
(A) **Purpose:** It is the purpose of this Ordinance 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 floodwaters;

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 flood waters or which may increase flood hazards to other lands.

(B) **Objectives:**

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

7) To ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

(Amd. of 5-17-07)
2-1.6. - Flood Damage Prevention.

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

(B)  **APPEAL.** A request for a review of the Floodplain Administrator's interpretation of any provision of this Ordinance. (This definition applies only with respect to flood hazard regulations.)

(C)  **BASEMENT.** Any area of the building having its floor subgrade (below ground level) on all sides. (This definition applies only with respect to flood hazard regulations.)

(D)  **BASE FLOOD.** The flood having a one (1) percent chance of being equaled or exceeded in any given year.

(E)  **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".

(F)  **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.

(G)  **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.

(H)  **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. (This definition applies only with respect to flood hazard regulations.)

(I)  **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.

(J)  **FLOOD** or **FLOODING.** A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters; and/or the unusual and rapid accumulation of runoff of surface waters from any source.

(K)  **FLOOD INSURANCE.** The insurance coverage provided under the National Flood Insurance Program.

(L)  **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.

(M)  **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) and Flood Boundary and Floodway Maps (FBFM), if published.

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

(O)
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 Ordinance, prior to the commencement of any development activity.

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

FLOODPLAIN MANAGEMENT REGULATIONS. This Ordinance 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.

FLOODWAY. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

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.

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

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

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

MANUFACTURED HOME. A structure, transportable in one 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". (This definition applies only with respect to flood hazard regulations.)

MANUFACTURED HOME PARK OR SUBDIVISION. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale. (This definition applies only with respect to flood hazard regulations.)
(CC) **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.

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

(EE) **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. (This definition applies only with respect to flood hazard regulations.)

(FF) **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 (1) foot as designated in the Flood Insurance Study report.

(GG) **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.

(HH) **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.

(II) **PRINCIPALLY ABOVE GROUND.** That at least 51% of the actual cash value of the structure is above ground.

(JJ) **RECREATIONAL VEHICLE (RV).** A vehicle, which is:
1) Built on a single chassis;
2) Four hundred (400) square feet or less when measured at the largest horizontal projection;
3) Designed to be self-propelled or permanently towable by a light duty truck; and
4) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

(KK) **REFERENCE LEVEL.** The top of the lowest floor for structures within Special Flood Hazard Areas designated as Zone A1-A30, AE, A, or A99.

(LL) **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 (2) feet of Freeboard. In "Special Flood Hazard Areas" where no BFE has been established, this elevation shall be at least two (2) feet above the highest adjacent grade.

(MM) **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. (This definition applies only with respect to flood hazard regulations.)

(NN) **RIVERINE.** Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.
SPECIAL FLOOD HAZARD AREA (SFHA). The land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year, as determined in Section 7-5.3 (B) of this Ordinance.

(PP) 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. (This definition applies only with respect to flood hazard regulations.)

(QQ) STRUCTURE. A walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground. (This definition applies only with respect to flood hazard regulations.)

(RR) 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 fifty (50) percent 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 ten-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds twenty-five (25) percent of the market value of the structure before the damage occurred. (This definition applies only with respect to flood hazard regulations.)

(SS) 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 fifty (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:

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.

(This definition applies only with respect to flood hazard regulations.)

(TT) 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 Sections 3-3.5 and 7-5.8 is presumed to be in violation until such time as that documentation is provided. (This definition applies only with respect to flood hazard regulations.)

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

*(Amd. of 5-17-07)*
3-3.5. - Floodplain Development Permit.

(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 this section, or a statement that the entire lot is within the Special Flood Hazard Area;
   c) Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Section 7-5.3(B);
   d) The boundary of the floodway(s) or non-encroachment area(s) as determined in Section 7-5.3(B);
   e) The Base Flood Elevation (BFE) where provided as set forth in Sections 7-5.3(B), 9-6.3(11 & 12); or 7-5.9;
   f) The old and new location of any watercourse that will be altered or relocated as a result of proposed development;
   g) Certification of the plot plan by a registered land surveyor or professional engineer.

(2) Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:
   a) Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;
   b) Elevation in relation to mean sea level to which any non-residential structure in Zone AE or A will be flood-proofed; and
   c) Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed;

(3) If floodproofing, a Floodproofing Certificate (FEMA Form 81-65) 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 Ordinance 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 Section 7-5.8(B)(4)(c), when solid foundation perimeter walls are used in Zones A, AE, and A1-30;
(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, Riparian Buffers, Mining, etc.)

(8) Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure Section 7-5.8(B)(6) of this Ordinance 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 description of the development to be permitted under the Floodplain Development Permit.

(2) The Special Flood Hazard Area determination for the proposed development per available data specified in Section 7-5.3(B).

(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 floodplain or non-encroachment area of any watercourse, as applicable.


(8) Limitations of below BFE enclosure uses (if applicable). (i.e., Parking, Building Access and Limited Storage only).

(Amd of 4-21-05; Amd of 5-17-07)
3-8.4. - Certificate of Floor Elevation/Floodproofing.

(A) Elevation Certificates:
(1) An Elevation Certificate (FEMA Form 81-31) 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 certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit.

(2) An Elevation Certificate (FEMA Form 81-31) is required after the reference level is established. Within seven (7) 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 (7) 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.

(3) A final as-built Elevation Certificate (FEMA Form 81-31) 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 applicant 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.

