CHAPTER 152: FLOODPLAIN REGULATIONS

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GENERAL PROVISIONS

§ 152.001 SHORT TITLE.

The regulations set out in this chapter (sometimes herein referred to as "this regulation" or "this chapter" shall be known and may be cited as the "Floodplain Regulations of Pineville, North Carolina."

(Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

FLOOD DAMAGE PREVENTION; GENERALLY

§ 152.015 STATUTORY AUTHORIZATION.

The Legislature of the State of North Carolina has in G.S. Chapter 143, Article 21, Part 6; G.S. Chapter 160A, Article 19, Parts 3, 5, and 8; and G.S. Chapter 160A, Article 8 delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety and general welfare.

(1995 Code, § 26-26) (Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

§ 152.016 FINDINGS OF FACT.

(A) The flood hazard areas of the town are subject to periodic inundation which results in the 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.

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

(1995 Code, § 26-27) (Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

§ 152.017 STATEMENT OF PURPOSE.

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

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

(B) Require that uses vulnerable to floods, including facilities which serve those uses, be protected against flood damage at the time of initial construction;

(C) Control the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation of flood waters;

(D) Control filling, grading, dredging and other development which may increase erosion or flood damage; and

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

(1995 Code, § 26-28) (Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

§ 152.018 OBJECTIVES.

(A) The regulations of the special flood hazard herein set forth are intended to protect areas of designated floodplains subject to and necessary for regulating flood waters and to permit and encourage the retention of open-land uses which will be so located and designed as to constitute a harmonious and appropriate part of the physical development of the city as provided in the comprehensive plans as they are adopted and amended from time to time.

(B) The specific intent in establishing the special flood hazard areas composed of floodway and floodway fringe districts includes the following:

(1) To control in flood hazard areas, uses such as fill dumping, storage of materials, structures, buildings and any other works which, acting alone or in combination with other existing or future uses, would cause damaging flood heights and velocities by obstructing flows and reducing floodplain storage;

(2) To protect human life and health;

(3) To minimize the expenditure of public money for costly flood-control projects;

(4) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(5) To permit certain uses which can be appropriately located in flood hazard areas and to assure those permitted uses will not impede the flow of flood waters or otherwise cause danger to life and property at or above or below their locations along the floodways;

(6) To minimize prolonged business interruptions;

(7) To provide sufficient drainage courses to carry abnormal flows of stormwater in periods of heavy precipitations;

(8) To minimize damage to public facilities and utilities, such as water and gas mains, electric, telephone and sewer lines and streets and bridges located in floodplains;

(9) To meet the needs of the streams to carry flood waters and protect the creek channels and floodplains from encroachment so that flood heights and flood damage will not be increased;

(10) 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

(11) To ensure that potential buyers are notified that property is in a flood area.

(C) This chapter is intended to permit only that development within the floodplain which is appropriate in light of the probability of flood damage and presents a reasonable social and economic use of land in relation to the hazards involved. The regulations hereinafter set forth shall apply to all property located within the special flood hazard area and the future conditions flood fringe area as shown on the Flood Insurance Rate Maps and the Floodplain Land Use Maps. It is the intent that these regulations combine with and coordinate with the zoning ordinance regulations for the zoning district in which the property is located. Any use not permitted by the zoning regulations shall not be permitted in the floodway districts or the floodway fringe districts, and any use permitted by the zoning regulations shall be permitted in these districts only upon meeting conditions and requirements as prescribed in this chapter.

(1995 Code, § 26-29) (Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

§ 152.019 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.

ACCESSORY STRUCTURE. Structures which are 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). Any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition which is connected by a firewall or is separated by independent perimeter load-bearing walls is new construction.

APPEAL. A request for a review of the Floodplain Administrator's interpretation of any provision of this chapter or a request for a variance.

BASEMENT. The lowest level or story of a building which has its floor subgrade on all sides.

BUILDING. Any structure built for support, shelter or enclosure for any occupancy or storage.

COMMUNITY BASE FLOOD. The flood, determined using future land use conditions, having a 1% chance of being equaled or exceeded in any given year.

COMMUNITY BASE FLOOD ELEVATION. The water surface elevation shown on the Flood Insurance Rate Map Flood Hazard Data Table and in the Flood Insurance Study, having a 1% chance of being equaled or exceeded in any given year, determined using future land use conditions.

COMMUNITY CONDITIONAL LETTER OF MAP REVISIONS (CoCLOMR). A letter from the Floodplain Administrator that provides conditional approval of a study that proposes to change the location of the community encroachment lines, and/or the location of the community flood fringe line and/or community base flood elevations.

COMMUNITY ENCROACHMENT AREA. The channel of a stream or other watercourse and the adjacent land areas that must be reserved in order to discharge the FEMA base flood without cumulatively increasing the water surface elevation more than 0.1 foot (see Appendix A following this chapter).

COMMUNITY ENCROACHMENT LINES. Lateral limits of the community encroachment area, within which, in the direction of the stream or other body of water, no structure or fill may be added, unless specifically permitted by this chapter (see Appendix A following this chapter).

COMMUNITY FLOOD FRINGE AREA. The land area located between the community encroachment line and the community flood fringe line as defined herein (see Appendix A following this chapter).

COMMUNITY FLOOD FRINGE LINE. This is the line that depicts the outer limits of the community flood fringe area (outer limits of the community special flood hazard area).

COMMUNITY LETTER OF MAP REVISION (CoLOMR). A letter from the Floodplain Administrator that provides final approval of a study, based on as-built conditions, that changes the location of the community encroachment lines and/or the community flood fringe lines.

COMMUNITY SPECIAL FLOOD HAZARD AREA. This is the land subject to a 1% or greater chance of flooding in any given year from a community base flood. It includes the FEMA floodway, community encroachment area, FEMA flood fringe area and the community flood fringe area (see Appendix A following this chapter).

CONDITIONAL LETTER OF MAP REVISION (CLOMR). FEMA's comments on whether a project, if built as proposed, would meet the minimum NFIP standards.

CRITICAL FACILITY. Building uses including, hospitals, schools, day care facilities, nursing homes/assisted living centers, police/fire/medic facilities and other uses determined by the Administrator.

DEVELOPMENT. Any human-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavating or drilling operations.

DISPOSAL. As defined 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.

DRY PUBLIC STREET. A public street at the intersection of an existing or proposed driveway where the surface of the pavement is at an elevation above the community base flood elevation.

DRYLAND ACCESS. A gravel, paved or concrete access route, at least 12 feet wide, which is above the community base flood elevation and connects a habitable building to a dry public street.

EFFECTIVE DATE. The date Flood Insurance Rate Maps and Flood Insurance Studies for a community are officially approved by FEMA and are to be used for local regulation and for compliance with NFIP sanctions.

ELEVATED BUILDING. A non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), or shear walls.

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. Building renovations contained within the existing building footprint area are not considered an encroachment.

EXISTING MANUFACTURED HOME PARK OR MANUFACTURED HOME SUBDIVISION. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale for which the construction of facilities for servicing the lot on which the manufactured home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads and the construction of streets) is completed before the effective date of this chapter.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. The preparation of the additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and with final site grading or the pouring of concrete slabs.

FEMA. The Federal Emergency Management Agency.

FEMA BASE FLOOD. The flood, determined using land use conditions as of July 1999 having a 1% chance of being equaled or exceeded in any given year.

FEMA BASE FLOOD ELEVATION (BFE). The water surface elevation shown on the Flood Insurance Rate Map and the Flood Insurance Study having a 1% chance of equaling or exceeding that level in any given year determined using land use conditions present at the time of the study

FEMA FLOOD FRINGE AREA. The land area located between the FEMA floodway encroachment lines and the line depicting the maximum elevation subject to inundation by the FEMA base flood as defined herein (for illustration see Attachment A of Ord. 2009-03, which is hereby adopted by reference as if set out in full herein).

FEMA FLOOD FRINGE LINE. The line on a map that depicts the outer limits of the FEMA flood fringe area.

FEMA FLOODWAY. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the FEMA base flood, without cumulatively increasing the water surface elevation more than 0.5 feet.

