

**TOWN OF HOLDEN BEACH  
ORDINANCE 18-13**

**AN ORDINANCE AMENDING THE HOLDEN BEACH CODE OF ORDINANCES, CHAPTER 154:  
FLOOD DAMAGE PREVENTION**

**BE IT ORDAINED BY** the Mayor and Board of Commissioners of the Town of Holden Beach, North Carolina that the Holden Beach Code of Ordinances, Chapter 154: Flood Damage Prevention be amended as follows:

**Section One:** Amend Chapter 154: Flood Damage Prevention to read as follows:

CHAPTER 154: FLOOD DAMAGE PREVENTION

Section

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## GENERAL PROVISIONS

### § 154.01 STATUTORY AUTHORIZATION; FINDINGS OF FACT.

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

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

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

('85 Code, §8-4.1) (Ord. 28, passed -- ; Am. Ord. 06-06, passed 5-22-06)

§ 154.02 PURPOSE; OBJECTIVES.

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

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

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

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

(4) Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and

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

(B) The objectives of this chapter are:

(1) To protect human life and health;

(2) To minimize expenditure of public money for costly flood control projects;

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

(4) To minimize prolonged business losses and interruptions;

(5) To minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;

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

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

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

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

(10) To ensure that potential buyers are aware that property is in a special flood hazard area.

('85 Code, § 8-4.1) (Ord. 31, passed - - ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 03-01, passed 2-24-03; Am. Ord. 06-06, passed 5-22-06)

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

**ADDITION (TO AN EXISTING BUILDING).** An extension or increase in the floor area or height of a building or structure.

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

**APPEAL.** A request for a review of the floodplain administrator's interpretation of any provision of this chapter.

**AREA OF SPECIAL FLOOD HAZARD.** See SPECIAL FLOOD HAZARD AREA (SFHA).

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

**BASE FLOOD.** The flood having a 1% chance of being equaled or exceeded in any given year.

**BASE FLOOD ELEVATION (BFE).** A determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a special flood hazard area, it may be obtained from engineering studies available from a federal or state or other source using FEMA approved engineering methodologies. This elevation, when combined with the freeboard, establishes the regulatory flood protection elevation.

**BUILDING.** See STRUCTURE.

**CAMA.** North Carolina's Coastal Area Management Act. This act, along with the Dredge and Fill Law and the federal Coastal Zone Management Act, is managed through North Carolina Department of Environment and Natural Resources' (NCDENR's) Division of Coastal Management (DCM).

CBRS. Coastal Barrier Resources System.

CHEMICAL STORAGE FACILITY. A building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

“Coastal Area Management Act (CAMA)” means North Carolina’s Coastal Area Management Act, this act, along with the Dredge and Fill Law and the Federal Coastal Zone Management Act, is managed through North Carolina Department of Environmental Quality (NCDEQ) Division of Coastal Management (DCM).

“Coastal A Zone (CAZ) ” means an area within a special flood hazard area, landward of a V zone or landward of an open coast without mapped V zones; in a Coastal A Zone, the principal source of flooding must be astronomical tides, storm surges, seiches, or tsunamis, not riverine flooding. During the base flood conditions, the potential for wave heights shall be greater than or equal to 1.5 feet. Coastal A Zones are not normally designated on FIRMs. (see Limit of Moderate Wave Action (LiMWA))

COASTAL BARRIER RESOURCES SYSTEM (CBRS). Consists of undeveloped portions of coastal and adjoining areas established by the Coastal Barrier Resources Act (Cobra) of 1982, the Coastal Barrier Improvement Act (CBIA) of 1990, and subsequent revisions, and includes areas owned by federal or state governments or private conservation organizations identified as otherwise protected areas (OPA).

COASTAL HIGH HAZARD AREA. A special flood hazard area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM, or other adopted flood map as determined in § 154.05, as Zone VE.

DESIGN FLOOD ELEVATION (DFE). The base flood elevation, plus two feet.

DEVELOPMENT. Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

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

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

DISPOSAL. 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 groundwater’s.

