

**LENOIR CITY COUNCIL
TUESDAY, MARCH 5, 2024
6:00 P.M.**

- PRESENT:** Mayor Joe Gibbons presiding. Councilmembers present were Jonathan Beal, Ike Perkins, Todd Perdue, Ralph Prestwood, Kimmie Rogers, Crissy Thomas, City Manager Scott Hildebran, City Clerk Shirley Cannon and Attorney David Lackey filling in for City Attorney Timothy Rohr.
- ABSENT:** Mayor Pro-Tem David Stevens and City Attorney Timothy Rohr.
- CITY STAFF:** In attendance was Finance Director Donna Bean, Fire Chief Norman Staines, Assistant Fire Chief Kenny Nelson, Police Major Andy Wilson, Planning Director Hannah Williams, and Parks & Recreation Director Phil Harper.

I. CALL TO ORDER

- A. The meeting was opened by a moment of silence and the pledge of allegiance as led by Mayor Gibbons.

II. MATTERS SCHEDULED FOR PUBLIC HEARINGS

**ORDINANCE AMENDMENTS;
CHAPTER 9 OF CITY CODE:**

- A. A public hearing was held for consideration of ordinance amendments relating to Chapter 9 (Flood Damage Prevention) of the Lenoir Code of Ordinances as submitted.

Mayor Gibbons opened the public hearing to receive public comments regarding the proposed ordinance amendments.

A copy of the ordinance is hereby attached to these minutes.

Planning Director Hannah Williams explained that, due to the North Carolina General Statutes (NCGS) re-codification of the local government authority to regulate land use and development in Chapter 160D, the Emergency Management Division of the North Carolina Department of Public Safety re-issued the Non-Coastal model flood damage prevention ordinance with proper references to Chapter 160D as well as the National Flood Insurance Program (NFIP). Director Williams verified this action is the reason for the code amendments request for the City.

City Manager Hildebran also stated this is the second reading of the proposed ordinance as City Council called for the public hearing at the February 20, 2024 meeting.

After receiving no comments, Mayor Gibbons closed the public hearing and asked Council for action.

Upon a motion by Councilmember Perdue, City Council voted 6 to 0 to adopt the Ordinance Amendments pertaining to Chapter 9 of the City of Lenoir Code as recommended by City Staff.

III. CONSENT AGENDA ITEMS

- A. Minutes: Approval of the minutes of the City Council Meeting of Tuesday, February 6, 2024 as submitted.
- B. Minutes: Approval of the minutes of the City Council meeting of Tuesday, February 20, 2024 as submitted.

Upon a motion by Councilmember Beal, Council voted 6 to 0 to adopt items (A and B) on the Consent Agenda as described above and as recommended by City Staff.

IV. REQUESTS AND PETITIONS OF CITIZENS

THANK YOU; HOMELESS

ISSUE:

- A. Reverend James Wilfong, 1555 Miller Hill Road, Lenoir, NC and Pastor of Highway to Hedges Church, thanked City Council and the City for their help with the homeless situation. Reverend Wilfong also thanked Councilmember Perkins for helping to find a facility where these individuals could go to take a shower.

V. REPORTS OF BOARDS AND COMMISSIONS

FY2024 UNIFOUR CONSORTIUM CONSOLIDATED PLAN & FY2024 ACTION PLAN FOR THE CITY OF LENOIR:

- A. Rick Oxford, Plan Administrator, Western Piedmont Council of Governments, held the first of two public meetings to receive public comments regarding the proposed FY2024 Action Plan of the City of Lenoir and the Unifour HOME Consortium as part of the five-year Consolidated Plan. This plan, as required by the U.S. Department of Housing and Urban Development (DHUD), outlines goals and action plans of the City of Lenoir and the Unifour HOME Consortium and its use of Community Development Block Grant (CDBG) and HOME funds for fiscal year 2024, beginning July 1, 2024 and ending June 30, 2025. The City serves as the Lead Entity for the Unifour Consortium.