FEMA FLOODWAY LINES. The lateral limits of the FEMA Floodway (see Attachment A of Ord. 2009-03, which is hereby adopted by reference as if set out in full herein).

FLOOD or ***FLOODING.*** 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 INSURANCE. The insurance coverage provided under the National Flood Insurance Program.

FLOOD INSURANCE RATE MAP (FIRM). An official map of a community, in both digital and printed format, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community. The date of the town's original FIRM is March 18, 1987 and this date should be used to determine whether a structure is pre-FIRM or post-FIRM.

FLOOD INSURANCE STUDY. An examination, evaluation and determination of special flood hazard areas, corresponding water surface elevations, flood insurance risk zones and other flood data in a community. The study includes a Flood Insurance Study report and/or Flood Insurance Rate Map (FIRM).

FLOOD PROTECTION ELEVATION. The elevation to which all structures located within the community special flood hazard area must be elevated (or floodproofed if nonresidential). Within areas where base flood elevations (BFEs) have been determined, this elevation shall be the community base flood elevation plus one foot of freeboard. In areas where no BFE has been established, all structures and other development must be elevated (or floodproofed if nonresidential) to two feet above the highest adjacent grade.

FLOODPLAIN. The land subject to inundation by the community base flood and is encompassed by the community special flood hazard area.

FLOODPLAIN ADMINISTRATOR (or ***ADMINISTRATOR***). The person, agent or his or her designees appointed to administer, implement and enforce the provisions of this chapter.

FLOODPLAIN DEVELOPMENT PERMIT. Either an individual floodplain development permit or a general floodplain development permit issued for development in the floodplain per the requirements of § 152.041.

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.

FLOODPLAIN REGULATIONS TECHNICAL GUIDANCE DOCUMENT. A document developed by Charlotte-Mecklenburg Storm Water Services Staff to more clearly explain the application of the provisions of this chapter, specifically the floodplain development permit provisions, through the use of charts and related written materials. The *Technical Guidance Document* shall not be a part of this chapter, and shall be solely for illustrative and educational purposes. If there is any discrepancy between the Technical Guidance Document and this chapter, the provisions of this chapter shall control.

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 PROTECTION ELEVATION. The elevation to which all structures located within the Community Special Flood Hazard Area or FEMA Special Flood Hazard Area must be elevated (or floodproofed if nonresidential). This elevation is the Community Base Flood Elevation plus one foot of freeboard.

FLOODWALL. A wall built along a shore or bank to protect an area from flooding.

FLOODWAY. Either the FEMA floodway or the community encroachment area.

FLOOD ZONE. A geographical area shown on a Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

FLOOR. See definition of ***LOWEST FLOOR***.

FREEBOARD. The height added to the base flood elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge openings, and the hydrological effect of urbanization of the watershed.

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

FUTURE CONDITIONS FLOOD FRINGE AREA. The land area located between the community encroachment lines and the line depicting the maximum elevation subject to inundation by the community base flood as defined herein (for an illustration, see Appendix A to this chapter).

GENERAL FLOODPLAIN DEVELOPMENT PERMIT. A permit issued for certain types of development in the floodplain per § 152.041.

HABITABLE BUILDING. A structure designed primarily for or used for human habitation. This includes but is not limited to houses, condominiums, townhomes, restaurants, retail establishments, manufacturing buildings, commercial buildings, office buildings, manufactured homes and similar uses. It does not include accessory structures (see definition above).

HAZARDOUS WASTE MANAGEMENT FACILITY. A facility for the collection, storage, processing, treatment, recycling, recovery or disposal of hazardous waste as defined in G.S. Chapter 130A, Article 9.

HIGHEST ADJACENT GRADE. 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:

(1) 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;

(2) 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;

(3) Individually listed on a local inventory of historic landmarks in communities with a Certified Local Government (CLG) Program; or

(4) Certified as contributing to the historical significance of a historic district designated by a community with a Certified Local Government (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.

INDIVIDUAL FLOODPLAIN DEVELOPMENT PERMIT. A permit for development in the floodplain that involves activities not listed in § 152.041(B)(1) and may not qualify for a general floodplain development permit.

LETTER OF MAP AMENDMENT (LOMA). A letter from FEMA that officially removes a property or building from the FEMA Special Flood Hazard Area (SFHA) that was inadvertently shown in the SFHA on the FIRM.

LETTER OF MAP REVISION (LOMR). An official amendment to the current effective FEMA FIRM based on as-built conditions and/or more accurate data. It is issued by FEMA and may change FEMA Base Flood Elevations, the location of the FEMA Floodway Lines and/or the location of the FEMA Flood Fringe line.

LETTER OF MAP REVISION BASED ON FILL (LOMR-F). A letter from FEMA that officially removes a property from the FEMA Special Flood Hazard Area (SFHA) as a result of placing fill on the property.

LEVEE. A human-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

LEVEE SYSTEM. A flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

LOWEST ADJACENT GRADE (LAG). The elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

LOWEST FLOOR. The lowest floor of the lowest enclosed area (including the basement and/or attached garage; see definition of ***FLOOR***). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building's ***LOWEST FLOOR*** provided that the enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

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

MANUFACTURED HOME PARK OR SUBDIVISION. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MARKET VALUE. The value of a building, excluding land value, that is determined by an appraiser certified in the state using the cost approach method. Use of the "income capitalization approach" is not acceptable. Market value must be determined based on the building condition prior to start of construction (for proposed improvements) or before damage occurred (for damage repair). The value of the land and site improvements (landscaping, driveways, detached accessory structures, and the like) is not included. The values of the use and occupancy (business income) are not included. The Floodplain Administrator may use the tax value of the building in lieu of other methods described herein. ***MARKET VALUE*** also means the actual cash value (ACV) of a building minus depreciation. Actual cash value is the cost to replace a building on the same parcel with a new building of like-kind quality, minus depreciation due to age, use, and neglect. ACV does not consider loss in value mainly due to outmoded design or location factors. Depreciation accounts for the physical condition of a structure. Depreciation does not take into account functional obsolescence or factors that are external to the structure.

MEAN SEA LEVEL. The average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this chapter, the term is synonymous with the ***NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88)***.

NATIONAL FLOOD INSURANCE PROGRAM. A federal program that provides insurance coverage for flood damage to qualified buildings in communities that agree to adopt and enforce ordinances that meet or exceed FEMA requirements to reduce the risk of flooding.

NEW CONSTRUCTION. Construction of a replacement structure commenced after total demolition, or renovation/rehabilitation of an existing structure that results in the partial or complete removal of two external walls and has a total cost equal to or exceeding 50% of the market value of the structure before the start of construction of the improvement. For flood insurance purposes, ***NEW CONSTRUCTION*** also means structures for which the start of construction commenced on or after March 18, 1987, and includes subsequent improvements to such structures (see definition of ***FLOOD INSURANCE RATE MAP***).

NEW MANUFACTURED HOME PARK OR 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 slabs) is completed on or after June 25, 1987.

NONCONFORMING BUILDING OR USE. Any legally existing building or use which fails to comply with the provisions of this chapter.

NON-SOLID FENCE. A fence with at least 75% open area and with vertical supports each no more than 25 square inches in cross sectional area.

NORTH AMERICAN VERTICAL DATUM (NAVD). As corrected in 1988, a vertical control used as a reference for establishing varying elevations within the floodplain. If a datum other than NAVD 88 is used, then use the datum listed as the reference datum on the applicable FIRM panel for use on elevation certificate completion. See Flood Insurance Administration (FIA)-20 part 1, 8.

OPEN HOUSE FORUM. A public meeting held by the owner of the proposed levee and the Director of Mecklenburg County Storm Water Services, or his or her designee. The purpose of the ***OPEN HOUSE FORUM*** is to provide an opportunity for discussion between the owner that has submitted an application for the construction of a levee, nearby property owners and other interested parties.

PLOT PLAN. A scaled drawing of a parcel of land showing the location of significant natural features and existing and proposed manmade features.