(B) Floodproofing Certificate. If non-residential floodproofing is used to meet the regulatory flood protection elevation requirements, a Floodproofing Certificate (FEMA Form 81-65), with supporting data and an operational plan, 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 floodproofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. 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 and 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.

(C) If a manufactured home is placed within Zone A, AE, or A1-30 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required per Section 7-5.8(B)(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.

(E) Certification Exemptions. The following structures, if located within Zone A, AE or A1-30, are exempt from the elevation/floodproofing certification requirements specified in items (A) and (B) of this subsection:

1. Recreational Vehicles meeting requirements of Section 7-5.8(B)(6);
2. Temporary Structures meeting requirements of Section 7-5.8(B)(7); and
3. Accessory Structures less than 150 square feet meeting requirements of Section 7-5.8(B)(8).

(Amd of 5-17-07)
7-5. - FLOOD DAMAGE PREVENTION


7-5.2. - Findings of Fact.

7-5.3. - General Provisions.

7-5.4. - Establishment of Floodplain Development Permit.

7-5.5. - Compliance.

7-5.6. - Warning and Disclaimer of Liability.

7-5.7. - Floodplain Development Application, Permit and Certification Requirements.

7-5.8. - Provisions for Flood Hazard Reduction.

7-5.9. - Standards for Floodplains without Established Base Flood Elevations.

7-5.10. - Standards for Riverine Floodplains with BFE but Without Established Floodways or Non-Encroachment Areas.

7-5.11. - Floodways and Non-Encroachment Areas.


(A) Statutory Authorization: The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3 and 4 of Article 18 of Chapter 153A; and Part 121, Article 6 of Chapter 153A 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) Legal Status Provisions:

(1) 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 on November 19, 1990, 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 unincorporated areas of Guilford County enacted on November 19, 1990, as amended, which are not reenacted herein are repealed.

(2) 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.

(3) Effective Date: This Ordinance shall become effective upon adoption.

(A) **Purpose:** It is the purpose of this Ordinance 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 floodwaters;
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 flood waters or which may increase flood hazards to other lands.

(B) **Objectives:**

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) To help maintain a stable tax base by providing for the sound use and development of flood prone areas; and
7) To ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

*(Amend. of 5-17-07)*
7-5.2. - Findings of Fact.

(A) The flood prone areas within the jurisdiction of unincorporated Guilford County 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.

(B) 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.

7-5.3. - General Provisions.

ZONE AE (Includes Floodway and Fringe)
*1% Annual Chance Floodplain

*FLOODWAY or NON-ENCROACHMENT AREA
No structures or filing permitted.

*FLOODWAY FRINGE
Finished floor elevation of buildings must be two (2) foot above base flood line elevation.

*Fill material may be placed in the fringe as long as it does not encroach on the FLOODWAY.

ZONE X (Shaded)
* 0.2% Annual Chance Floodplain
*This area is not regulated by the Flood Hazard Section of this Ordinance.

ZONE X
*Upland area
*This area is determined to be outside the 0.2% Annual Chance Floodplain.

(A) Lands to Which this Ordinance Applies: This Ordinance shall apply to all Special Flood Hazard Areas within unincorporated Guilford County. Bona fide farms are not exempt from the provisions of this Ordinance regulating development in floodways and floodplains as required for participation in the National Flood Insurance Program.
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 Flood Insurance Study (FIS) and its accompanying Flood Insurance Rate Maps (FIRM), for Guilford County, dated June 18, 2007 which are adopted by reference and declared to be a part of this Ordinance.

(Amd. of 5-17-07)

7-5.4. - Establishment of Floodplain Development Permit.

A Floodplain Development Permit shall be required in conformance with the provisions of this Ordinance prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with Section 7-5.3(B) of this Ordinance.

(Amd. of 5-17-07)

7-5.5. - 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 Ordinance and other applicable regulations.

(Amd. of 5-17-07)

7-5.6. - 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. Actual flood heights may be increased by man-made 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 Guilford County or by any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made hereunder.

(Amd. of 5-17-07)

7-5.7. - Floodplain Development Application, Permit and Certification Requirements.

(A) Application for Permit: On a property containing an area of Special Flood Hazard, application for a Flood Plain Development Permit shall be made in accordance with Section 3-3.5 (Flood Plain Development Permit).

(B) Certificate of Floor Elevation/Floodproofing: When a property is located in a Flood Hazard Area or when a structure is floodproofed, a certificate shall be provided in accordance with Section 3-8.4 (Certificate of Floor Elevation/Floodproofing).

(Amd. of 5-17-07)

7-5.8. - Provisions for Flood Hazard Reduction.

(A) General Standards: In all Special Flood Hazard Areas the following provisions are required:
1) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.

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

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

4) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, appliances (washers, dryers, refrigerators, freezers, etc.), hot water heaters, and electric outlets/switches.

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

6) 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.

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

8) Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the provisions of this Ordinance, shall meet the requirements of "new construction" as contained in this Ordinance.

9) Nothing in this Ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this Ordinance 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 Ordinance.

10) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in Section 9-5.9 (J). A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the Regulatory Flood Protection Elevation and certified according to Section 3-8.4 of this Ordinance.

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

12) 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.

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

14) 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.

15) Permitted Uses. The following uses shall be permitted below flood protection elevation within the floodway fringe zone to the extent that they are otherwise permitted by this Ordinance:
   a) Any use as permitted and regulated in the floodway zone.
   b) Fill material graded to drain, provided such is protected against erosion. Any fill material on which a structure is to be located shall be extended at grade ten (10) feet beyond the limits of the structure foundation, and shall have a side slope no steeper than two (2) feet horizontal to one (1) foot vertical.

