify state and FEMA of mapping needs.
 - (22) Coordinate revisions to FIS reports and FIRMs, including letters of map revision based on fill (LOMR-Fs) and letters of map revision (LOMRs).

Sec. 18-28. Corrective procedures.

- (1) *Violations to be corrected.* When the floodplain administrator finds violations of applicable state and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law pertaining to their property.
- (2) *Actions in event of failure to take corrective action.* If the owner of a building or property shall fail to take prompt corrective action, the floodplain administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:
 - (a) That the building or property is in violation of the flood damage prevention ordinance;
 - (b) That a hearing will be held before the floodplain administrator at a designated place and time, not later than ten 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

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- (c) That following the hearing, the floodplain administrator may issue such order to alter, vacate, or demolish the building; or to remove fill as appears appropriate.
 - (3) *Order to take corrective action.* If, upon a hearing held pursuant to the notice prescribed above, the floodplain administrator shall find that the building or development is in violation of 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 60 days, nor more than least 180 calendar days. Where the floodplain administrator finds that there is imminent danger to life or other property, he may order that corrective action be taken in such lesser period as may be feasible.
 - (4) *Appeal.* Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the floodplain administrator and the clerk within ten days following issuance of the final order. In the absence of an appeal, the order of the floodplain administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.
 - (5) *Failure to comply with order.* If the owner of a building or property fails to comply with an order to take corrective action from which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a Class 1 misdemeanor pursuant to G.S. 143-215.58 and shall be punished in the discretion of the court.

Sec. 18-29. Variance procedures.

- (1) The board of adjustments as established by Town of Vanceboro, hereinafter referred to as the "appeal board", shall hear and decide requests for variances from the requirements of this chapter.
- (2) Any person aggrieved by the decision of the appeal board may appeal such decision to the court, as provided in G.S. ch. 7A.
- (3) Variances may be issued for:
 - (a) The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
 - (b) Functionally dependent facilities if determined to meet the definition as stated in article II of this chapter, provided provisions of article IV, subsections 18-29(9)(b), (c), and (e) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or
 - (c) Any other type of development provided it meets the requirements of this section.
- (4) In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:
 - (a) The danger that materials may be swept onto other lands to the injury of others;
 - (b) The danger to life and property due to flooding or erosion damage;
 - (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (d) The importance of the services provided by the proposed facility to the community;
 - (e) The necessity to the facility of a waterfront location, where applicable;
 - (f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

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- (g) The compatibility of the proposed use with existing and anticipated development;
 - (h) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - (i) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (j) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
 - (k) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- (5) A written report addressing each of the above factors shall be submitted with the application for a variance.
- (6) Upon consideration of the factors listed above and the purposes of this chapter, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
- (7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the BFE and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE may result in increased premium rates for flood insurance up to \$25.00 per \$100.00 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.
- (8) The floodplain administrator shall maintain the records of all appeal actions and report any variances to the FEMA and the State of North Carolina upon request.
- (9) Conditions for variances:
- (a) Variances shall not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or ordinances.
 - (b) Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.
 - (c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (d) Variances shall only be issued prior to development permit approval.
 - (e) Variances shall only be issued upon:
 - (i) A showing of good and sufficient cause;
 - (ii) A determination that failure to grant the variance would result in exceptional hardship; and
 - (iii) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (10) A variance may be issued for solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in special flood hazard areas provided that all of the following conditions are met. A floodplain development permit may be issued for such development only if a variance is granted.
- (a) The use serves a critical need in the community.
 - (b) No feasible location exists for the use outside the special flood hazard area.
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- (c) The reference level of any structure is elevated or floodproofed to at least the regulatory flood protection level.
 - (d) The use complies with all other applicable federal, state and local laws.
 - (e) Town of Vanceboro has notified the Secretary of the North Carolina Department of Crime Control and Public Safety of its intention to grant a variance at least 30 days prior to granting the variance.

Sec. 18-30. Other administrative provisions.