POST-FIRM. Construction or other development for which the start of construction occurred on or after the effective date of the initial Flood Insurance Rate Map.

PRE-FIRM. Construction or other development for which the start of construction occurred before the effective date of the initial Flood Insurance Rate Map.

PRELIMINARY FLOOD INSURANCE RATE MAP (PFIRM). A map(s) released by the Federal Emergency Management Agency (FEMA) for public comment prior to the effective date of the FIRM as established by FEMA. The map may be in both digital and printed format and shows the Community and FEMA Special Flood Hazard Areas, Community Encroachment Areas and FEMA Floodways, FEMA and Community Base Flood Elevations, flood insurance risk premium zones and other data. The data and maps are subject to change prior to the effective date.

PRELIMINARY FLOOD INSURANCE STUDY (PFIS). A narrative report released by the Federal Emergency Management Agency for public comment prior to the effective date. Information contained in the PFIS includes a description of past flooding and studies, the study area, engineering methods, Community and FEMA Base Flood Elevations, other community and FEMA flood data. The Flood Insurance Rate Maps are also included as part of the Flood Insurance Study. The data and maps are subject to change prior to the effective date.

PRINCIPALLY ABOVE GROUND. At least 51% of the actual cash value of the structure is above ground.

PROJECT. A development activity that is physically separate, functionally independent and not constructed at the same time as another development activity.

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.

RECREATION VEHICLE. A vehicle which is:

(1) Built on a single chassis;

(2) Four hundred square feet or less when measured at the largest horizontal projection;

(3) Designed to be self-propelled or permanently towable by a car or light-duty truck; and

(4) Designed primarily not for use as a permanent dwelling, but as temporarily living quarters for recreational, camping, travel or seasonable use.

REFERENCE LEVEL. The top of the lowest floor, for regulatory purposes, of structures in the FEMA and/or Community Special Flood Hazard Area.

REMEDY A VIOLATION. To bring the structure or other development into compliance with this chapter 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 this chapter or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

REPETITIVE LOSS. Flood-related damages sustained by a structure on two separate occasions during any ten-year period for which the cost of repairs at the time of each flood event, on the average, equals or exceeds 25% of the market value of the structure before the damage occurred.

RIVERINE. Relating to, formed by or resembling a river (including tributaries), stream, brook and the like.

SALVAGE YARD. Any nonresidential property used for the storage, collection and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.

SOLID WASTE DISPOSAL FACILITY. Any facility involved in the disposal of solid waste, as defined in G.S. § 130A-290(a)(35).

SOLID WASTE DISPOSAL SITE. As defined in G.S. § 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill or any other method.

SPECIAL FLOOD HAZARD AREA. The FEMA Special Flood Hazard Area.

START OF CONSTRUCTION. The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as pouring of slabs or footing, installation of piles, construction of columns or any work beyond the state of excavation or the

placement of a manufactured home on a foundation. Permanent construction does not 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 parts of the main structure. For 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. For floodplain management purposes, a walled and roofed building, a manufactured home, a gas or liquid storage tank, or other human-made facilities or infrastructures that are principally above ground.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure 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 damages occurred. ***SUBSTANTIAL DAMAGE*** also means flood-related damages sustained by a structure on two separate occasions during a ten-year period where the cost of repairs at the time of each flood event equals or exceeds 25% of the market value of the structure before the damage occurred. See definition of ***SUBSTANTIAL IMPROVEMENT***.

SUBSTANTIAL IMPROVEMENT.

(1) Any repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, or combination thereof, where the total cost 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:

(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.

(2) ***SUBSTANTIAL IMPROVEMENT*** also means any repair, reconstruction, or improvement to a structure on two separate occasions during a ten-year period, for which the total cost of repairs, reconstruction or improvement at the time of each alteration, equals or exceeds 25% of the market value of the structure before the damage occurred or the substantial improvement began. The Floodplain Administrator may determine if separate actions constitute a single project (§ 152.042(P)).

(3) For the purposes of this definition, ***SUBSTANTIAL IMPROVEMENT*** is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

SUBSTANTIALLY IMPROVED EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. Where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50% of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

TECHNICALLY MEASURABLE. An activity and/or condition that can be modeled within the stated or commonly known accuracy of the FEMA approved hydraulic models or other engineering computations, and may have an impact on base flood elevations. The Floodplain Administrator will determine if a proposed activity and/or condition meets the ***TECHNICALLY MEASURABLE*** definition.

VARIANCE. A grant of relief to a person from the requirements of this chapter.

VIOLATION. The failure of a structure or other development to be fully compliant with this chapter. A structure or other development without the elevation certificate, other certifications or other evidence of compliance required in §§ 152.040 through 152.062 is presumed to be in violation, until such time as the documentation is provided.

WATER SURFACE ELEVATION (WSE). The height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

WATERCOURSE. A lake, river, creek, stream, channel or other topographic feature within a special flood hazard area on or over which waters flow at least periodically. ***WATERCOURSE*** includes specifically designated areas in which substantial flood damage may occur.

(1995 Code, § 26-30) (Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

§ 152.020 LANDS TO WHICH THIS CHAPTER APPLIES.

This chapter shall apply to all lands in the land use jurisdiction of the town within the area shown on the Flood Insurance Rate Maps (FIRMs) or any FEMA and/or locally approved revisions to data shown on the FIRMs, as being located within the FEMA and Community Special Flood Hazard Areas or land adjacent to the Special Flood Hazard Areas if it is affected by the work that is taking place.

(1995 Code, § 26-31) (Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

§ 152.021 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.

(A) The FEMA and Community Special Flood Hazard Areas are those identified in the effective Flood Insurance Study (FIS) dated September 2, 2015 and the accompanying Mecklenburg County Flood Insurance Rate Maps (FIRM), and local or FEMA approved revisions to the FIRM and/or FIS, are adopted by reference and declared to be part of this chapter.

(B) In areas where a Preliminary FIRM and Preliminary FIS exist, Community Base Flood Elevations shown on the Preliminary FIRM and Preliminary FIS shall be used for local regulatory purposes, if they are higher than those shown on the effective FIRM and FIS.

(C) Maps are as follows for the jurisdictional areas at the initial date:

(1) Town of Pineville dated March 18, 1987.

(2) City of Charlotte dated August 15 1978.

(3) Mecklenburg County Unincorporated Area, dated June 1, 1981.

(1995 Code, § 26-32) (Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

§ 152.022 FLOODPLAIN DEVELOPMENT PERMIT REQUIRED.

A floodplain development permit shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities. The Floodplain Regulations Technical Guidance Document may be used for illustrative purposes to assist in determining the applicable type of floodplain development permit required.

(Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

§ 152.023 COMPLIANCE.

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

(1995 Code, § 26-33) (Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

§ 152.024 ABROGATION AND GREATER RESTRICTIONS.

It is not intended by this chapter to repeal, abrogate, annul or in any way impair or interfere with any existing provisions of laws or ordinances or any rules, regulations or permits previously adopted or issued, or which shall be adopted or issued, in conformity with law, relating to the use of buildings or premises; nor is it intended by this chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that, where this chapter imposes a greater restriction upon the use of buildings or premises or requires larger yards, courts or other open spaces than are imposed or required by the existing provisions of laws or ordinances, or by the rules, regulations or permits or by the easements, covenants or agreements, the provisions of this chapter shall control.

(1995 Code, § 26-34) (Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

§ 152.025 INTERPRETATION.

In the interpretation and applications 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.

(1995 Code, § 26-35) (Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

§ 152.026 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. Flood heights may be increased by manmade or natural causes. This

chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the town or by any officer or employee thereof for any flood damages that result from reliance on this chapter or by any administrative decision lawfully made hereunder.

(1995 Code, § 26-36) (Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

ADMINISTRATION

§ 152.040 DESIGNATION OF FLOODPLAIN ADMINISTRATOR.

The town designates the Planning Director or his or her designee as the Floodplain Administrator and the County Floodplain Adminisitrator or his or her designated agent to administer and implement the provisions of this chapter through a properly executed, legally binding interlocal agreement.

