

Repetitive Loss means flood-related damages sustained by a structure on two (2) separate occasions during any 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds twenty-five percent (25%) of the Market Value of the structure before the damage occurred.

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

Salvage Yard means 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 means any facility involved in the disposal of solid waste, as defined in NCGS 130A-290(a)(35).

Solid Waste Disposal Site means, as defined in NCGS 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

Special Flood Hazard Area means the FEMA Special Flood Hazard Area. See definition above.

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

Structure means for floodplain management purposes, a walled and roofed building, a manufactured home, a gas or liquid storage tank, that are principally above ground.

Substantial Damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to the condition before damage occurred would equal or exceed 50 percent of the market value of the structure before the damages occurred. *Substantial Damage* also means flood-related damages sustained by a structure on two separate occasions during a 10 year period ~~beginning after October 11, 1999,~~ for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. See definition of "Substantial Improvement."

Substantial Improvement means any repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, or combination thereof, where the total cost equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the

improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- (a) any correction of existing violations of State or Community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or,
- (b) any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Substantial Improvement also means any repair, reconstruction, or improvement to a structure on two separate occasions during a 10 year period ~~beginning after October 11, 1999~~, for which the total cost of repairs, reconstruction or improvement at the time of each alteration, equals or exceeds 25 percent of the market value of the structure before the damage occurred or the Substantial Improvement began. The Floodplain Administrator may determine if separate actions constitute a single project (Section 29 (13)). For the purposes of this definition, "Substantial Improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

Technically Measurable means an activity and/or condition that can be modeled within the stated or commonly known accuracy of the FEMA approved hydraulic models or other engineering computations, and may have an impact on Base Flood Elevations. The Floodplain Administrator will determine if a proposed activity and/or condition meets the Technically Measurable definition.

Variance is a grant of relief to a person from the requirements of this ordinance.

Violation means the failure of a structure or other Development to be fully compliant with this ordinance. A structure or other Development without the elevation certificate, other certifications or other evidence of compliance required in Articles III and V is presumed to be in violation, until such time as the documentation is provided.

Water Surface Elevation (WSE) means the height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

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

ARTICLE II. GENERAL PROVISIONS

Section. 7 Lands to which this ordinance applies.

This ordinance shall apply to all lands in the land use jurisdiction of the Town of Huntersville within the area shown on the Flood Insurance Rate Maps (FIRM) or any FEMA and/or locally approved revisions to data shown on the FIRMs, as being located within the Community Special

Flood Hazard Areas or land adjacent to the Community Special Flood Hazard Areas if it is affected by the work that is taking place.

Section. 8 Basis for establishing the Special Flood Hazard Areas

The Flood Insurance Rate Maps (FIRM), FEMA and/or locally approved revisions to data shown on the FIRMs, Flood Insurance Study and other supporting data, for Mecklenburg County including the Town of Huntersville, dated ~~March 2, 2009~~September 2, 2015, are adopted by reference and declared to be a part of this ordinance.

The initial Flood Insurance Rate Maps are as follows for the jurisdictional areas at the initial date:

Mecklenburg County Unincorporated Area, dated June 1, 1981.

Section. 9 Floodplain Development Permit required.

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any Development activities. The *Technical Guidance Document* may be used for illustrative purposes to assist in determining the applicable type of Floodplain Development Permit required.

Section. 10 Compliance.

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

Section. 11 Abrogation and greater restrictions.

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

Section. 12 Interpretation.

In the interpretation and applications of this ordinance, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed to meet the purposes and objectives of this regulation as stated in Sections 4 and 5; and
3. Deemed neither to limit nor repeal any other powers granted under state statutes.

Section. 13 Warning and disclaimer of liability.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This ordinance does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the Town of Huntersville, Mecklenburg County, or on any agent, officer or employee thereof for any flood damages that result from reliance on this ordinance or by any administrative decision lawfully made hereunder.

Section. 14 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 Floodplain Development Permits, Variances or special exceptions, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than five hundred dollars (\$500.00) or imprisoned for not more than thirty (30) days. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of Huntersville or the Floodplain Administrator from taking such other lawful action as is necessary to prevent or remedy any violation, including but not limited to seeking injunctive relief, orders of abatement, or other similar equitable relief.

ARTICLE III. ADMINISTRATION AND ENFORCEMENT

Section. 15 Designation of Floodplain Administrator.

The Town ~~Manager~~ designates the Planning Director~~County Floodplain Administrator, and or~~ his or her designees as the Floodplain Administrator and the County Floodplain Administrator or his or her designated agent, as the persons with the authority to administer, implement and enforce the provisions of this ordinance through a properly executed, legally binding interlocal agreement.

Section. 16 Floodplain Development Permits and certification requirements.

(A) A Floodplain Development Permit is required for any Development within the Community Special Flood Hazard Area (CSFHA) and is subject to the conditions below. The