To the extent not in conflict with any express provision of this chapter or any state or federal rule or regulation concerning the subject matter of this chapter, Article 4 of Chapter 160D of the General Statutes shall apply to the administration, enforcement, and appeals regarding this chapter.

Secs. 18-31—18-39. Reserved.

ARTICLE V. PROVISIONS FOR FLOOD HAZARD REDUCTION

Sec. 18-40. General standards.

In all special flood hazard areas the following provisions are required:

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- (2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (3) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damages.
- (4) All new electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment must be designed and installed to prevent water from entering or accumulating within the components during the occurrence of base flood and located at or above the Regulatory Flood Protection Elevation (RFPE). 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.
 - (a) Replacements part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.
 - (b) Replacements that are for maintenance and not part of a substantial improvement may be installed at the original location provided the addition and/or improvements only comply with the standards for new construction consistent with the code and requirements for the original structure.
- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

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- (7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
 - (8) Nothing in this chapter shall prevent the repair, reconstruction, or replacement of a building or to a structure existing on the effective date of this chapter and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this chapter.
 - (9) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in article IV, subsection 18-29(10). A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a special flood hazard area only if the structure or tank is either elevated or floodproofed to at least the regulatory flood protection elevation and certified in accordance with the provisions of article IV, subsection 18-26(3).
 - (10) Have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
 - (11) Have adequate drainage provided to reduce exposure to flood hazards.
 - (12) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.
 - (13) 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.
 - (14) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
 - (15) 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.
 - (16) 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.
 - (17) When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest BFE shall apply.

Sec. 18-41. Specific standards.

In all special flood hazard areas where base flood elevation (BFE) data has been provided, as set forth in article III, section 18-7, or article IV, subsections 18-27(11) and (12), the following provisions are required:

- (1) *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 as defined in Section 18-5 of this ordinance.
- (2) *Nonresidential construction.* New construction or substantial improvement of any commercial, industrial, or other nonresidential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation. Structures located in A, AE, AH, A99 and AO zones may be floodproofed to the regulatory flood protection elevation in lieu of elevation

provided that all areas of the structure, together with attendant utility and sanitary facilities, below the regulatory flood protection elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO zones, the floodproofing elevation shall be in accordance with article V, subsection 18-43.3(2). A registered professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the floodplain administrator as set forth in article IV, subsection 18-26(3).

(3) *Manufactured homes.*

- (a) New or replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation.
- (b) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement in accordance with the State of North Carolina Regulations for Manufactured/Mobile Homes, 1995 Edition, and any revision thereto adopted by the Commissioner of Insurance pursuant to G.S. 143-143.15 or a certified engineered foundation. Additionally, when the elevation would be met by an elevation of the chassis 36 inches or less above the grade at the site, the chassis shall be supported by reinforced piers or other foundation elements of at least equivalent strength. When the elevation of the chassis is above 36 inches in height, an engineering certification is required.
- (c) All foundation enclosures or skirting shall be in accordance with article V, subsection 18-41(4).
- (d) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within floodprone areas. This plan shall be filed with and approved by the floodplain administrator and the local emergency management coordinator.

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

- (a) Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas or building access via stairs or elevator;
- (b) Shall be constructed entirely of flood resistant materials at least to the regulatory flood protection elevation; and
- (c) Shall, include flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:
 - (i) Provide a minimum of two openings on different sides of each enclosed area subject to flooding;
 - (ii) The total net area of all openings must be at least one square inch for each square foot of each enclosed area subject to flooding;
 - (iii) If a building has more than one enclosed area, each area must have openings on exterior walls to allow floodwater to automatically enter and exit;
 - (iv) The bottom of all required openings shall be no higher than one foot above the higher of the interior or exterior adjacent grade;