(B) Specific Standards: In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in Section 7-5.3(B), or Section 9-7.3 (11 & 12), the following provisions, in addition to Section 7-5.8(A), are required:
   1) 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 Section 2-1.6 of this Ordinance.
   2) 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 Section 2-1.6 of this Ordinance. Structures located in A, AE and A1-30 Zones may be floodproofed to the Regulatory Flood Protection Elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the Regulatory Flood Protection Elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Section 3-8.4, along with the operational and maintenance plans.
   3) Manufactured Homes.
      a) New or replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the Regulatory Flood Protection Elevation, as defined in Section 2-1.6 of this Ordinance.
      b) 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 NCGS 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.
      c) All enclosures or skirting below the lowest floor shall meet the requirements of Section 7-5.8 (B)(4)(a), (b), and (c).
d) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management coordinator.

4) Elevated Buildings. Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:
   a) Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;
   b) Shall be constructed entirely of flood resistant materials to the top of any enclosure below the lowest floor;
   c) Shall include, in Zones A, AE, and A1-30, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:
      i) A minimum of two (2) flood openings on different sides of each enclosed area subject to flooding;
      ii) The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;
      iii) If a building has more than one (1) enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
      iv) The bottom of all required flood openings shall be no higher than one (1) foot above the adjacent grade;
      v) 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
      vi) Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

5) Additions/Improvements.
   a) Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
      i) Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.
      ii)
A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

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

c) 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:
   i) Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.
   ii) A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

d) 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.

6) **Recreational Vehicles.** Recreational vehicles shall either:
   a) Be on site for fewer than one hundred eighty (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
   b) Meet all the requirements for new construction.

7) **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;
   a) A specified time period for which the temporary use will be permitted. Time specified may not exceed three months, renewable up to one year;
   b) The name, address, and phone number of the individual responsible for the removal of the temporary structure;
   c) The time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
   d) A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and
   e) Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.

8) **Accessory Structures.** When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:
   a)
Accessory structures shall not be used for human habitation (including 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 Section 7-5.8(A)(1);

f) All service facilities such as electrical shall be installed in accordance with Section 7-5.8(A)(4); and

g) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below Regulatory Flood Protection Elevation in conformance with Section 7-5.8(B)(4)(c).

An accessory structure with a footprint less than one hundred fifty (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 Section 3-8.4.

(Amd. of 5-17-07)

7-5.9. - Standards for Floodplains without Established Base Flood Elevations.

(A) Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Section 7-5.3(B), where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to Section 7-5.8(A) and (B), shall apply:

No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five (5) times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(B) The BFE used in determining the Regulatory Flood Protection Elevation shall be determined based on one of the following criteria set in priority order:

1) If Base Flood Elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this Ordinance and shall be elevated or floodproofed in accordance with standards in Section 9-7.3 (11 & 12).

2) All subdivision, manufactured home park and other development proposals shall provide Base Flood Elevation (BFE) data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such Base Flood Elevation (BFE) data shall be adopted by reference per Section 7-5.3(B) to be utilized in implementing this Ordinance.

3) When Base Flood Elevation (BFE) data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated to or above the Regulatory Flood Protection Elevation, as defined in Section 2-1.6

(Amd. of 5-17-07)
7-5.10. - Standards for Riverine Floodplains with BFE but Without Established Floodways or Non-Encroachment Areas.

Along rivers and streams where BFE data is provided but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

(A) Standards outlined in Sections 7-5.8(A) and (B); and
(B) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(75.10.07)

7-5.11. - Floodways and Non-Encroachment Areas.

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Section 7-5.3(B). The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Sections 7-5.8(A) and (B), shall apply to all development within such areas:

(A) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless it has been demonstrated that:
   1) The proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of Floodplain Development Permit, or
   2) A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained upon completion of the proposed encroachment.

(B) If Section 7-5.11(A) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this Ordinance.

(C) No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:
   1) The anchoring and the elevation standards of Section 7-5.8(B)(3); and
   2) The no encroachment standard of Section 7-5.11(A).

(D) Permitted Uses: The following uses shall be permitted within the floodway zone to the extent that they are otherwise permitted by this Ordinance and provided that they do not employ structures or fill except as specified herein:
   1)
General farming, pasture, outdoor plant nurseries, horticulture, forestry, wildlife sanctuary, game farm, and other similar agricultural, quarrying, wildlife and related uses;  
2) Ground level loading areas, ground level automobile parking areas, rotary aircraft ports and other similar industrial and commercial uses;  
3) Tractor-trailer parking, provided that no trailers shall be detached from tractors;  
4) Lawns, gardens, play areas, and other similar uses;  
5) Golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, parks, swimming pools, hiking or horseback riding trails, open space and other similar private and public recreational uses;  
6) Streets, bridges, utility lines, storm drainage facilities, sewage or waste treatment facilities, water supply facilities, and other similar public or private utility uses, but only if the proposed activity combined with the allowable encroachment of the floodway fringe and with any previously placed or previously approved encroachment in the complies with the provisions of Section 7-5.11(A);  
7) Temporary facilities such as displays, circuses, carnivals, or similar transient amusement enterprises;  
8) Boat docks, ramps, piers, or similar structures;  
9) Grading, as it complies with the provisions of Section 7-5.11(A); and  
10) Cantilevered portions of structures, provided that foundation and supports are located outside the floodway zone and the underside of the cantilevered portion is at least two (2) feet above Base Flood Elevation.