**ELEVATED BUILDING.** A non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

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

**“Existing building and existing structure”** means any building and/or structure for which the “start of construction” commenced before 5/26/1972

**EXISTING MANUFACTURED HOME PARK or MANUFACTURED HOME SUBDIVISION.** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the original effective date of the floodplain management regulations adopted by the community.

**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/or
- (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, issued by the Federal Emergency Management Agency, on which both the special flood hazard areas and the risk premium zones applicable to the community are delineated.

**FLOOD INSURANCE STUDY (FIS).** An examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the Federal Emergency Management Agency. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs).

**FLOOD PRONE AREA.** See FLOODPLAIN.

**FLOODPLAIN.** Any land area susceptible to being inundated by water from any source.

**FLOODPLAIN ADMINISTRATOR.** The individual appointed to administer and enforce the floodplain management regulations.

**FLOODPLAIN DEVELOPMENT PERMIT.** Any type of permit that is required in conformance with the provisions of this chapter, prior to the commencement of any development activity.

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

**FLOODPLAIN MANAGEMENT REGULATIONS.** This chapter and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

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

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

“Floodway” means the channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

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

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

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

openings, and the hydrological effect of urbanization on the watershed. The base flood elevation plus the freeboard establishes the regulatory flood protection elevation.

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

**HAZARDOUS WASTE FACILITY.** As defined in G.S. Ch. 130, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

**HIGHEST ADJACENT GRADE (HAG).** The highest natural elevation of the ground surface, prior to construction, immediately 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.

“Letter of Map Change (LOMC)” means an official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

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

(b) Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other plan metric features.

(c) Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.

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

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

(a) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or

(b) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or

(c) Available with special features enabling off-street or off-highway operation and use.

“Limit of Moderate Wave Action (LiMWA)” means the boundary line given by FEMA on coastal map studies marking the extents of Coastal A Zones (CAZ).

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

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

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

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

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

**MARKET VALUE.** The building value, not including the land value and that of any accessory structures or other improvements on the lot. Market value may be established by independent certified appraisal, replacement cost depreciated for age of building and quality of construction (actual cash value), or adjusted tax assessed values.

**NEW CONSTRUCTION.** Structures for which the start of construction commenced on or after the effective date of the original version of the community's Flood Damage Prevention Ordinance and includes any subsequent improvements to such structures.

**NON-ENCROACHMENT AREA.** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot as designated in the Flood Insurance Study report.

**OPA.** An otherwise protected area.

**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 for the area.

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

**PRIMARY FRONTAL DUNE.** A continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and over-topping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

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

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

“Recreational Vehicle (RV)” means a vehicle, which is:

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

**REFERENCE LEVEL.** The bottom of the lowest horizontal structural member of the lowest floor for structures within special flood hazard, or coastal high hazard areas designated as Zone AE or VE.

**REGULATORY FLOOD PROTECTION ELEVATION.** The base flood elevation plus the freeboard. In special flood hazard areas where base flood elevations (BFEs) have been determined, this elevation shall be the BFE plus two feet of freeboard.

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

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

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

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

**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 (SFHA).** The land in the floodplain subject to a 1% or greater chance of being flooded in any given year, as determined in § 154.05.

**START OF CONSTRUCTION.** Substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit

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

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

**SUBSTANTIAL DAMAGE.** Damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred. See definition of SUBSTANTIAL IMPROVEMENT. SUBSTANTIAL DAMAGE also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25% of the market value of the structure before the damage occurred.

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

(1) 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,

(2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

“Technical Bulletin and Technical Fact Sheet” means a FEMA publication that provides guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at Section 60.3. The bulletins and fact sheets are intended for use primarily by State and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations;

rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations.

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

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

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

**VIOLATION.** The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in §§ 154.20 et seq. and §§ 154.35 et seq. is presumed to be in violation until such time as that documentation is provided.

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

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

**WINDBORNE DEBRIS REGION.** Areas within hurricane-prone regions within one mile of the coastal mean high water line where the basic wind speed is 110 miles per hour or greater, or where the basic wind speed is equal to or greater than 120 miles per hour or Hawaii.