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- (v) 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
 - (vi) Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.
- (5) *Additions/improvements.*
- (a) Additions and/or improvements to pre-FIRM structures whereas the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - (i) Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more nonconforming than the existing structure.
 - (ii) A substantial improvement, with modifications/rehabilitations/improvements to the existing structure or the common wall is structurally modified more than installing a doorway, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
 - (b) Additions to post-FIRM structures with no modifications to the existing structure shall require only the addition to comply with the standards for new construction. Refer to the last sentence of article II, section 18-5, "regulatory flood protection elevation" for freeboard information.
 - (c) Additions and/or improvements to post-FIRM structures whereas the addition and/or improvements in combination with any interior modifications to the existing structure:
 - (i) 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.
 - (ii) A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
 - (d) Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a one-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-year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this Chapter. 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:
 - (i) 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.
 - (ii) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure and the alteration is approved by variance issued pursuant to Section 18-29 of this ordinance.
- (6) *Recreational vehicles.* Recreation vehicles shall either:
- (a) Temporary placement.
 - (i) Be on site for fewer than 180 consecutive days or;
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- (ii) Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and has no permanently attached additions);
 - (b) Permanent placement recreation vehicles that do not meet the limitations of temporary placement shall meet all the requirements for new construction.
 - (7) *Temporary nonresidential structures.* Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the floodplain administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the floodplain administrator for review and written approval:
 - (a) A specified time period for which the temporary use will be permitted. Time specified may not exceed three months, renewable up to one year;
 - (b) The name, address, and phone number of the individual responsible for the removal of the temporary structure;
 - (c) The time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
 - (d) A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and
 - (e) Designation, accompanied by documentation, of a location outside the special flood hazard area to which the temporary structure will be moved.
 - (8) *Accessory structures.* When accessory structures (sheds, detached garages, etc.) are to be placed within a special flood hazard area, the following criteria shall be met:
 - (a) Accessory structures shall not be used for human habitation (including work, sleeping, living, cooking or restroom areas);
 - (b) Accessory structures shall not be temperature-controlled;
 - (c) Accessory structures shall be designed to have low flood damage potential;
 - (d) Accessory structures shall be constructed and placed on the buildings site so as to offer the minimum resistance to the flow of floodwaters;
 - (e) Accessory structures shall be firmly anchored in accordance with the provisions of article V, subsection 18-40(1);
 - (f) All service facilities such as electrical and heating equipment shall be installed in accordance with article V, subsection 18-40(4);
 - (g) Accessory structures, regardless of the size or cost, shall not be placed below elevated buildings in V and VE zones; and
 - (h) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with article V, subsection 18-41(4)(d).

An accessory structure with a footprint 600 square feet or less and satisfies the criteria outlined above is not required to meet the elevation or floodproofing standards of article V, subsection 18-41(2). Elevation or floodproofing standards and certifications are required for all other accessory structures in accordance with article IV, subsection 18-26(3) and article V, subsection 18-41(2).
 - (9) *Tanks.* When gas and liquid storage tanks are to be placed within a special flood hazard area, the following criteria shall be met:
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- (a) *Underground tanks.* Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;
 - (b) *Above-ground tanks, elevated.* Above-ground tanks in flood hazard areas shall be elevated to or above the regulatory flood protection elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;
 - (c) *Above-ground tanks not elevated.* Above-ground tanks that do not meet the elevation requirements of article V, subsection 18-41(2) 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.
 - (d) *Tank inlets and vents.* Tank inlets, fill openings, outlets and vents shall be:
 - (i) At or above the regulatory flood protection elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
 - (ii) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.
- (10) *Other development.*
- (a) Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of article V, section 18-43 of this chapter.
 - (b) Retaining walls, sidewalks and driveways in regulated floodways and NEAs. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of article V, section 18-43 of this chapter.
 - (c) Roads and watercourse crossings in regulated floodways and NEAs. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of article V, section 18-43 of this chapter.
 - (d) 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.

Sec. 18-42. Standards for floodplains without established base flood elevations.

Within the special flood hazard areas established in article III, section 18-7, where no base flood elevation (BFE) data has been provided, the following provisions shall apply:

- (1) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of 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.