(E) Prohibited Uses: Storage or processing of materials that are flammable, corrosive, toxic, or explosive, or which could otherwise be injurious to human, animal or plant life in time of flood is prohibited in the floodway zone.

(Amd. of 5-17-07)

FOOTNOTE(S):

(2) Editor's note—An amendment adopted May 17, 2007, amended 7-5 in its entirety to read as herein set out. Former 7-5, §§ 7-5.1—7-5.7, pertained to similar subject matter, and derived from development ordinance adopted January 1, 1992; Amd. of 4-21-05; Case No. 5-06, 1-8-07. (Back)
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### Article VIII - ENFORCEMENT

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#### 8-1. - VIOLATIONS

Any of the following shall be a violation of this Ordinance and shall be subject to the enforcement remedies and penalties provided by this Article and by state law.

- 8-1.1. - Development Without Permit.
- 8-1.2. - Development Inconsistent With Permit.
- 8-1.3. - Violation by Act or Omission.
- 8-1.4. - Use in Violation.
- 8-1.5. - Subdivide in Violation.
- 8-1.6. - Continue a Violation.

#### 8-1.1. - Development Without Permit.

To engage in any development, use, construction, remodeling or other activity of any nature upon the land or improvements thereon subject to the jurisdiction of this Ordinance without all required permits, certificates or other forms of authorization as set forth in this Ordinance.

#### 8-1.2. - Development Inconsistent With Permit.

To engage in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with any approved plan, permit, certificate, or other form of authorization granted for such activity.

#### 8-1.3. - Violation by Act or Omission.
To violate, by act or omission, any term, variance or waiver, condition, or qualification placed by the governing body or its agent boards upon any required permit, certificate or other form of authorization for the use, development or other activity upon land or improvements thereon.

8-1.4. - Use in Violation.

To erect, construct, reconstruct, alter, repair, convert, maintain or use any building or structure or to use any land in violation or contravention of this Ordinance, or any other regulation made under the authority conferred thereby.

8-1.5. - Subdivide in Violation.

To subdivide land in violation of this Ordinance or transfer or sell land by reference to, exhibition of, or any other use of a plat or map showing a subdivision of the land before the plat or map has been properly approved under this Ordinance and recorded in the Office of the Register of Deeds. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land does not exempt the transaction from violation of this Ordinance.

8-1.6. - Continue a Violation.

Each day's violation of any provision of this Ordinance is a separate and distinct offense.

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8-2. - ENFORCEMENT INTENT

8-2.1. - Questions.

It is the intention of this Ordinance, unless otherwise provided, that all questions arising in connection with the enforcement of this Ordinance shall be presented first to the Enforcement Officer and that such questions shall be presented to the Board of Adjustment only on appeal from the Enforcement Officer's decision. An appeal from the decision of the Board of Adjustment shall be by proceedings in the nature of certiorari to the Superior Court as provided by law.

8-2.2. - Governing Body.

It is further the intention of this Ordinance that the duties of the Governing Body in connection with this Ordinance shall not include the hearing and passing upon disputed questions that may arise in connection with the enforcement thereof.
8-3. - ENFORCEMENT PROCEDURE

When the Enforcement Officer or his agent finds a violation of this Ordinance, it shall be his duty to notify the owner or occupant of the land, building, structure, sign, or use of the violation. The owner or occupant shall immediately remedy the violation.

8-3.1. - Notice of Violation.

8-3.2. - Appeal.

8-3.3. - Order of Corrective Action.

8-3.4. - Failure to Comply with an Order.

8-3.1. - Notice of Violation.

If the owner or occupant of the land, building, sign, structure, or use in violation fails to take prompt corrective action, the Enforcement Officer shall give the owner or occupant written notice, by certified or registered mail to his last known address, or by personal service or by posting notice of the violation conspicuously on the property:

(A) That the land, building, sign, structure, or use is in violation of this Ordinance;
(B) The nature of the violation, and citation of the section of this ordinance violated; and
(C) The measures necessary to remedy the violation.

8-3.2. - Appeal.

Any owner or occupant who has received a Notice of Violation may appeal in writing the decision of the Enforcement Officer to the Board of Adjustment (unless this Ordinance has specified that another board shall hear the appeal of the violation) within fifteen (15) days following the date of the Notice of Violation. The Board of Adjustment, or other designated board, shall hear an appeal within a reasonable time, and it may affirm, modify, or revoke the Notice of Violation. In the absence of an appeal, the remedies and penalties sought by the Enforcement Officer in the Notice of Violation shall be final.

8-3.3. - Order of Corrective Action.

If upon a hearing held pursuant to an appeal as prescribed above, the Board of Adjustment shall find that the owner or occupant is in violation of this Ordinance, the Board of Adjustment shall make an order in writing to the owner or occupant affirming the violation and ordering compliance.

8-3.4. - Failure to Comply with an Order.

If the owner or occupant of a property fails to comply with a Notice of Violation from which no appeal has been taken, or an Order of Corrective Action following an appeal, the owner or occupant shall be subject to such remedies and penalties as may be provided for by
state law and Section 8-4 (Remedies). If the owner or occupant fails to comply with the remedies and penalties prescribed, enforcement shall be sought through an order of a court of competent jurisdiction.

**Guilford County, North Carolina, Development Ordinances >> SUPPLEMENT HISTORY TABLE >> Article VIII - ENFORCEMENT >> 8-4. - REMEDIES**

**8-4. - REMEDIES**

Anyone or all of the following procedures may be used to enforce the provisions of this Ordinance.