(‘85 Code, § 8-4.2) (Ord. 31, passed -- ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 03-01, passed 2-24-03; Am. Ord. 06-06, passed 5-22-06; Am. Ord. 09-05, passed 3-10-09; Am. Ord. 15-01, passed 1-13-15)

#### § 154.04 LANDS TO WHICH THIS CHAPTER APPLIES.

This chapter shall apply to all special flood hazard areas within the jurisdiction, including extra-territorial jurisdictions (ETJs) if applicable, of the town and within the jurisdiction of any other community whose governing body agrees, by resolution, to such applicability.

(‘85 Code, § 8-4.3a.) (Ord. 31, passed -- ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 06-06, passed 5-22-06)

#### § 154.05 BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS.

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its FIS dated August 28, 2018 for Brunswick County and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of this ordinance. Future revisions to the FIS and DFIRM panels that do not change flood hazard data within the jurisdictional authority of Town Of Holden Beach are also adopted by reference and declared a part of this ordinance. Subsequent Letter of Map Revisions (LOMRs) and/or Physical Map Revisions (PMRs) shall be adopted within 3 months.

('85 Code, § 8-4.3b.) (Ord. 31, passed -- ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 00-15, passed 6-26-00; Am. Ord. 06-06, passed 5-22-06)

#### § 154.06 ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT.

A floodplain development permit shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities within special flood hazard areas determined in accordance with § 154.05.

('85 Code, § 8-4.3c.) (Ord. 31, passed -- ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 06-06, passed 5-22-06) Penalty, see § 154.99

#### § 154.07 COMPLIANCE.

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

('85 Code, § 8-4.3d.) (Ord. 31, passed -- ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 06-06, passed 5-22-06) Penalty, see § 154.99

#### § 154.08 ABROGATION AND GREATER RESTRICTIONS.

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

('85 Code, § 8-4.3e.) (Ord. 31, passed -- ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 06-06, passed 5-22-06)

#### § 154.09 INTERPRETATION.

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

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

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

('85 Code, § 8-4.3f.) (Ord. 31, passed - - ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 06-06, passed 5-22-06)

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

('85 Code, § 8-4.3g.) (Ord. 31, passed - - ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 03-01, passed 2-24-03; Am. Ord. 06-06, passed 5-22-06)

#### 154.11 PENALTIES FOR VIOLATION.

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

### FLOOD HAZARD REDUCTION

#### § 154.20 GENERAL STANDARDS.

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

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

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

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

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

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

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

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

(F) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.

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

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

(I) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, and are not subject by variance without exception. A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or flood proofed to at least the regulatory flood protection elevation and certified according to § 154.36(C).

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

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

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

(M) All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

(N) Windows in buildings located in windborne debris regions, as defined by this chapter, shall have glazed openings protected from windborne debris in accordance with § R301.2.1.2 of the North Carolina Residential Code or § 1609.1.4 of the North Carolina Building Code. Nothing in this section shall have any effect on any provisions or exemptions set forth in the North Carolina Existing Building Code or the North Carolina Rehabilitation Code.

('85 Code, § 8-4.5a.) (Ord. 31, passed -- ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 06-06, passed 5-22-06; Am. Ord. 09-05, passed 3-10-09) Penalty, see § 154.99

#### § 154.21 SPECIFIC STANDARDS.

In all special flood hazard areas where base flood elevation (BFE) data has been provided, as set forth in § 154.05 or § 154.37(K) and (L), the following provisions, in addition to § 154.20, are required:

(A) Residential construction. New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in § 154.03.

(B) Non-residential construction. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in § 154.03. Structures located in A, AE and A1-30 Zones may be flood proofed to the regulatory flood protection elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the regulatory flood protection elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance with this chapter. A registered professional engineer or architect shall certify that the standards of this division are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in § 154.36(C), along with the operational and maintenance plans.

(C) Manufactured homes.

(1) New or replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, as defined in § 154.03.

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

(3) All enclosures or skirting below the lowest floor shall meet the requirements of division (D) of this section.

(4) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the floodplain administrator and the local emergency management coordinator.