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- (2) The BFE used in determining the regulatory flood protection elevation shall be determined based on the following criteria:
 - (a) When BFE data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this chapter and shall be elevated or floodproofed in accordance with standards in article V, sections 18-40 and 18-41.
 - (b) When floodway or non-encroachment data is available from a federal, state, or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of article V, sections 18-41 and 18-44.
 - (c) All subdivision, manufactured home park and other development proposals shall provide BFE data if development is greater than five acres or has more than 50 lots/manufactured home sites. Such BFE data shall be adopted by reference in accordance with article III, section 18-7 and utilized in implementing this chapter.
 - (d) When BFE data is not available from a federal, state, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the regulatory flood protection elevation, as defined in article II. All other applicable provisions of article V, section 18-41 shall also apply.

Sec. 18-42.1. Standards for riverine floodplains with base flood elevations but without established floodways or non-encroachment areas.

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

- (1) Standards of article V, sections 18-40 and 18-41; and
- (2) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point.

Sec. 18-43. Floodways and non-encroachment areas.

Areas designated as floodways or non-encroachment areas are located within the special flood hazard areas established in article III, section 18-7. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in article V, sections 18-40 and 18-41, shall apply to all development within such areas:

- (1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:
 - (a) It 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.

- (b) A conditional letter of map revision (CLOMR) has been approved by FEMA. A letter of map revision (LOMR) must also be obtained within six months of completion of the proposed encroachment.
- (2) If article V, subsection 18-43(1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this chapter.
- (3) Manufactured homes shall be permitted provided the following provisions are met:
 - (a) The anchoring and the elevation standards of article V, subsection 18-41(3); and
 - (b) The no encroachment standards of article V, subsection 18-43(1) are met.

Sec. 18-43.1. Standards for areas of shallow flooding (zone AO).

Located within the special flood hazard areas established in article III, section 18-7, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to article V, sections 18-40 and 18-41, all new construction and substantial improvements shall meet the following requirements:

- (1) The reference level shall be elevated at least as high as the depth number specified on the flood insurance rate map (FIRM), in feet, plus a freeboard of two feet, above the highest adjacent grade; or at least two feet above the highest adjacent grade if no depth number is specified.
- (2) Nonresidential structures may, in lieu of elevation, be floodproofed to the same level as required in article V, subsection 18-43.3(1) so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with article IV, subsection 18-26(3) and article V, section 18-41(2).
- (3) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

Sec. 18-43.2. Standards for areas of shallow flooding (zone AH).

Located within the special flood hazard areas established in article III, section 18-7, are areas designated as shallow flooding areas. These areas are subject to inundation by one percent-annual-chance shallow flooding (usually areas of ponding) where average depths are one to three feet. Base flood elevations are derived from detailed hydraulic analyses are shown in this zone. In addition to article V, sections 18-40 and 18-41, all new construction and substantial improvements shall meet the following requirements:

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

ARTICLE VI. LEGAL STATUS PROVISIONS

Sec. 18-44. Effect on rights and liabilities under the existing flood damage prevention ordinance.

This ordinance in part comes forward by re-enactment of some of the provisions of the Flood Damage Prevention Ordinance enacted April 6, 1987 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 Town of Vanceboro enacted on April 6, 1987, as amended, which are not reenacted herein are repealed.

The date of the initial Flood Damage Prevention Ordinance for Craven County is April 6, 1987.

Sec. 18-44.1 Effect upon outstanding floodplain development permits.

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

Sec. 18-44.2. 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 chapter.

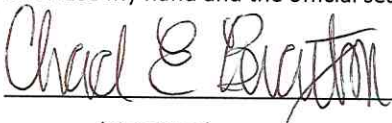
Sec. 18-45. Effective date.

This chapter shall become effective on February 6, 2023.

Sec. 18-46. Adoption certification.

I hereby certify that this is a true and correct copy of the Flood Damage Prevention Ordinance as adopted by the Board of Alderman of the Town of Vanceboro, North Carolina, on the 6th day of February, 2023.

WITNESS my hand and the official seal of the Town of Vanceboro, this the 6th day of February, 2023.



(Signature)