Mr. Oxford stated they are required by DHUD to hold two public meetings and informed Council he would not receive notification of the City's actual funding amount for the upcoming fiscal year until May. As information, Mr. Oxford reviewed the FY2023 funding amounts and said the City of Lenoir received \$142,691 in CDBG funds in FY2023 and \$1.2 million in HOME funds which are distributed to the four-county area to be used for multi-family housing projects. This funding becomes available from DHUD on July 1, 2024.

Mr. Oxford shared the City is currently using the CDBG funding for renovations at The Campus (former Lenoir High School) Complex, which includes the gymnasium, auditorium, band building, any exterior buildings and Mack Cook Stadium.

Mr. Oxford also reviewed the FY2023 funding for the HOME program and reported the program assists low-income homebuyers with up to 20% of the purchase price and caps at \$30,000. He stated this is a zero interest loan with zero payments and one-half of the amount is forgiven after 10 years. Mr. Oxford further mentioned a family has to be able to contribute \$500 towards the purchase plus qualify for a loan from one their lenders.

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In addition, Mr. Oxford stated the maximum purchase price of existing homes in Caldwell County is \$217,000, but pointed out there are different programs to assist first time homebuyers if they meet the requirements and are able to obtain a loan. He shared homes are hard to find if an individual is below the income limits.

Mr. Oxford also explained the process of how Community Housing Development Organizations (CHDOs) funding works. A CHDOs is a private nonprofit, community-based organization that has staff with the capacity to develop affordable housing for the community it serves such as Habitat for Humanity.

Mr. Oxford further explained developers could apply for a low interest loan for multi-family housing projects through the North Carolina Financing Agency. The maximum amount of a loan is \$300,000 and he pointed out it is a competitive process. The developers design the project, finalize their funding and submit a letter of commitment for the project. If a project is funded, the developer may receive tax credits.

Next, Mr. Oxford reported they have currently assisted 2,812 families within the four-county area, assisted with 22 multi-family apartment complexes and helped 14 non-profit organizations such as Habitat. He restated the down payment assistance funding is available for the four-county area and reiterated they provide 20% of the purchase price for qualified first time homebuyers capping at \$30,000, with a zero interest loan, which the applicant pays back when they sell or transfer the property. He noted that one-half of the loan is forgiven after a ten-year period.

Mr. Oxford thanked City Council and stated he would return in May with the Action Plan for Council's consideration of approval.

On behalf of City Council, Mayor Gibbons thanked Mr. Oxford for the good report.

VI. REPORT AND RECOMMENDATIONS OF THE CITY MANAGER

A. Items of Information

CITY/COUNTY SERVICES

COMMITTEE: 1. The City/County Services Committee will meet on Monday, March at noon at the J.E. Broyhill Civic Center.

NLC CONFERENCE:

2. The National League of Cities Congressional City Conference will be held in Washington, DC beginning Monday, March 11 through Wednesday, March 13.

ABC BOARD: 3. The ABC Board will meet on Thursday, March 14 at 2:00 p.m.

LENOIR TOURISM

DEVELOPMENT AUTHORITY:

4. The Lenoir Tourism Development Authority (LTDA) will meet on Thursday, March 14 at 4:00 p.m. at the Highland Thistle Bed and Breakfast located at 1344 Harper Avenue.

LENOIR BUSINESS ADVISORY

BOARD: 5. The Lenoir Business Advisory Board (LBAB) will meet on Thursday, March 14 at 6:00 p.m. at City Hall, Third Floor Conference Room.

**PARKS & RECREATION
ADVISORY BOARD:**

6. The Parks & Recreation Advisory Board will meet on Monday, March 18 at 6:00 p.m. at the Martin Luther King, Jr. Center.