(D) Elevated buildings. Fully enclosed areas of new construction and substantially improved structures, which are below the lowest floor:

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

(2) Shall be constructed entirely of flood resistant materials, up to the regulatory flood protection elevation;

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

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

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

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

(d) The bottom of all required flood openings shall be no higher than one foot above the adjacent grade;

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

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

(4) Shall allow, in Coastal High Hazard Areas (Zone VE), breakaway walls, open wood latticework or insect screening, provided it is not part of the structural support of the building and is designed so as to breakaway, under abnormally high tides or wave action, without causing damage to the structural integrity of the building, provided the following design specifications are met:

(a) Material shall consist of open wood latticework or insect screening; or

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

1. Design safe loading resistance of each wall shall be not less than ten nor more than 20 pounds per square foot; or

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

(E) Additions/improvements.

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

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

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

(2) Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.

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

(a) Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction; and

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

(4) Where an independent perimeter load-bearing wall is provided between the addition and the existing building, the addition(s) shall be considered a separate building and only the addition must comply with the standards for new construction.

(5) Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a 2 year year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the 2 year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this ordinance. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:

(a) Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assume safe living conditions.

(b) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

(F) Recreational vehicles. Recreational vehicles shall either:

Temporary Placement

(1) Be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions); or

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

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

(1) A specified time period for which the temporary use will be permitted. Time specified should not exceed three months, renewable up to one year;

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

(3) The time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);

(4) A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and

(5) Designation, accompanied by documentation, of a location outside the special flood hazard area, to which the temporary structure will be moved.

(H) Accessory structures.

(1) When accessory structures (sheds, detached garages, etc.) are to be placed within a special flood hazard area, the following criteria shall be met:

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

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

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

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

(e) Accessory structures shall be firmly anchored in accordance with § 154.20;

(f) All service facilities such as electrical shall be installed in accordance with §154.20; and

(g) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with division (D) of this section.

(2) An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with § 154.36(C).

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

(a) Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;

(b) Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be elevated to or above the Regulatory Flood Protection Elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;

(c) Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of Article 5, Section B (2) of this ordinance shall be permitted in flood hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions.

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

(1) At or above the Regulatory Flood Protection Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and

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

(4) Other Development.

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

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

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

('85 Code, § 8-4.5b.) (Ord. 31, passed - - ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 03-01, passed 2-24-03; Am. Ord. 06-06, passed 5-22-06) Penalty, see § 154.99

#### §154.22 STANDARDS FOR SUBDIVISION PROPOSALS.

(A) All subdivision proposals shall be consistent with the need to minimize flood damage.

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

(C) All subdivisions proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(D) Base flood elevation data should be provided for subdivision proposals and other proposed development which is greater than the lesser of 50 lots of five acres.

('85 Code, § 8-4.5c.) (Ord. 31, passed - - ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 06-06, passed 5-22-06) Penalty, see § 154.99

#### § 154.23 COASTAL HIGH HAZARD AREAS (ZONES VE).

Coastal high hazard areas are special flood hazard areas established in § 154.05, and designated as Zones VE. These areas have special flood hazards associated with high velocity waters from storm surges or seismic activity and, therefore, in addition to meeting all requirements of this chapter with the exception of floodway and non-encroachment area provisions, the following provisions shall apply:

(A) All development shall:

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

(2) Be located landward of the first line of stable natural vegetation; and

(3) Comply with all applicable CAMA setback requirements.

(B) All new construction and substantial improvements shall be elevated so that the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings or columns) is no lower than the regulatory flood protection elevation. Floodproofing shall not be utilized on any structures in coastal high hazard areas to satisfy the regulatory flood protection elevation requirements.

(C) All new construction and substantial improvements shall have the space below the lowest floor free of obstruction so as not to impede the flow of flood waters, with the following exceptions:

(1) Open wood latticework or insect screening may be permitted below the regulatory flood protection elevation for aesthetic purposes only and must be designed to wash away in the event of abnormal wave action and in accordance with § 154.21(D). Design plans shall be submitted in accordance with § 154.36(A)(4); or

(2) Breakaway walls may be permitted provided they meet the criteria set forth in § 154.21(D). Design plans shall be submitted in accordance with § 154.36(A)(4).