(1995 Code, § 26-51) (Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

§ 152.041 FLOODPLAIN DEVELOPMENT PERMIT AND CERTIFICATION REQUIREMENTS.

(A) A floodplain development permit is required for any development within the community special flood hazard area (CSFHA) and is subject to the conditions below. The Floodplain Administrator is authorized to create, and amend from time to time as necessary, a *Floodplain Regulations Technical Guidance Document* to help explain the application of the provisions of this chapter, specifically the floodplain development permit provisions, through the use of charts and related written materials. The *Floodplain Regulations Technical Guidance Document* shall not be a part of this chapter, and shall be solely for illustrative and educational purposes. If there is any discrepancy between the *Floodplain Regulations Technical Guidance Document* and this chapter, the provisions of this chapter shall control.

(B) Floodplain development permits fall into one of two types: general floodplain development permits (GFDP) and individual floodplain development permits (IFDP). If the proposed development activities meet the requirements of the general floodplain development permit, an individual floodplain development permit is not required.

(1) *General floodplain development permit.* The intent of the general floodplain development permit (GFDP) is to allow uses or activities in the community special flood hazard area (including the FEMA floodway and community encroachment area) which inherently will not increase FEMA and/or community base flood elevations. The following uses and activities are permitted under a GFDP, without the need for an individual floodplain development permit, flood study or variance, as long as they result in no technically measurable increases in FEMA and/or community base flood elevations:

(a) General farming, pasture, horticulture, forestry, wildlife sanctuaries, gardens, lawns, landscaping, mulch 12 inches or less in depth, and other similar activities;

(b) Utility infrastructure (poles, sewer manholes, vent pipes, underground utilities and the like), sign poles, non-solid fences and other similar activities;

(c) On-grade driveways, trails, sidewalks, boardwalks, roads and road maintenance; storm drainage system construction, repairs and maintenance (major and minor system) and other similar activities. The Floodplain Administrator must be notified in writing, including a project description and sketch plan, prior to commencement of these activities;

(d) Interior renovations with a value of less than $10,000, to a structure with its lowest floor below the Flood Protection Elevation must meet the requirements of § 152.061(G); and

(e) Interior renovations of any value, to a structure with its lowest floor at or above the flood protection elevation.

(2) *Individual floodplain development permits.* Individual floodplain development permits are required for projects that do not meet the requirements of a general floodplain development permit. Application for an individual floodplain development permit (IFDP) shall be made to the Floodplain Administrator on forms furnished by him or her prior to any development activities proposed to be located within the community special flood hazard area. Requirements for submittal are available from the Floodplain Administrator.

(3) *Certification requirements.*

(a) Final as-built elevation certificate (FEMA Form 086-0-33) (for either residential or nonresidential buildings) or floodproofing certificate (FEMA Form 086-0-34) is required after construction is completed and prior to the issuance of a certificate of occupancy or a temporary certificate of occupancy. 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. The 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, the 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 this review shall be corrected by the permit holder immediately and prior to the issuance of a certificate of occupancy or temporary certificate of occupancy. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make the corrections required shall be cause to withhold the issuance of a certificate of occupancy or temporary certificate of occupancy.

(b) For proposed development to be located in the Community or FEMA Special Flood Hazard Area outside of the community encroachment area and the FEMA floodway, a certification from a registered land surveyor or professional engineer that states that no fill material was placed within the FEMA floodway or community encroachment area of any watercourse will be required prior to issuance of a certificate of occupancy or temporary certificate of occupancy.

(c) For proposed development within the community encroachment area or the FEMA floodway, an as-built topographic map prepared by a registered land surveyor or professional engineer will be required prior to issuance of a certificate of occupancy or temporary certificate of occupancy. This is in addition to the requirements of § 152.061(F).

(d) If a manufactured home is placed within the floodplain and the elevation of the chassis is 36 inches or higher above adjacent grade, an engineered foundation certification is required.

(e) Certification exemptions. The following structures, if located within the floodplain, are exempt from the elevation/floodproofing certification requirements specified in items (B)(3)(a) and (B)(3)(b) above:

1. Recreational vehicles meeting requirements of § 152.061(K);

2. Temporary structures meeting requirements of § 152.061(L); and

3. Accessory structures less than 150 square feet meeting requirements of § 152.061(M).

(4) *Permit application requirements.*

(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:

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

2. The location of the community flood fringe line, community encroachment line, FEMA flood fringe line and FEMA floodway line as shown on the FIRM or other flood map, or a statement that the entire lot is within the special flood hazard area;

3. Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map;

4. The FEMA base flood elevation (BFE), community base flood elevation (CBFE), and the Flood Protection Elevation (FPE);

5. The existing and proposed location of any watercourse that will be altered or relocated as a result of proposed development; and

6. The certification of the plot plan by a registered land surveyor or professional engineer as deemed necessary by the Floodplain Administrator.

(b) Proposed elevation of all development within the community or FEMA special flood hazard area, including but not limited to:

1. Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;

2. Elevation in relation to mean sea level to which any nonresidential structure in Zone AE will be floodproofed; and

3. Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed.

(c) If floodproofing, a floodproofing certificate (FEMA Form 81-65) with supporting data and an inspection and operational plan that includes but is 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:

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

2. Openings to facilitate automatic equalization of hydrostatic flood forces on walls when solid foundation perimeter walls are used in community or FEMA special flood hazard area (see § 152.061(D)).

(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.

1. Certification that all other local, state and federal permits required prior to floodplain development permit issuance have been received.

2. Documentation for proper placement of recreational vehicles and/or temporary structures, when applicable, to ensure that the provisions of § 152.061(K) and (L) are met.

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

(5) *Permit requirements.* The floodplain development permit shall include, but not be limited to:

(a) A description of the development to be permitted under the floodplain development permit;

(b) The special flood hazard area determination for the proposed development;

(c) The flood protection elevation required for the reference level and all attendant utilities;

(d) The flood protection elevation required for the protection of all public utilities;

(e) All certification submittal requirements with timelines;

(f) A statement that no fill material or other development shall encroach into the community and/or FEMA Floodway of any watercourse, as applicable; and

(g) The flood openings requirements per § 152.061(E) (1).

(Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

§ 152.042 DUTIES AND RESPONSIBILITIES OF FLOODPLAIN ADMINISTRATOR.

Duties of the Floodplain Administrator or his or her designated agent shall include but not be limited to:

(A) Reviewing, approving and issuing all floodplain development permits in a timely manner to assure that the permit requirements of this chapter have been satisfied;

(B) Reviewing, approving and issuing all documents applicable to Letters of Map Change;

(C) Advising the permittee that additional federal or state permits may be required; and if specific federal or state permits are known, requiring that copies of the permits be provided and maintained on file with the floodplain development permit;

(D) Notifying adjacent communities and the North Carolina Department of Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse and submitting evidence of the notification to the Federal Emergency Management Agency;

(E) Assuring that within available resources, maintenance is provided within the altered or relocated portion of any altered watercourse so that the flood-carrying capacity is maintained;

(F) Not issuing a floodplain development permit for encroachments within the community encroachment area and/or the FEMA floodway unless the certification and flood hazard reduction provisions of §§ 152.060 through 152.062 are met;

(G) Reviewing and recording the actual elevation (in relation to mean sea level) of the reference level (including basement) of all new or substantially improved structures, in accordance with § 152.061(C);

(H) Reviewing and recording the actual elevation (in relation to mean sea level) to which the new or substantially improved nonresidential structures have been floodproofed, in accordance with § 152.061(C);

(I) Obtaining certifications from a registered professional engineer or architect in accordance with § 152.061(B) when floodproofing is utilized for a particular nonresidential structure;

(J) Making the interpretation of the exact location of boundaries within the FEMA special flood hazard area or the community special flood hazard area when, for example, there appears to be conflict between a mapped boundary and actual field conditions. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this chapter. Procedures for changing flood hazard area boundaries and lines depicted on the Flood Insurance Rate Maps are identified in the National Flood Insurance Program regulations (44 C.F.R. pts. 59-78);