8-4.1. - Injunction.
8-4.2. - Civil Penalties.
8-4.3. - Denial of Permit or Certificate.
8-4.4. - Conditional Permit or Temporary Certificate.
8-4.5. - Stop Work Orders.
8-4.6. - Revocation of Permits.
8-4.7. - Criminal Penalties.

**8-4.1. - Injunction.**

Any violation of this Ordinance or of any condition, order, or requirement, or remedy adopted pursuant hereto may be restrained, corrected, abated, mandated, or enjoined by other appropriate proceeding pursuant to state law.

**8-4.2. - Civil Penalties.**

Any person who violates any provisions of this Ordinance shall be subject to the assessment of a civil penalty under the procedures provided in Section 8-5 (Civil Penalties—Assessments and Procedures).

**8-4.3. - Denial of Permit or Certificate.**

The Enforcement Officer may withhold or deny any permit, certificate, occupancy or other form of authorization on any land, building, sign, structure or use in which there is an uncorrected violation of a provision of this Ordinance or of a condition or qualification of a permit, certificate or other authorization previously granted.

**8-4.4. - Conditional Permit or Temporary Certificate.**

The Enforcement Officer may condition the authorization of any permit or certificate upon the correction of the deficiency, payment of civil penalties within a specified time, or the posting of a compliance security approved by appropriate governmental authority.

**8-4.5. - Stop Work Orders.**
Whenever a building, sign, or structure, or part thereof is being constructed, reconstructed, altered or repaired in violation of this Ordinance, the Enforcement Officer may order the work to be immediately stopped. The stop order shall be in writing and directed to the owner, occupant, or 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. Such action shall be in accordance with NCGS 160A-421 or 153A-361, as applicable, or the NC Building Code.

8-4.6. - Revocation of Permits.

The Enforcement Officer may revoke and require the return of a permit by notifying the permit holder in writing stating the reason for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; 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.

8-4.7. - Criminal Penalties.

Any violation of this Ordinance shall be a misdemeanor or infraction as provided by NCGS 14-4, subject to a maximum fine of five hundred dollars ($500.00).
action, a civil penalty may be imposed under this Section in the form of a citation. The citation shall be served in the manner of a Notice of Violation. The citation shall state the nature of the violation, the civil penalty to be imposed upon the violator and shall direct the violator to pay the civil penalty within fifteen (15) days of the date of the notice.

8-5.3. - Responsible Parties.

The owner or occupant of any land, building, structure, sign, or use of land or part thereof and any architect, builder, contractor, agent or any other person who participates or acts in concert, assists, directs, creates, or maintains any condition that is in violation of the requirements of this Ordinance may be held responsible for the violation and subject to the civil penalties and remedies herein provided.

8-5.4. - Continuing Violation.

For each day the violation is not corrected, the violator will be guilty of an additional and separate offense and subject to additional civil penalty.

8-5.5. - Demand for Payment.

The Enforcement Officer shall make written demand for payment upon the property owner or the person in violation, and shall set forth in detail a description of the violation for which the civil penalty has been imposed.

8-5.6. - Nonpayment.

If payment is not received or equitable settlement reached within thirty (30) days after demand for payment is made, the matter shall be referred to legal counsel for institution of a civil action in the appropriate division of the General Courts of Justice for recovery of the civil penalty. Provided, however, if the civil penalty is not paid within the time prescribed, the Enforcement Officer may have a criminal summons or warrant issued against the violator. Upon conviction, the violator shall be subject to any criminal penalty the court may impose pursuant to NCGS 14-4.
8-6.1. - General.

Any person who violates any provisions of Section 7-4 (Soil Erosion and Sedimentation Control), or the Act, or rules or orders adopted or issued pursuant to this Ordinance, or who initiates or continues a land-disturbing activity for which an erosion and sedimentation control plan is required, or not in accordance with the terms, conditions, and provisions of an approved erosion and sedimentation control plan, shall be subject to a civil penalty. No civil penalty shall accrue in excess of five hundred dollars ($500.00) per day, in addition to the penalty for failure to submit an erosion and sedimentation control plan as provided in Section 8-6.5 (Erosion and Sedimentation Control Plan).

8-6.2. - Notice of Violation.

No penalty shall be assessed until the person alleged to be in violation has been notified of the violation by registered or certified mail, return receipt requested, or other means reasonably calculated to give actual notice. The notice shall describe the violation with reasonable particularity, set forth the measures necessary to achieve compliance with the plan, specify a reasonable time period within which the violation must be corrected, and warn that failure to correct the violation within the time period will result in the assessment of a civil penalty or other enforcement action. If, after the allotted time period has expired, the violator has not completed corrective action, a civil penalty may be assessed from the date of receipt of the notice of violation. However, no time period for compliance need be given for failure to submit a soil erosion and sedimentation control plan for approval or for obstructing, hampering or interfering with an authorized representative while in the process of carrying out his official duties. Each day of continuing violation shall constitute a separate violation.

8-6.3. - Notice of Assessment.

The Enforcement Officer shall determine the amount of the civil penalty to be assessed under this subsection, shall make written demand for payment upon the person in violation, and shall set forth in detail a description of the violation for which the penalty has been imposed. In determining the amount of the penalty the Enforcement Officer shall consider the degree and extent of harm caused by the violation and the cost of rectifying the damage. Notice of the assessment shall be by registered or certified mail or other means reasonably calculated to give actual notice. If payment is not received or equitable settlement reached within thirty (30) days after demand for payment is made, the matter shall be referred to the Guilford County attorney for institution of a civil action in the appropriate division of the General Courts of Justice for recovery of the penalty. Such civil actions must be filed within three (3) years of the date the final decision was served on the violator.