(D) All new construction and substantial improvements shall be securely anchored to pile or column foundations. All pilings and columns and the structures attached thereto shall be anchored to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.

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

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

(E) A registered professional engineer or architect shall certify that the design, specifications and plans for construction are in compliance with the provisions contained in divisions (C), (D) and (F) of this section and § 154.36 on the current version of the North Carolina "National Flood Insurance Program V-Zone Certification" form.

(F) Fill shall not be used for structural support. Limited non-compacted and non-stabilized fill may be used around the perimeter of a building for landscaping/aesthetic purposes provided it is demonstrated through coastal engineering analysis that the proposed fill would not result in any increase in the base flood elevation and not cause any adverse impacts by wave ramping and deflection to the subject structure or adjacent properties.

(G) There shall be no alteration of sand dunes which would increase potential flood damage.

(H) 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 subdivision provided the anchoring and elevation standards of this section have been satisfied.

(I) Recreational vehicles may be permitted in coastal high hazard areas provided that they meet the recreational vehicle criteria of § 154.21(F) and the temporary structure provisions of § 154.21(G).

(Ord. 06-06, passed 5-22-06)

#### ADMINISTRATION

#### § 154.35 DESIGNATION OF FLOODPLAIN ADMINISTRATOR.

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

('85 Code, § 8-4.4a.) (Ord. 31, passed -- ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 06-06, passed 5-22-06)

#### § 154.36 FLOODPLAIN DEVELOPMENT APPLICATION, PERMIT AND CERTIFICATION REQUIREMENTS.

(A) Application requirements. Application for a floodplain development permit shall be made to the floodplain administrator prior to any development activities located within special flood hazard areas. The following items shall be presented to the floodplain administrator to apply for a floodplain development permit:

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

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

(b) The boundary of the special flood hazard area as delineated on the FIRM or other flood map as determined in § 154.05, or a statement that the entire lot is within the special flood hazard area;

(c) Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in § 154.05;

(d) The boundary of the floodway(s) or non-encroachment area(s) as determined in § 154.05;

(e) The base flood elevation (BFE) where provided as set forth in §§ 154.05 and 154.37(K) and (L);

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

(g) The boundary and designation date of the coastal barrier resource system (CBRS) area or otherwise protected areas (OPA), if applicable; and

(h) Certification of the plot plan by a registered land surveyor.

(2) Proposed elevation, and method thereof, of all development within a special flood hazard area including but not limited to:

(a) Elevation in relation to [NAVD 1988](#) of the proposed reference level (including basement) of all structures;

(b) Elevation in relation to [NAVD 1988](#) to which any non-residential structure in Zone AE will be flood-proofed; and

(c) Elevation in relation to [NAVD 1988](#) to which any proposed utility systems will be elevated or floodproofed;

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

(4) 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:

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

(b) Openings to facilitate equalization of hydrostatic flood forces on walls in accordance with § 154.21(D), when solid foundation perimeter walls are used in Zone AE;

(c) The following, in coastal high hazard areas, in accordance with §§ 154.21(D) and 154.23:

1. V-Zone Certification with accompanying plans and specifications verifying the engineered structure and any breakaway wall designs; In addition, prior to the Certificate of Compliance/Occupancy issuance, a registered professional engineer or architect shall certify the finished construction is compliant with the design, specifications and plans for VE Zone construction. (OPTIONAL);

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

3. Plans for non-structural fill, if applicable. If non-structural fill is proposed, it must be demonstrated through coastal engineering analysis that the proposed fill would not result in any increase in the base flood elevation or otherwise cause adverse impacts by wave ramping and deflection on to the subject structure or adjacent properties.

(5) Usage details of any enclosed areas below the regulatory flood protection elevation.

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

(7) Copies of all other local, state and federal permits required prior to floodplain development permit issuance (wetlands, endangered species, erosion and sedimentation control, CAMA, riparian buffers, mining, etc.)

(8) Documentation for placement of recreational vehicles and/or temporary structures, when applicable, to ensure § 154.21(F) and (G) are met.

(9) 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.

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

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

(2) The special flood hazard area determination for the proposed development per available data specified in § 154.05.