(K) Permanently maintain all records that pertain to the administration of this chapter and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974 being 5 U.S.C. § 552a, as amended;

(L) Making on-site inspections of projects;

(M) Serving notices of violation, issuing stop-work orders, revoking permits and taking corrective actions;

(N) Maintaining a copy of the Letter of Map Amendment issued from FEMA when a property owner has received a Letter of Map Amendment (LOMA). (A LOMA is typically applied for and

approved when the exact location of boundaries of the FEMA special flood hazard area conflicts with the current, natural topography information at the site);

(O) Determining the required information to be submitted with an application for approval of an individual floodplain development permit;

(P) Reviewing information provided by a property owner or his or her designated agent for the purpose of making a determination of the total cost of repairs as it relates to a substantial improvement, including a determination of whether a series of repairs, reconstructions or improvements constitute one single alteration such that the total cost of the repairs, reconstructions or improvements will be the cumulative cost from the first alteration;

(Q) Reviewing information provided by a property owner or his or her designated agent for the purpose of making a determination of whether the proposed construction activities constitute new construction for purposes of this chapter;

(R) Reviewing and acknowledging FEMA Conditional Letters of Map Revision and FEMA Letters of Map Revision;

(S) Reviewing and approving Community Conditional Letters of Map Revision and Community Letters of Map Revision;

(T) Making on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit;

(U) Issuing stop-work orders. 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 reasons for the stoppage and the conditions under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor;

(V) Revoking floodplain development permits. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason 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 misrepresentation made in securing the permit. Any permit mistakenly issued in violation of an applicable state or local law may also be revoked. Revoked permits may be resubmitted for approval using the requirements of the ordinance in effect at the time of the original submittal unless they were revoked because of the intentional submission of incorrect information by the permittee or his or her agent, or under other circumstances where allowing resubmittal using the requirement of the ordinance in effect at the time of the original submittal would not be equitable or consistent with public policy. However, base flood elevations that govern the elevation to which the structure is built must comply with the regulations and flood elevations in effect at the time of application for the building permit;

(W) Making periodic inspections. 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; and

(X) Providing owners of structures in the floodplain with information concerning their flood risk, and (for structures with the lowest floor below the flood protection elevation) inform potential buyers of substantial improvement restrictions through the recordation of a notice in the property chain of title or other similar notice.

(Y) Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures.

(Z) Obtain actual elevation (in relation to mean sea level) of all public utilities.

(1995 Code, § 26-52) (Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

§ 152.043 ADMINISTRATIVE 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 each immediately remedy the violation of law in the property he or she owns or occupies.

(B) Actions in event of failure to take corrective action. If the owner or occupant of a building or property shall fail to take prompt corrective action, the Administrator shall give him or her written notice, by certified or registered mail to his or her last known address or by personal service that:

(1) The building or property is in violation of the floodplain regulations;

(2) A hearing will be held before the Floodplain Administrator at a designated place and time, not later than 20 days after the date of the notice; at which time the owner or occupant shall be entitled to be heard in person or by counsel and to present floodplain regulations arguments and evidence pertaining to the matter; and

(3) Following the hearing, the Floodplain Administrator may issue an order to alter, vacate or demolish the building, or to remove fill or unauthorized encroachment, as appears appropriate.

(4) *Order to take corrective action.* If, upon a hearing held pursuant to the notice prescribed above, the Administrator shall find that the building or development is in violation of the floodplain ordinance, he or she shall make an order in writing to the owner, requiring the owner to remedy the violation within such period, not less than 60 days, nor more than 180 calendar days. If the Floodplain Administrator determines there is imminent danger to public health, safety, or welfare, or other property, he or she may order that immediate corrective action be taken and if no corrective action is taken as ordered, the Floodplain Administrator, with the written authorization of the Town Manager, shall have the authority to enter upon the property to perform the work necessary to correct the condition and the owner or occupant shall be responsible for the actual costs incurred.

(C) *Appeal.* Any owner who has received an order to take corrective action may appeal from the order to the Town Council by giving notice of appeal in writing to the Administrator and the Clerk within ten days following issuance of the final order. In the absence of an appeal, the order of the Administrator shall be final. The Town Council shall hear an appeal within a reasonable time and may affirm, modify and affirm or revoke the order. All such decisions of the Town Council are subject to review by the county superior court as provided in G.S. § 143-215.57(c), as the statute may be amended from time to time.

(D) *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 Town Council following an appeal, he or she shall be guilty of a misdemeanor and shall be punished in the discretion of the court. In addition, the owner or occupant shall be subject to civil enforcement as described in § 152.999.

(1995 Code, § 26-55) (Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014) Penalty, see § 152.999

§ 152.044 VARIANCE PROCEDURES.

(A) The Board of Adjustment of Pineville shall hear and decide appeals from any order, decision, determination or interpretation made by the Floodplain Administrator pursuant to or regarding these regulations.

(B) The Board of Adjustment shall hear and decide petitions for variances from the requirements of this chapter.

(C) Variances may be issued for 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.

(D) In passing upon such application, the Board of Adjustment shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter and the:

(1) Danger that materials allowed to be placed in the floodway as a result of the variance may be swept onto other lands to the injury of others during a base flood;

(2) Danger to life and property due to flooding or erosion damage from a base flood;

(3) Susceptibility to the proposed facility and its contents to flood damage and the effect of such damage during the base flood;

(4) Importance of the services provided by the proposed facility to the community;

(5) Necessity to the facility of a waterfront location, where applicable;

(6) Availability of alternative locations, not subject to flooding or erosion damage during a base flood, for the proposed use;

(7) Compatibility of the proposed use with existing and anticipated development;

(8) Relationship of the proposed use to the Town Land Use Plan, *County Floodplain Management Guidance Document*, County Flood Hazard Mitigation Plans, the County Greenway Plan and any other adopted land use plans for that area;

(9) Safety of access to the property in times of a community base flood for ordinary and emergency vehicles;

(10) Expected heights, velocity, duration, rate of rise and sediment transport of the flood waters during a base flood and the effects of wave action, if applicable, expected at the site; and

(11) 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) Upon consideration of the factors listed above and the purposes of this chapter, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

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

(1995 Code, § 26-56) (Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

§ 152.045 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 if the variance would result in any increase in flood levels during the community and/or FEMA base flood discharge unless the requirements of § 152.061(G) are met.

(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 approval of a floodplain development permit.

(Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

§ 152.046 STANDARDS FOR GRANTING VARIANCE.

Variances shall only be issued upon:

(A) A showing of good and sufficient cause;

(B) A determination that the difficulty or exceptional hardship resulting from the application of this chapter would prevent the owner from securing a reasonable return or making a reasonable use of the property. The fact that the property could be utilized more profitably or conveniently with the variance than without the variance shall not be considered as grounds for granting the variance; and

(C) A determination that the granting of a variance will not result in increased flood heights (unless the requirements of § 152.060(D) are met), additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with other existing local laws or ordinances.

(Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

§ 152.047 MISCELLANEOUS CONDITIONS.

(A) In addition to consideration of the items in § 152.044(D)(1) if dryland access cannot be obtained, a variance to the requirement for dryland access may be granted by the Board of Adjustment upon consideration of the following conditions:

(1) A determination that all possible alternatives have been investigated in an attempt to provide the safest access from a proposed habitable building to a dry public street; and

(2) The existence of a site plan prepared by a licensed land surveyor or professional engineers indicating that the proposed access to habitable buildings on the property poses the least risk from flooding.

(B) In addition to consideration of the items in § 152.044(D)(1), a variance may be issued for solid waste disposal facilities, hazardous waste management facilities, salvage yards and chemical storage facilities that are located in areas of special flood hazard, provided that all of the following criteria apply:

(1) The use serves a critical need in the community;

(2) No feasible location exists for the use outside the area of special flood hazard;

(3) The lowest floor of any structure is elevated above the base flood elevation or is designed to be watertight with walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy;

(4) The use complies with all other applicable laws and regulations;

(5) The Floodplain Administrator has notified the Secretary of the North Carolina Department of Public Safety of its intention to grant a variance at least 30 days prior to granting the variance; and

(6) There will be no storage of materials or tanks which could flood within the special flood hazard area unless they are contained in a structure as defined in (B)(3) above.

(Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

§ 152.048 NOTIFICATION AND RECORDKEEPING.

(A) Any applicant to whom a variance from the FEMA base flood elevation is granted shall be given written notice specifying the difference between the FEMA base flood elevation 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 lowest floor elevation. Such notification shall be maintained with a record of all variance actions.

(B) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances regarding FEMA minimum standards to the Federal Emergency Management Agency and the state upon request.

(Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

§ 152.049 APPEAL FROM BOARD OF ADJUSTMENT.

(A) Any person aggrieved by the final decision of the Board of Adjustment to grant or deny a floodplain development permit shall have 30 days to file an appeal to the county superior court, as provided in G.S. § 143-215.57(c).

(B) Any party aggrieved by the decision of the Board of Adjustment related to any other order, decision, determination or interpretation of these regulations, including the granting or denial of a variance, shall have 30 days from the receipt of the Board's decision to file a petition for review in the nature of certiorari in the county superior court.

(Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

FLOOD HAZARD REDUCTION

§ 152.060 GENERAL REQUIREMENTS.

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

(A) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;

(B) Manufactured homes shall be anchored to prevent flotation, collapse or lateral movement. Methods of anchoring may include but are not limited to the use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;

(C) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

(D) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

(E) Electrical, heating, ventilation, plumbing, air-conditioning equipment and other service facilities shall be designed, constructed, installed and/or located at least one foot above the flood protection elevation. These include but are not limited to HVAC equipment, water softener units, bath/kitchen fixtures, electric meter panels/boxes, utility/cable boxes, appliances (i.e., washers, dryers, refrigerator and the like), hot water heaters, electric wiring and outlets/switches;

(F) New and replacement sanitary sewage systems shall be designed to minimize or eliminate the infiltration of flood waters into the system 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 chapter;

(I) Construction of new solid waste disposal facilities, hazardous waste management facilities, salvage yards and chemical storage facilities shall not be permitted, except by variance, in areas of special flood hazard. A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in an area of special flood hazard only if the structure or tank is either elevated above base flood elevation or designed to be watertight with walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

(J) Any new critical facility must be located outside of the 500-year (0.2%) flood fringe area and elevated at least one foot above the 500-year (0.2%) base flood elevation or the community base flood elevation, whichever is greater. The determination of this flood fringe area and elevation will be provided by the Floodplain Administrator.

(K) For the purpose of determining substantial improvement, the Floodplain Administrator shall make a determination of the total cost of repairs as it relates to a substantial improvement, including a determination of whether a series of repairs, reconstructions or improvements constitute one single alteration such that the total cost of the repairs, reconstructions or improvements will be the cumulative cost from the first alteration.

(L) All development proposals submitted for review and approval in accordance with the Subdivision Ordinance of the town shall also comply with the following provisions:

(1) Locate and construct public utilities and facilities, such as sewer, gas, electrical and water systems, to minimize flood damage;

(2) Construct all new streets located in a community special flood hazard area in accordance with the applicable provisions of the subdivision ordinance;

(3) Design and construct adequate drainage to reduce exposure to flood hazards; and

(4) Take any other appropriate measures needed to minimize flood damage.

(M) When a structure is partially located in a community or FEMA special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.

(N) 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 base flood elevation shall apply.

(1995 Code, § 26-66) (Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

§ 152.061 SPECIFIC STANDARDS.

In all community and FEMA special flood hazard areas where community and FEMA base flood elevation data have been provided, as set forth in §§ 152.021 and 152.060(J), the following provisions are required.

(A) *Residential construction.*

(1) New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, and attached garages elevation elevated no lower than one foot above the community base flood elevation.

(2) Nonsubstantial improvements notice. Renovations/rehabilitations costing between 25% and 50% of the market value of the existing building and the building having the lowest floor below the flood protection elevation, will require the property owner to record a Notice of Floodplain Improvements (provided in the *Floodplain Regulations Technical Guidance Document*) with the County Register of Deeds office prior to the issuance of a building permit.

(B) *Nonresidential construction.* New construction or substantial improvement of any commercial, industrial or nonresidential structure shall have the lowest flood, including basement, elevated no lower than one foot above the level of the community base flood elevation, or be floodproofed in lieu of elevation, provided that all areas of the structure below the required 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 effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this division are satisfied. This certification shall be provided to the Floodplain Administrator.

(C) *New buildings removed from the FEMA special flood hazard area by fill.* When new buildings have been constructed on land that has been removed from the FEMA special flood hazard area by the placement of fill, they must have the lowest floor (including basement) elevated at least one foot above the community base flood elevation.

(D) *Non-substantial Improvements Notice.* Renovations/rehabilitations costing between 25% and 50% of the market value of an existing building having the lowest floor below the flood protection elevation, will require the property owner to record a Notice of Floodplain Improvements (provided in the *Floodplain Regulations Technical Guidance Document*) with the Mecklenburg County Register of Deeds Office prior to the issuance of a building permit.

(E) *Elevated buildings.* New construction or substantial improvement of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation shall be designed to preclude finished living space and designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.

(1) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:

(a) Provide a minimum of two openings, having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

(b) The bottom of all openings shall be no higher than one foot above grade;

(c) Openings may be equipped with screens, louvers, valves or other coverings or devices, provided they permit the automatic flow of flood waters in both directions;

(d) Openings must be on different sides of the enclosed area if possible; and

(e) If the building has more than one enclosed area, each must have openings.

(2) Foundation enclosures:

(a) Vinyl or sheet metal skirting is not considered an enclosure for regulatory and flood insurance rating purposes. Therefore this skirting does not require hydrostatic openings as outlined above.

(b) Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires hydrostatic openings as outlined above to comply with this chapter.

1. 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 enter to the living area (stairway or elevator).

2. The interior portion of the enclosed area shall not be partitioned or finished into separate rooms, except to enclosed storage areas.

3. The enclosed area shall be constructed entirely of flood resistant materials at least to the flood protection elevation.

(F) *Dryland access.* Access to habitable buildings during a flood event is extremely hazardous. Dryland access must be provided to new or substantially improved habitable buildings according to the following criteria.

(1) Dryland access is required if any portion of either the habitable building or vehicular access route, connecting the habitable building to a public street, is within the floodplain. If dryland access cannot be obtained, a variance to the requirement for dryland access may be granted by the Board of Adjustment. Plans and details for the dryland access must be submitted by a registered professional engineer or surveyor and approved by the Floodplain Administrator.

(2) The following are exempt from the dryland access requirement.

(a) Substantial improvement to an existing habitable building where the property does not have any access to a dry public street.

(b) Construction of a new habitable building where both the habitable building and the access route connecting it to a public street are located entirely outside the community encroachment area and where the property does not have any access to a dry public street. Under this exemption, access from the habitable building to the public street must:

1. Connect to the highest point of the public street adjacent to the property;

2. Be constructed of gravel, pavement or concrete and be at least 12 feet wide; and

3. Be constructed entirely at or above the elevation of highest point of the public street adjacent to the property.

(G) *FEMA floodway and community encroachment area.* The FEMA floodway and the community encroachment area are very hazardous areas due to the velocity of flood waters which carry debris and potential projectiles and have erosion potential. The following provisions shall apply within these areas.

(1) *Community encroachment area.*

(a) No encroachments, requiring an individual floodplain development permit, including fill, new construction, substantial improvements and other development shall be permitted within the community encroachment area unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the encroachment would not result in increased flood heights of greater than 0.10 foot during the occurrence of a community base flood. The certification and associated technical data by a registered engineer shall be approved by the Floodplain Administrator. Any change which would cause a rise of more than 0.10 foot in the community base flood elevation will require notification of impacted property owners, and a Community Conditional Letter of Map Revision (CoCLOMR) from the Floodplain Administrator. If approved and constructed, as-built plans must be submitted and approved by the Floodplain Administrator and a Community Letter of Map Revision (CoLOMR) issued. A certificate of occupancy will not be issued without the above stated Community Letter of Map Revision.