8-6.4. - Specific Civil Penalties.

Civil penalties for specific violations of Section 7-4 (Soil Erosion and Sedimentation Control) shall be assessed as follows:

(A) **Grading Without Permit:** Five hundred dollars ($500.00) per day for failure to secure a valid grading permit prior to conducting a land-disturbing activity for which a soil erosion and sedimentation control plan is required.

(B)
Failure to Protect: Five hundred dollars ($500.00) per day for failure to take all reasonable measures to protect public property, or private property, including lakes and/or natural watercourses, from damage caused by land-disturbing activities.

(C) Failure to Follow Plan: Three hundred dollars ($300.00) per day for failure to conduct a land-disturbing activity in accordance with the provisions of an approved erosion and sedimentation control plan.

(D) Failure to Install Devices: Five hundred dollars ($500.00) per day for failure, when more than one (1) acre is disturbed (two hundred fifty dollars ($250.00) per day when one (1) acre or less is disturbed), to install erosion and sedimentation control devices sufficient to retain the sediment generated by the land-disturbing activity within the boundaries of the tract(s) and prevent off-site sedimentation.

(E) Failure to Maintain Measures: Three hundred dollars ($300.00) per day for failure to maintain satisfactory erosion and sedimentation control measures, structures and/or devices on the site that are designed to provide protection from the calculated maximum peak rate of runoff from the ten-year storm or the twenty-five-year storm in a High Quality Storm (HQW) zone.

(F) Failure to Maintain Temporary Measures: Two hundred fifty dollars ($250.00) per day for failure to maintain temporary erosion and sedimentation control measures and facilities during the development of the site.

(G) Failure to Maintain Slopes: Two hundred fifty dollars ($250.00) per day for failure on graded slopes and fills to maintain an angle sufficient to retain vegetative cover or other adequate erosion and sedimentation control devices or structures.

(H) Failure to Cover Slopes: Two hundred fifty dollars ($250.00) per day for failure within thirty (30) days of completion of any phase of grading to plant or otherwise provide exposed, graded slopes or fills with ground cover, devices, or structures sufficient to restrain erosion.

(I) Failure to Plant Cover: Two hundred fifty dollars ($250.00) per day for failure on a tract when more than one (1) acre is disturbed, to plant or otherwise provide ground cover sufficient to restrain erosion within thirty (30) working days or one hundred twenty (120) calendar days, fifteen (15) working days or sixty (60) calendar days in High Quality Water Zones, whichever is the shorter, following completion of construction or development.

(J) Failure to Revise Plan: Two hundred fifty dollars ($250.00) per day for failure to file an acceptable, revised erosion and sedimentation control plan after being notified of the need to do so.

(K) Failure to Maintain Buffer: Two hundred fifty dollars ($250.00) per day for failure to retain a buffer zone of sufficient width along a lake or natural watercourse to confine visible siltation within the twenty-five (25) percent of the buffer zone nearest the land-disturbing activity.

(L) Interference with Official Duties: Five hundred dollars ($500.00) per day for obstructing, hampering, or interfering with any authorized agent of the Jurisdiction or the Sedimentation Control Commission while in the process of carrying out his official duties.

(M) Failure to Provide Control: Two hundred fifty dollars ($250.00) per day for failure to install or maintain erosion control devices, or prevent off-site sedimentation on sites of land-disturbing activity not requiring a grading permit and with disturbed area of less than one (1) acre.
8-6.5. - Erosion and Sedimentation Control Plan.

Any person who fails to submit an erosion and sedimentation control plan as required by this Ordinance shall be subject to a single, noncontinuing civil penalty of not more than one thousand dollars ($1,000.00). Any person may be subject to additional civil penalties for violation of any other provision of this Ordinance or rules or orders adopted or issued pursuant to this Ordinance.

8-6.6. - Civil Penalty Use.

Civil penalties collected for erosion and sedimentation control violations shall be used or disbursed as directed by NCGS 113A-64(a).

Guilford County, North Carolina, Development Ordinances >> - SUPPLEMENT HISTORY TABLE >> Article VIII - ENFORCEMENT >> 8-7. - CRIMINAL PENALTY—SOIL EROSION AND SEDIMENTATION CONTROL

8-7. - CRIMINAL PENALTY—SOIL EROSION AND SEDIMENTATION CONTROL

Any person who knowingly or willfully violates any soil erosion and sedimentation control provisions of this Ordinance, or rule or order adopted or issued pursuant to the soil erosion and sedimentation control provisions, or who knowingly or willfully initiates or continues a land-disturbing activity for which an erosion and sedimentation control plan is required, except in accordance with the terms, conditions, and provisions of an approved plan, shall be guilty of a misdemeanor punishable by imprisonment not to exceed ninety (90) days, or by a fine not to exceed five thousand dollars ($5,000.00), or both.