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

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

(5) All certification submittal requirements with timelines.

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

(7) The flood openings requirements, if in Zones AE.

(8) Limitations of use of the enclosures below the lowest floor are parking, building access and limited storage only.

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

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

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

(C) Certification requirements.

(1) Elevation certificates.

(a) An elevation certificate (FEMA Form 086-0-33) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of the elevation of the reference level, in relation to mean sea level. The floodplain administrator shall review the certificated data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.

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

(c) A final as-built elevation certificate (FEMA Form 086-0-33) is required after construction is completed and prior to certificate of compliance/ occupancy issuance. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to certificate of compliance/ occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a certificate of compliance/occupancy.

(2) Floodproofing Certificate

(a) If non-residential floodproofing is used to meet the Regulatory Flood Protection Elevation requirements, a Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

(b) A final Finished Construction Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the issuance of a Certificate of Compliance/Occupancy. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certificate shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to Certificate of Occupancy. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to deny a Certificate of Compliance/Occupancy.

(2) If a manufactured home is placed within Zone AE and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required per § 154.21.

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

(4) Certification exemptions. The following structures, if located within Zone AE are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) of this subsection:

- (a) Recreational vehicles meeting requirements of § 154.21;
- (b) Temporary structures meeting requirements of § 154.21; and
- (c) Accessory structures less than 150 square feet meeting requirements of § 154.21.

(D) A V-Zone certification with accompanying design plans and specifications is required prior to issuance of a floodplain development permit within coastal high hazard areas. It shall be the duty of the permit applicant to submit to the floodplain administrator said certification to ensure the design standards of this chapter are met. A registered professional engineer or architect shall develop or review the structural design, plans, and specifications for construction and certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of this chapter. This certification is not a substitute for an elevation certificate.

(E) Determinations for existing buildings and structures.

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

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

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

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

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

('85 Code, § 8-4.4b.) (Ord. 31, passed -- ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 06-06, passed 5-22-06)

#### § 154.37 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.

The floodplain administrator shall perform, but not be limited to, the following duties:

(A) Review all floodplain development applications and issue permits for all proposed development within special flood hazard areas to assure that the requirements of this chapter have been satisfied.

(B) Advise permittee that additional federal or state permits (wetlands, endangered species, erosion and sedimentation control, CAMA, riparian buffers, mining, etc.) may be required, and require that copies of such permits be provided and maintained on file with the floodplain development permit.

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

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

(E) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of this chapter are met.

(F) Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) and all attendant utilities of all new or substantially improved structures, in accordance with § 154.36(C).

(G) Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with § 154.36(C).

(H) Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with § 154.36(C).

(I) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with §§ 154.21 and 154.36(C).

(J) Where interpretation is needed as to the exact location of boundaries of the special flood hazard areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this subchapter.

(K) When base flood elevation (BFE) data has not been provided in accordance with § 154.05, obtain, review, and reasonably utilize any base flood elevation (BFE) data, along with floodway data or non-encroachment area data available from a federal, state, or other source, including data developed pursuant to this chapter, in order to administer the provisions of this chapter.

(L) When base flood elevation (BFE) data is provided but no floodway nor non-encroachment area data has been provided in accordance with § 154.05, obtain, review,

and reasonably utilize any floodway data or non-encroachment area data available from a federal, state, or other source in order to administer the provisions of this chapter.

(M) When the lowest ground elevation of a parcel or structure in a special flood hazard area is above the base flood elevation, advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the Letter of Map Amendment (LOMA) issued by FEMA in the floodplain development permit file.

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

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

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

(Q) Revoke floodplain development permits as required. The floodplain administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable state or local law may also be revoked.

(R) Make periodic inspections throughout all special flood hazard areas within the jurisdiction of the community. The floodplain administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

(S) Follow through with corrective procedures of this chapter.

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

(U) Maintain a current map repository to include, but not limited to, the FIS Report, FIRM and other official flood maps and studies adopted in accordance with §

154.05, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify state and FEMA of mapping needs.