3. Certification Requirements.

- a. A Final As-Built Elevation Certificate (*FEMA Form ~~81-31086-0-33~~*) (for either residential or non-residential buildings) or Floodproofing Certificate (*FEMA Form ~~81-65086-0-34~~*) is required after construction is completed and prior to the issuance of a Certificate of Occupancy or a Temporary Certificate of Occupancy. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation or floodproofed elevation of the reference level and all attendant utilities. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When floodproofing is utilized, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to the issuance of a Certificate of Occupancy or Temporary Certificate of Occupancy. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make said corrections required shall be cause to withhold the issuance of a Certificate of Occupancy or Temporary Certificate of Occupancy.
- b. For proposed Development to be located outside of the Community Encroachment Area and the FEMA Floodway, a certification from a registered land surveyor or professional engineer that states that no fill material or other development was placed within the FEMA Floodway or Community Encroachment Area of any watercourse, will be required prior to issuance of a Certificate of Occupancy or Temporary Certificate of Occupancy.
- c. For proposed Development within the Community Encroachment Area or the FEMA Floodway, an as-built topographic map prepared by a registered land surveyor or professional engineer will be required prior to issuance of a Certificate of Occupancy or Temporary Certificate of Occupancy. This is in addition to a no-rise/no-impact study or CLOMR that may be required as specified in Section 30 (A)(6) may be required
- d. If a manufactured home is placed within the Floodplain and the elevation of the chassis is 36 inches or higher above adjacent grade, an engineered foundation certification is required.
- e. Certification Exemptions. The following structures, if located within the Floodplain, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) above:
 - i. Recreational Vehicles meeting requirements of Section 30 (A)(9);
 - ii. Temporary Structures meeting requirements of Section 30 (A) 10); and
 - iii. Accessory Structures less than 150 square feet meeting requirements of Section 30 (A)(11).

- f. 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. Permit Application Requirements

- a. A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
- (i) 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;
 - (ii) the location of the Community Flood Fringe Line, Community Encroachment Line, FEMA Flood Fringe Line and FEMA Floodway Line as shown on the FIRM or other flood map, or a statement that the entire lot is within the Special Flood Hazard Area;
 - (iii) flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map ;
 - (iv) the FEMA Base Flood Elevation (BFE) and Community Base Flood Elevation (CBFE)
 - (v) the old and new location of any watercourse that will be altered or relocated as a result of proposed development;
 - (vi) the certification of the plot plan by a registered land surveyor or professional engineer.
- b. Proposed elevation, and method thereof, of all development within a Community Special Flood Hazard Area including but not limited to:
- (i) Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;
 - (ii) Elevation in relation to mean sea level to which any non-residential structure in Zone AE, will be floodproofed; and
 - (iii) Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed;
- c. If floodproofing, a Floodproofing Certificate (FEMA Form ~~81-65086-0-34~~) with supporting data and an operational plan that includes, but is not limited to, installation, exercise, inspection and maintenance of floodproofing measures.

- (g) The flood openings requirements per Section 30 (A) (4)

Section. 17 Duties and responsibilities of the Floodplain Administrator.

The Floodplain Administrator is authorized to and shall perform, but not be limited to, the following duties:

1. Reviewing, approving, and issuing all Floodplain Development Permits in a timely manner to assure that the permit requirements of this ordinance have been satisfied.
2. Reviewing, approving and issuing all documents applicable to Letters of Map Change.
3. Advising the permittee that additional federal or state permits may be required; and if specific federal or state permits are known, requiring that copies of such permits be provided and maintained on file with the Floodplain Development Permit.
4. Notifying adjacent communities and the North Carolina Department of ~~Crime Control~~ and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse and submitting evidence of such notification to the Federal Emergency Management Agency.
5. Assuring that within available resources, maintenance is provided within the altered or relocated portion of any altered Watercourse so that the flood-carrying capacity is maintained.
6. Not issuing a Floodplain Development Permit for Encroachments within the Community Encroachment Area and/or the FEMA Floodway unless the certification and flood hazard reduction provisions of Article V are met.
7. Reviewing and recording the 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 Section 16 (B) (3).
8. Reviewing and recording the actual elevation (in relation to mean sea level) to which the new or substantially improved non-residential structures have been floodproofed, in accordance with Section 16 (B) (3).
9. Obtaining certifications from a registered professional engineer or architect in accordance with Section 30 (A) (2) when floodproofing is utilized for a particular non-residential structure.
10. Making the interpretation of the exact location of boundaries within the FEMA Special Flood Hazard Area or the Community Special Flood Hazard Area when, for example, there appears to be conflict between a mapped boundary and actual field conditions. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this ordinance. Procedures for

Board of Adjustment for solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following criteria are met:

1. The use serves a critical need in the community.
2. No feasible location exists for the use outside the Special Flood Hazard Areas.
3. The Reference Level of any structure is elevated above the Community Base Flood Elevation or is designed and sealed by a Professional Engineer or a Registered Architect to be watertight with walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
4. There will be no storage of materials or tanks which could flood within the Special Flood Hazard Area unless they are contained in a structure as defined in 3. above.
5. The use complies with all other applicable laws and regulations.
6. The Town of Huntersville has notified the Secretary of the North Carolina Department of ~~Crime Control and~~ Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the Variance.

Section 27 Notification and Recordkeeping.

- (A) Any applicant to whom a Variance from the FEMA Base Flood Elevation is granted shall be given written notice specifying the difference between the FEMA Base Flood Elevation and the elevation to which the structure is to be built and a written statement that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced Lowest Floor elevation. Such notification shall be maintained with a record of all Variance actions.
- (B) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances regarding FEMA minimum standards to the Federal Emergency Management Agency and the State of North Carolina upon request.

Section 28 Appeal from Board of Adjustment.

- (A) Any person aggrieved by the final decision of the Board of Adjustment to grant or deny a Floodplain Development Permit shall have 30 days to file an appeal to Mecklenburg County Superior Court, as provided in N.C.G.S. 143-215.57 (c).
- (B) Any party aggrieved by the decision of the Board of Adjustment related to any other order, decision, determination or interpretation of these regulations, including the granting or denial of a Variance, shall have 30 days from the receipt of the Board's decision to file a petition for review in the nature of *certiorari* in Mecklenburg County Superior Court.