Guilford County, North Carolina, Development Ordinances >> - SUPPLEMENT HISTORY TABLE >> Article VIII - ENFORCEMENT >> 8-8. - INJUNCTIVE RELIEF—SOIL EROSION AND SEDIMENTATION CONTROL

8-8. - INJUNCTIVE RELIEF—SOIL EROSION AND SEDIMENTATION CONTROL

Whenever the Enforcement Officer has reasonable cause to believe that any person is violating or threatening to violate this Ordinance or any rule or order adopted or issued pursuant to this Ordinance, or any term, condition, or provision of an approved soil erosion and sedimentation control plan the Enforcement Officer may, either before or after the institution of any other action or proceeding authorized by this Ordinance, institute a civil action in the name of the Jurisdiction, for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the Superior Court of Guilford County. Upon determination by a court that an alleged violation is occurring or is threatened, it shall enter such orders or judgements as are necessary to abate the violation or to prevent the threatened violation. The institution of an action for injunctive relief under this Section shall not relieve any party to such proceedings from any civil or criminal penalty prescribed for violations of this Ordinance.
8-9. - OTHER POWERS AND ACTIONS

In addition to other enforcement provisions contained in this Article, the Governing Body may exercise any and all enforcement powers granted to it by state law or common law.

8-9.2. - Previous Enforcement.
Nothing in this Ordinance shall prohibit the continuation of previous enforcement actions.

8-10. - REMEDIES CUMULATIVE AND CONTINUOUS

8-10.1. - Cumulative Violations.
All such remedies provided herein shall be cumulative. To the extent that North Carolina law may limit the availability of a particular remedy set forth herein for a certain violation or a part thereof, such remedy shall remain available for other violations or other parts of the same violation.

8-10.2. - Repeat Violations.
If an owner or occupant repeats the same violation within a five (5) year period from the date of the initial violation, it shall be considered to be a continuation of the initial violation and shall be subject to additional penalties and remedies.
8-11. - ACTION BY OTHERS

8-11.1. - Adjacent or Neighboring Property.
8-11.2. - Land Purchaser.

8-11.1. - Adjacent or Neighboring Property.

In addition to the remedies of the local government hereunder, if any building or structure is erected, constructed, reconstructed, repaired, converted or maintained, or any building, structure or land is used in violation of this Ordinance, any other appropriate authority or any adjacent, nearby or neighboring property owner who would be affected by such violation may institute injunction, mandamus or other appropriate action or proceeding to prevent the occupancy of such building, structure or land, or the continuance of any construction whatsoever in violation of this Ordinance.

8-11.2. - Land Purchaser.

In the event that a purchaser buys land for which there is a surety to secure performance of improvements, after a period of two (2) years has passed since the date of Final Plat recordation, the purchaser may bring action to enforce completion of the improvements. In such a case, the purchaser may seek specific performance.
9-5. - BOARD OF ADJUSTMENT

9-5.1. - Authority.

A Board of Adjustment is hereby established pursuant to NCGS 160A-338 or 153 A-345.

9-5.2. - Membership.

(A) Number of Members: The Board of Adjustment shall consist of at least five (5) members and may have alternates as appointed by the Governing Body.

(B) Governing Body Serving as Board of Adjustment: If the Governing Body chooses not to appoint members to the Board of Adjustment, it shall sit as the Board of Adjustment subject to the provisions of this Ordinance.

(C) Powers and Duties: The Board of Adjustment shall have the following powers and duties:

1) To hear and decide appeals from and review any order, requirement, decision, determination, or interpretation made by an administrative official charged with enforcing this Ordinance;

2) To review appeals from the proceedings of the Historic Preservation Commission concerning the issuance of a Certificate of Appropriateness, limited to certiorari;

3) To hear and decide any exceptions which are specifically delegated to it by this Ordinance;

4) To determine and vary application of zoning regulations in harmony with their general purpose and intent and in accordance with general and specific rules contained therein;

5) To hear and decide appeals for variances from the zoning provisions of this Ordinance in cases where special conditions would make strict and literal interpretation and enforcement of the zoning provisions of this Ordinance result in a loss of privileges shared by other properties within the same zoning district;

6) To interpret zoning maps and pass upon disputed questions of district boundary lines and similar questions that may occur in the administration of the Ordinance;
7) To hear and decide all matters referred to it or upon which it is required to pass under this Ordinance; and
8) To determine upon application of an owner or upon referral from the Enforcement Officer whether a proposed nonconforming use is equal or less intensive than an existing, legal nonconforming use, in accordance with Section 3-14.2 (Nonconforming Use of Land).

9-5.3. - Voting.

(A) Required Vote for Approval: A four-fifths (4/5) vote of its members shall be required for a Board of five (5) members to:
1) Affirm or reverse any order, wholly or partly; modify a requirement, decision, determination or interpretation; of an administrative officer charged with enforcing this Ordinance;
2) Decide in favor of the applicant on a matter upon which the Board is required to pass under this Ordinance;
3) Grant a variance from the provisions of the Ordinance; or
4) Grant special exceptions for Historic Districts and other purposes as assigned.

(B) Vote of the Chairman: The Board chairman shall vote as any other Board member.

(C) Delay of Decision: The Board may, in its discretion, direct that its decision be delayed to a date or time subsequent to the Board's vote on an appeal.

9-5.4. - Court Review.

(A) Appeal to Superior Court: Each decision of the Board shall be subject to Superior Court review by proceedings in the nature of certiorari.

(B) Timing of Appeal:
1) Any petition for review by the Superior Court shall be filed with the Clerk of Superior Court within thirty (30) days after the decision of the Board is filed in the Planning or Building Inspections Department; or
2) After a written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the Secretary or Chairman of the Board at the time of its hearing of the case, whichever is later.

9-5.5. - Notice of Decision.

The decision of the Board may be delivered to the aggrieved party either by personal service or by registered mail return receipt requested.

9-5.6. - Oaths.

The Chairman of the Board or any member temporarily acting as Chairman, shall administer oaths to witnesses in any matter coming before the Board.

9-5.7. - Appeals To The Board.