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

('85 Code, § 8-4.4c.) (Ord. 31, passed -- ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 06-06, passed 5-22-06)

#### § 154.38 VARIANCE PROCEDURES.

(A) The Board of Adjustment as established by the town, hereinafter referred to as the "appeal board", shall hear and decide requests for variances from the requirements of this chapter.

(B) Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in G.S. Chapter 7A.

(C) Variances may be issued for:

(1) The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure.

(2) Functionally dependent facilities if determined to meet the definition as stated in § 154.03, provided provisions of this chapter have been satisfied, and such facilities are protected by methods that minimize flood damages.

(3) Any other type of development provided it meets the requirements stated in this section.

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

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

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

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

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

(5) The necessity to the facility of a waterfront location as defined under § 154.03 as a functionally dependent facility, where applicable;

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

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

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

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

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

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

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

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

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

(H) The floodplain administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.

(I) Conditions for variances:

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

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

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

- (4) Variances shall only be issued prior to development permit approval.
- (5) Variances shall only be issued upon:
  - (a) A showing of good and sufficient cause;
  - (b) A determination that failure to grant the variance would result in exceptional hardship; and
  - (c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (6) A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met
  - (a) The use serves a critical need in the community
  - (b) No feasible location exists for the use outside the Special Flood Hazard Area.
  - (c) The reference level of any structure is elevated or floodproofed to at least the Regulatory Flood Protection Elevation.
- (7) The use complies with all other applicable federal, state and local laws.
- (8) The town has notified the Secretary of the North Carolina Department of Public Safety of its intention to grant a variance at least 30 calendar days prior to granting the variance.

('85 Code, § 8-4.4e.) (Ord. 31, passed -- ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 02-12, passed 10-14-02; Am. Ord. 03-01, passed 2-24-03; Am. Ord. 06-06, passed 5-22-06)

#### 154.39 INSPECTIONS OF THE WORK IN PROGRESS.

As the work pursuant to a permit progresses, the local Building Inspector and Assistant Building Inspector shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of this chapter and the terms of the permit. In exercising this power, the Building Inspector and Assistant Building Inspector has a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction at any reasonable hour for the purposes of inspection or other enforcement action.

('85 Code, § 8-4.4d.1.) (Ord. 31, passed -- ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 06-06, passed 5-22-06)

#### § 154.40 STOP ORDERS.

Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this chapter, the Building Inspector or Assistant Building Inspector may order the work to be immediately stopped. The stop order shall be in writing and directed to the person doing the work. The stop 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 order constitutes a misdemeanor.

('85 Code, § 8-4.4d.2.) (Ord. 31, passed -- ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 06-06, passed 5-22-06) Penalty, see § 154.99

#### § 154.41 REVOCATION OF PERMITS.

The local Building Inspector and Assistant Building Inspector may revoke and require the return of the development permit by notifying the permit-holder in writing stating the reason for revocation. Permits shall be revoked for any substantial departure from the approved application, plans or specifications; for refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentations made in securing the permit. Any permit mistakenly issued in violation of an applicable state or local law may also be revoked.

('85 Code, § 8-4.4d.3.) (Ord. 31, passed -- ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 06-06, passed 5-22-06)

#### § 154.42 PERIODIC INSPECTIONS.

The local Building Inspector 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.

('85 Code, § 8-4.4d.4.) (Ord. 31, passed -- ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 06-06, passed 5-22-06)

#### § 154.43 VIOLATIONS TO BE CORRECTED.

When the local Building Inspector or Assistant Building Inspector finds violations of applicable state and local laws, it shall be his or her duty to notify the owner of the building of the violation. The owner shall immediately remedy the violations of law.

('85 Code, § 8-4.4d.5.) (Ord. 31, passed -- ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 06-06, passed 5-22-06) Penalty, see § 154.99

#### § 154.44 FAILURE TO TAKE CORRECTIVE ACTION.

If the owner of a building or property shall fail to take prompt corrective action, the Building Inspector or Assistant Building Inspector shall give him or her written notice, by certified or registered mail to his or her last known address or by personal service:

(A) That the building or property is in violation of this chapter.