(b) Projects impacting existing habitable buildings that increase the community base flood elevation more than 0.00 feet will not be allowed without a variance.

(2) *FEMA floodway.* No encroachments requiring an individual floodplain development permit, including fill, new construction, substantial improvements and other development shall be permitted within the FEMA floodway unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the encroachment would not result in any (0.00 feet) increase in the FEMA base flood elevations during the occurrence of a FEMA base flood and no increase in the community base flood elevations during the occurrence of the community base flood. Such analysis performed by a registered professional engineer shall be approved by the Floodplain Administrator. Any change which would cause a rise in the FEMA base flood elevation or an increase in the FEMA floodway width during the occurrence of the FEMA base flood will require notification of impacted property owners, and a Conditional Letter of Map Revision from FEMA. If approved and constructed, as-built plans must be submitted by the property owner and approved by FEMA and a Letter of Map Revision issued. A certificate of occupancy will not be issued without the above stated Conditional Letter of Map Revision.

(a) Any change which would cause a rise in the community base flood elevation or an increase in the width of the community encroachment area during the occurrence of the community base flood will require notification of impacted property owners, and a Community Conditional Letter of Map Revision (CoCLOMR).

(b) Projects which cause a rise of greater than 0.00 feet in the FEMA base flood elevation and impact an existing habitable building will not be allowed.

(H) *Manufactured homes.* No manufactured homes shall be permitted, except in an existing manufactured home park or subdivision. A replacement manufactured home may be placed on a

lot in an existing manufactured home park or subdivisions, provided the anchoring and the elevation standards of § 152.060(A) are met.

(I) *Additions/improvements.*

(1) Additions and/or improvements to non-compliant areas of pre-FIRM structures 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 must be designed to minimize flood damages and must not be any more nonconforming than the existing structure; or add additional nonconforming enclosed area to the structure.

(b) Are a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards of § 152.061.

(2) Additions to post-FIRM structures with no modifications to the existing structure shall require only the addition to comply with the standards of § 152.061.

(3) Additions and/or improvements to post-FIRM structures 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; or

(b) Are a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards of § 152.061.

(c) Customary maintenance and/or repair are not considered additions or improvements.

(J) *Manufactured homes.*

(1) New and replaced manufactured homes must be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated at least one foot above the community base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Manufactured homes that are to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the provisions of § 152.061(C) must be elevated so that the lowest floor of the manufactured home is elevated at least one foot above community base flood elevation, and be securely anchored to an adequately anchored foundation to resist flotation, collapse and lateral movement.

(2) Manufactured homes shall be anchored to prevent flotation, collapse or lateral movement. For the purpose of this requirement, manufactured homes must be anchored to resist flotation, collapse or lateral movement in accordance with the Regulations for Mobile Homes and Modular Housing adopted by the Commissioner of Insurance pursuant to G.S. § 143-143.15. Additionally, when the elevation would be met by raising the chassis at least 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.

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

(4) All enclosures or skirting below the lowest floor shall meet the requirements of § 152.061(D).

(K) *Recreational vehicles.* A recreational vehicle is ready for highway use if it is on wheels or jacking system, is attached to the site only by quick-disconnection type utilities and security devices, and has no permanent attached additions. Recreation vehicles placed on sites shall either:

(1) Be on site for fewer than 180 days;

(2) Be fully licensed and ready for highway use; or

(3) Meet the requirements of §§ 152.042, 152.061 and 152.062.

(L) *Temporary structures.* Prior to issuance of a floodplain development permit for a temporary structure the following requirements must be met:

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

(a) The name, address and phone number of the individual responsible for the removal of the structure;

(b) The time frame prior to the event at which a structure will be removed. The time specified may not exceed three months, and is renewable up to one year;

(c) A copy of the contract or other suitable instrument with a trucking company to insure the availability of removal equipment when needed;

(d) Designation, accompanied by documentation, of a location outside the floodplain to which the temporary structure will be removed; and

(e) A specified time period for which the temporary use will be permitted. The time specified may not exceed three months, and is renewable up to one year.

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

(M) *Accessory structures.* When accessory structures (sheds, detached garages and the like), are to be placed in the floodplain, 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 be designed to have a low flood damage potential;

(3) Accessory structures shall be firmly anchored in accordance with § 152.061(A);

(4) Service facilities such as electrical shall be elevated in accordance with § 152.061(C);

(5) Accessory structures shall have hydrostatic openings per § 152.061(D);

(6) Accessory structures under 150 square feet do not require an elevation or floodproofing certificate; and

(7) Accessory structures shall not be temperature-controlled.

(N) *Parking spaces.* The lowest elevation of any parking space required for new or substantially improved non-single-family habitable buildings must be no more than 0.5 feet below the Community Base Flood Elevation.

(O) *Levees.* Levees will be treated as development in the floodplain and are subject to all applicable sections of this chapter.

(1) A levee shall not be constructed solely to protect vacant property from flooding.

(2) With the exception of a levee that protects a building or feature that must be located in the vicinity of a stream to be functional such as a stream monitor, water/sewer facility or other uses approved by the Floodplain Administrator, levees require the approval of the Director of Mecklenburg County Storm Water Services, or his or her designee, regardless of their location within the community special flood hazard area (entire floodplain).

(3) With the exception of a levee that protects a building or feature that must be located in the vicinity of a stream to be functional such as a stream monitor, water/sewer facility or other uses approved by the Floodplain Administrator, the owner of the levee and the Director of Mecklenburg County Storm Water Services, or his or her designee, shall conduct an open house forum prior to consideration of approval. The open house forum initiates a 30-day comment period for the Director or his or her designee to receive comments from the public.

(4) Owners of land adjacent to a proposed levee shall be notified of the open house forum and be provided an opportunity to submit written comments during the 30-day comment period. Notification is to occur through regular mail, as well as a sign being placed at a conspicuous place at the creek and along the public and private road(s) of the properties that would be protected by the proposed levee.

(5) After the end of the 30-day comment period, but no more than 60 days from the end of the comment period, the Director shall approve or disapprove the application or request more information from the owner of the levee. If the Director determines that the additional information is sufficiently significant, the Director may offer an additional 30-day comment period to all parties involved. Consistent with § 152.049, the Director's decision may be appealed to the Zoning Board of Adjustment.

(6) Regardless of whether the proposed levee would meet FEMA certification requirements, floodplain lines and flood elevations will not be modified based on the location, performance or any other aspects of the levee.

(7) An instrument must be recorded in the chain of title for all parcels protected by a levee indicating the level of protection provided by the levee and the maintenance requirements as described in (8)(g) below.

(8) *Levee permitting requirements.* Prior to the issuance of a floodplain development permit for construction of a proposed levee, the applicant must submit the following information in writing to the Floodplain Administrator for review and written approval:

(a) Plans and/or specifications showing the location of the proposed levee is as far away from the adjacent creek as reasonably possible;

(b) Copy of the written approval for the levee received from the Director of County Storm Water Services;

(c) Verification of notification to owners of land adjacent to the proposed levee (those within 500 feet of the property lines of the parcel on which the proposed levee is to be located or within a distance equal to the length of the proposed levee, whichever is greater). Notification is also to include properties that are in the community special flood hazard area and within the hydraulic modeling limits as described below;

(d) Copies of all written comments received from property owners referenced above;

(e) Hydrologic and hydraulic flood models showing the proposed conditions if the levee is proposed to be located within the community encroachment area and:

1. Show no increase in water surface elevations on any existing habitable building using the current and future discharges for the ten, 25, 50, 100-year frequency flows;

2. Account for all feasible future levees in the area as deemed appropriate by the Floodplain Administrator;

(f) A copy of the contract with the entity responsible for construction of the proposed levee; and

(g) A copy of the maintenance plan for the levee which has been certified by a state professional engineer, which shall include a description of the process by which the levee will be inspected annually and provide for updated plans to be provided annually to property owners and residents intended to benefit from the levee.