(A) Appeal Eligibility: Any person aggrieved or any officer, department, board, or bureau of the Jurisdiction may make an appeal.
1)
Appeals shall be made within the time prescribed by the Board by general rule, by filing with the officer from whom the appeal is taken and with the Board a notice of appeal, specifying the grounds thereof.

2) The officer from whom the appeal is taken shall forthwith transmit to the Board all papers constituting the record from which such action was taken.

(B) Effect of Appeal: An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board, after notice of appeal has been filed with him, that because of facts stated in the certificate a stay would, in the officer's opinion, cause imminent peril to life or property or that because the violation charged is transitory in nature a stay would seriously interfere with enforcement of this Ordinance.

(C) Effect of Certification: If certification occurs in accordance with Section 9-5.7(B) (Effect of Appeal), proceedings may not be stayed except by a restraining order, which may be granted by a court of competent jurisdiction. Notice of the restraining order shall be given in writing to the officer from whom the appeal is taken.

(D) Notice of Hearing: The Board shall fix a reasonable time for hearing the appeal, give due notice of the appeal to the parties, and decide the appeal within a reasonable time.

(E) Action of Board: The Board may reverse or affirm, in whole or in part, or may modify the order, requirement, decision, or determination or interpretation appealed from, and shall make any order, requirement, decision, determination or interpretation that in the Board's opinion ought to be made under the circumstances.

(F) Conditions of Rehearing: The Board shall not be required to hear an appeal or application previously denied if it finds that there has been no substantial change in conditions or circumstances bearing on the appeal or application.

9-5.8. - Variances.

(A) Application: An application for a variance shall be submitted in writing to the Board by filing a copy of the application with the Enforcement Officer.

(B) Procedure: The Board shall:

1) Fix a reasonable time for holding a public hearing on the variance request;
2) Give notice of the variance request as prescribed in Section 9-1.2 (Notice); and
3) Decide the variance request within a reasonable time.

(C) Grounds for Variance:

1) The Board shall make findings of fact that the requirements of Section 9-5.8 (D) (Granting of Variance) have been met by the applicant.
2) The variance requested is the minimum variance that will make possible the reasonable use of the land, building or structure. The fact that property may be utilized for greater profit, however, will not be considered adequate to justify the granting of a variance.
3) The Board shall not, under any circumstances, grant a variance to permit a use or density not otherwise permitted by this Ordinance in the zoning district involved.
4) Neither the nonconforming use of lands, buildings or structures in the same zoning district, nor the permitted use of lands, buildings or structures in other zoning districts shall be considered as grounds for the issuance of a variance.
Furthermore, mere financial hardship does not constitute grounds for the granting of a variance.

5) A variance may be granted where a building permit has been issued and, due to unintentional error of the Enforcement Officer in determining the location of the structure on the property, there is a minimal violation of the dimensional requirements, provided that such relief may be granted without substantially impairing the purpose and intent of this Ordinance.

(D) **Granting of Variance:** A variance may be granted by the Board if evidence presented by the applicant persuades it to reach the following conclusions:

1) There are practical difficulties or unnecessary hardships that would result from in the way of carrying out the strict letter of this Ordinance. The Board may reach this conclusion if it finds that:
   a) The applicant complies with the provisions of this Ordinance, he can make no reasonable use of his property;
   b) The hardship of which the applicant complains results from unique circumstances related to the applicant's property;
   c) The hardship relates to the applicant's property, rather than personal circumstances; and
   d) The hardship is not the result of the applicant's own actions.

2) The variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit.

3) The granting of the variance assures the public safety and welfare and does substantial justice.

(E) **Conditions:** In granting a variance, the Board may prescribe such reasonable and appropriate conditions and safeguards as will assure that the use of the property to which the variance applies will be compatible with surrounding properties and will not alter the essential character of the neighborhood.

1) Violations of such conditions and safeguards, when a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance.

2) A variance granted subject to a condition shall be permitted only so long as there is compliance with the condition.

3) If a violation of a condition of a variance occurs, the Enforcement Officer may revoke the Certificate of Occupancy.

4) In the event that any such condition is held invalid, for any reason, such holding shall have the effect of invalidating the variance granted and shall render the variance null and void.

(F) **Duration:** The variance may be issued for an indefinite duration or for a specified duration only. Unless otherwise specified, construction or operation shall be commenced within twelve (12) months of the date of issuance of a variance, or the variance shall become void.

*(Amd. of 8-8-03)*

**9-5.9. - Flood Hazard Appeals.**

(A) **Authority:** The Board of Adjustment, as established by Guilford County, hereinafter referred to as the "appeal board", shall hear and decide requests for variances from the requirements of this Ordinance.
(B) Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.

(C) Appeal and Variance Considerations: In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Ordinance, 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 Section 2-1.6 of this Ordinance as a functionally dependant 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.

(D) Granting of Variances:

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 dependant facilities if determined to meet the definition as stated in Section 2-1.6 of this Ordinance, provided provisions of Sections 9-5.9(I)(1), (2), and (3) 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.

(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 Ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Ordinance.

(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 twenty-five dollars ($25.00) per one hundred dollars ($100.00) 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.

(J) A variance may be issued for solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met.

1. The use serves a critical need in the community.

2. No feasible location exists for the use outside the Special Flood Hazard Area.

3. The reference level of any structure is elevated or floodproofed to at least the Regulatory Flood Protection Elevation.

4. The use complies with all other applicable Federal, State and local laws.

5. The County of Guilford 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.

(Amd of 4-21-05; Amd. of 5-17-07)