(B) That a hearing will be held before the local Building Inspector or Assistant Building Inspector at a designated place or time, no later than ten days after the date of the notice, at which time the owner shall be entitled to be heard in person or by council and to present arguments and evidence pertaining to the matter.

(C) That following the hearing, the local Building Inspector or Assistant Building Inspector may issue such order to alter, vacate, or demolish the building, or to remove fill as appears appropriate.

('85 Code, § 8-4.4d.6.) (Ord. 31, passed -- ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 06-06, passed 5-22-06) Penalty, see § 154.99

#### § 154.45 ORDER TO TAKE CORRECTIVE ACTION.

If, upon a hearing held pursuant to the notice prescribed in § 154.44, the Building Inspector or Assistant Building Inspector shall find that the building or development is in violation of this chapter, 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, as the Building Inspector or Assistant Building Inspector may prescribe; provided, that where the Building Inspector or Assistant Building Inspector finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.

('85 Code, § 8-4.4d.7.) (Ord. 31, passed -- ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 06-06, passed 5-22-06)

#### § 154.46 APPEAL.

The owner who has received an order to take corrective action may appeal from the order to the local elected governing body by giving notice of appeal in writing to the Building Inspector and the Clerk within ten days following issuance of the final order. In the absence of an appeal, the order of the Building Inspector shall be final. The Board of Commissioners shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

('85 Code, § 8-4.4d.8.) (Ord. 31, passed -- ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 06-06, passed 5-22-06)

#### § 154.47 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 Board of Commissioners following an appeal, he or she shall be guilty of a Class 1 misdemeanor pursuant to NC G.S. § 143-215.58 and shall be punished at the discretion of the court misdemeanor pursuant to NC G.S. § 143-215.58 and shall be punished in the discretion of the court.

('85 Code, § 8-4.4d.9.) (Ord. 31, passed - - ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 06-06, passed 5-22-06) Penalty, see § 154.99

#### 154.48 LEGAL STATUS PROVISIONS.

##### SECTION A. EFFECT ON RIGHTS AND LIABILITIES UNDER THE EXISTING FLOOD DAMAGE PREVENTION ORDINANCE.

This ordinance in part comes forward by re-enactment of some of the provisions of the Flood Damage Prevention Ordinance enacted Nov 14, 1976, as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the Flood Damage Prevention Ordinance of the town enacted Nov 14, 1976 as amended, which are not reenacted herein are repealed.

The date of the initial Flood Damage Prevention Ordinance for Brunswick County is April 1, 1985

##### SECTION B. EFFECT UPON OUTSTANDING FLOODPLAIN DEVELOPMENT PERMITS.

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

##### SECTION C. 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.

##### § 154.99 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 or variance or special exceptions, shall constitute a misdemeanor. Any person who violates this section or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$50 or imprisoned for not more than 30 days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the town from taking such other lawful action as is necessary to prevent or remedy any violation.

('85 Code, § 8-4.3h.) (Ord. 31, passed - - ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 06-06, passed 5-22-06)

SECTION D. EFFECTIVE DATE.

This ordinance shall become effective August 20, 2018

**Section Two:** The Town Clerk is directed to forward this ordinance to American Legal Publishing for inclusion in the next published supplement to the Holden Beach Code of Ordinances.

**Section Three:** This ordinance shall be effective the 20<sup>th</sup> day of August, 2018.

Adopted this the 10<sup>th</sup> day of July, 2018.

\_\_\_\_\_  
J. Alan Holden, Mayor

ATTEST:

\_\_\_\_\_  
Heather Finnell, Town Clerk

SECTION E. ADOPTION CERTIFICATION.

J. Alan Holden \_\_\_\_\_, Attest Heather Finnell, Town Clerk

I hereby certify that this is a true and correct copy of the Flood Damage Prevention Ordinance as adopted by the governing Body of the Town of Holden Beach, North Carolina, on the Day \_\_\_\_\_ of \_\_\_\_\_, \_\_\_\_\_

WITNESS my hand and the official seal of Heather Finnell , this the Day \_\_\_\_\_ of \_\_\_\_\_, \_\_\_\_\_

Signature \_\_\_\_\_