(h) Levees constructed on an individual single family residential parcel are exempt from the requirements of § 152.061(M)(2)-(5), (7).

(1995 Code, § 26-67) (Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

§ 152.062 STANDARDS FOR STREAMS WITH DRAINAGE AREAS OF ONE SQUARE MILE OR GREATER NOT HAVING ESTABLISHED BASE FLOOD ELEVATIONS AND/OR FLOODWAYS.

All streams in the town and the county with drainage areas of one square mile or greater have established community and FEMA base flood elevations and community encroachment areas and FEMA floodways.

(Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

LEGAL STATUS PROVISIONS

§ 152.075 EFFECT ON RIGHTS AND LIABILITIES UNDER THE EXISTING FLOODWAY REGULATIONS.

This chapter in part comes forward by re-enactment of some of the provisions of the Floodplain Regulations enacted June 25, 1987, as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption those existing provisions, so that all rights and liabilities that have accrued there under are reserved and may be enforced. The enactment of this chapter shall not affect any action, suit or proceeding instituted or pending. All provisions of the Floodplain Regulations of Town of Pineville enacted on June 25, 1987, as amended, which are not reenacted herein, are repealed.

(Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

§ 152.076 EFFECT UPON OUTSTANDING FLOODPLAIN DEVELOPMENT PERMITS.

(A) 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 before the time of passage of this Floodplain Regulation chapter; provided, however, that when construction is not begun under the outstanding permit within a period of two years subsequent to passage of this chapter or any revision thereto, the permit shall become void and construction or use shall be in conformity with the provisions of this chapter.

(B) Any application(s) for a floodplain development permit received prior to the effective date of these Floodplain Regulations shall be reviewed under the regulations in effect at the time of the initial application. Any incomplete application(s) for a floodplain development permit will be valid only for 90 days after the Floodplain Administrator has requested additional information from the applicant or his or her agent. If 90 days after the owner or his or her agent has received the request for additional information the applicant has failed to submit reasonably complete information that demonstrates a good-faith effort to provide all the additional information requested, as determined by the Floodplain Administrator, the application will become void. Any subsequent submittals will be considered as new applications and reviewed under the regulations in effect on the date the subsequent submittal is received by the Floodplain Administrator.

(Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

§ 152.077 EXPIRATION OF FLOODPLAIN DEVELOPMENT PERMITS ISSUED AFTER ADOPTION OF THIS CHAPTER.

(A) Individual floodplain development permits issued pursuant to this chapter expire two years after the date of issuance unless the work has commenced within two years after the date of issuance, or the issuance of the permit is legally challenged, in which case the permit is valid for two years after the challenge has been resolved.

(B) Any incomplete application(s) for an individual floodplain development permit will be valid only for 90 days after the Floodplain Administrator has requested additional information from the applicant or his or her agent. If, 90 days after the owner or his or her agent has received the request for additional information, the applicant has failed to submit reasonably complete information that demonstrates a good-faith effort to provide all the additional information requested, as determined by the Floodplain Administrator, the application will become void. Any subsequent submittals will be considered as new applications and reviewed under the regulations in effect on the date the subsequent submittal is received by the Floodplain Administrator.

(Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

§ 152.999 PENALTY.

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 floodplain development permits, variances or special exceptions, shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than $500 or imprisoned for not more than 30 days. Each day the violation continues shall be considered a separate offense. Nothing herein contained shall prevent the town or the Floodplain Administrator from taking such other lawful action as is necessary to prevent or remedy any violation, including but not limited to seeking injunctive relief, orders of abatement or other similar equitable relief.

(1995 Code, § 26-37) (Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

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.

EFFECTIVE DATE
This ordinance shall become effective upon adoption.

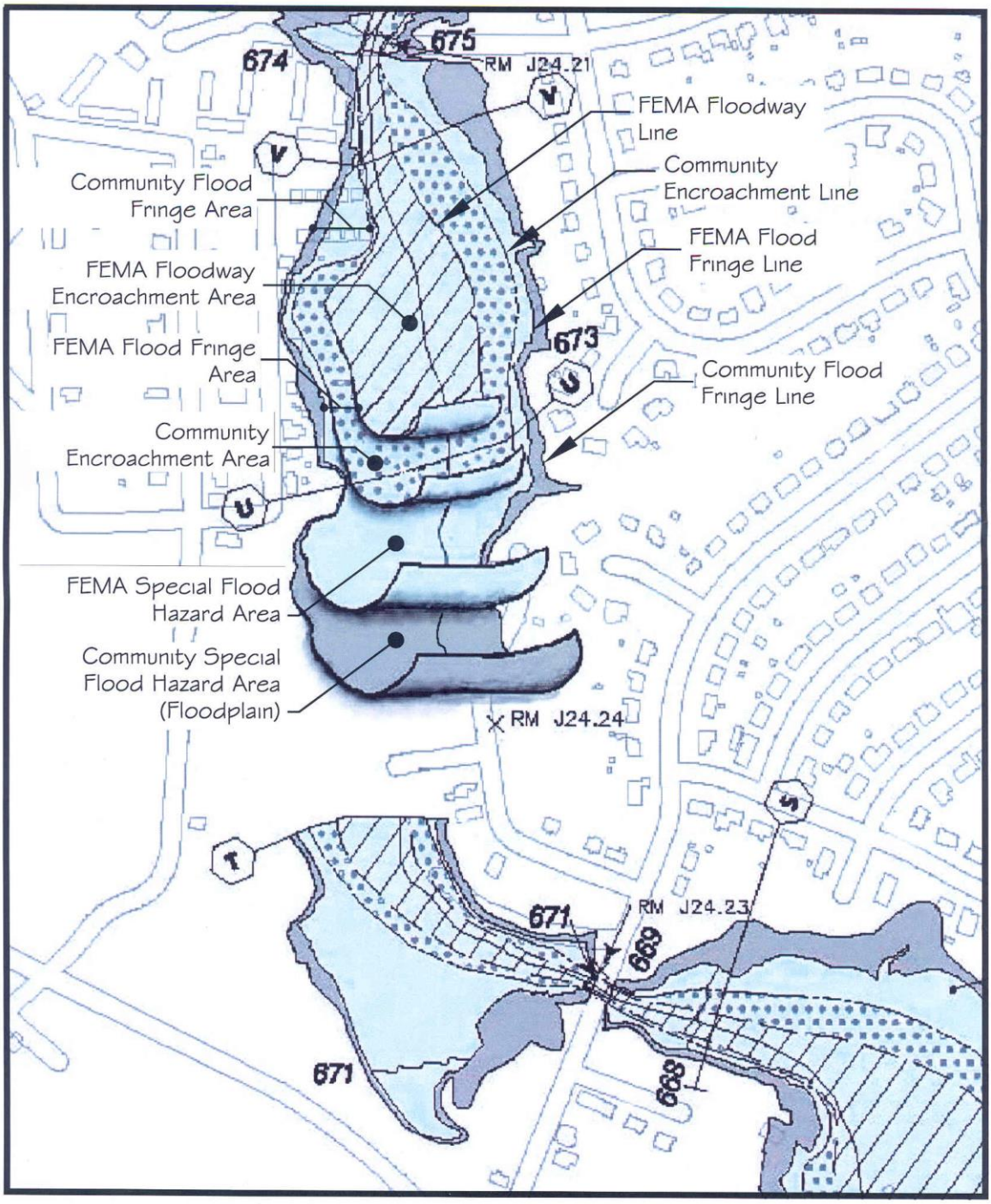
I, Barbara Monticello, Town Clerk of the Town of Pineville, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and exact copy of an Ordinance adopted by the Town Council of the Town of Pineville, North Carolina, in regular session convened on the 14th day of July, the reference having been made in Minute Book ____, and recorded in full in Ordinance Book ____, Page(s) _____. WITNESS my hand and the corporate seal of the Town of Pineville, North Carolina, this the 14th day of July 2015.

Barbara Monticello

Barbara Monticello, Town Clerk, Town of Pineville, North Carolina

(seal)

APPENDIX A: FLOOD MAP AREAS



(Ord. 2009-03, Attachment B, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)