B. Items for Council Action

VII. REPORT AND RECOMMENDATIONS OF THE CITY ATTORNEY

VIII. REPORT AND RECOMMENDATIONS OF THE MAYOR

\ IX. REPORT AND RECOMMENDATIONS OF COUNCILMEMBERS

X. ADJOURNMENT

- A. There being no further business, the meeting was adjourned at 6:18 p.m.

Shirley M. Cannon, City Clerk

Joseph L. Gibbons, Mayor

**AN ORDINANCE OF THE CITY COUNCIL OF LENOIR, NORTH
CAROLINA, AMENDING CHAPTER 9 OF THE LENOIR CITY
CODE RELATED TO FLOOD DAMAGE PREVENTION
PROVIDING FOR SEVERABILITY, CODIFICATION, AND AN
EFFECTIVE DATE.**

Whereas, the state legislature re-codified the general statutes that give local governments authority to regulate land use and development in NCGS Chapter 160D, prompting the need for the City of Lenoir to update our local ordinances both to comply with legislative changes as well as to reference the new section citations; and

Whereas, NC Department of Public Safety, Emergency Management Division revised the state's model non-coastal flood damage prevention ordinance to comply with and update references to NCGS Chapter 160D; and

Whereas, the National Flood Insurance Program incorporated at 42 U.S.C. 4001-4128 authorizes the establishment of floodplain management regulations;

**NOW, THEREFORE, LET IT BE ENACTED BY THE CITY COUNCIL OF THE CITY
OF LENOIR, NORTH CAROLINA, AS FOLLOWS:**

ARTICLE I. IN GENERAL

Sec. 9-1. Statutory authorization, findings of fact, purpose and objectives.

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Article 6 of Chapter 153A; Article 8 of Chapter 160A; and Article 7, 9, and 11 of Chapter 160D of the North Carolina General Statutes, delegated to local governmental units the authority to adopt regulations designed to promote the public health, safety, and general welfare.

Therefore, the City Council and Planning Department of Lenoir, North Carolina, does ordain as follows:

~~This flood damage prevention ordinance is adopted pursuant to the authority granted to local governments by the State of North Carolina to regulate development in flood prone areas in G.S. Chapter 143 part 6 article 21 and G.S. 160D 923. It is the intent that these regulations combine with and coordinate with the zoning ordinance regulations for the zoning district in which such property is located. Any use not permitted by the zoning regulations shall not be permitted in the special flood hazard area, and any use permitted by the zoning regulations shall be permitted in these districts only upon meeting conditions and requirements as prescribed in this chapter.~~

Sec. 9-4. Objectives.

The objectives of this chapter are to:

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

Sec. 9-5.

ARTICLE II. Definitions.

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

Accessory structure (appurtenant structure) means a structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

Addition (to an existing building) means an extension or increase in the floor area or height of a building or structure.

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

Design Flood See Regulatory Flood Protection Elevation.

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

Development Activity means any activity defined as Development which will necessitate a Floodplain Development Permit. This includes buildings, structures, and non-structural items, including

(but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.

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

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

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

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

Existing building and existing structure means any building and/or structure for which the "start of construction" commenced before the effective date of the floodplain management regulations adopted by a community, dated 6/16/2009.

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

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

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

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

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

delineations, and other planimetric features.

- (3) Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.
- (4) Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

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

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

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

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

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

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

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

Market value means the building value, 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.

Mean sea level means, for purposes of this chapter, 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.~~

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

Non-Conversion Agreement means a document stating that the owner will not convert or alter what has been constructed and approved. Violation of the agreement is considered a violation of the ordinance and, therefore, subject to the same enforcement procedures and penalties. The agreement must be filed with the recorded deed for the property. The agreement must show the clerk's or recorder's stamps and/or notations that the filing has been completed.

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

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

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

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

Watercourse means a lake, river, creek, stream, 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.

Secs. 9-6—9-20. Reserved.

ARTICLE III. GENERAL PROVISIONS

Sec. 9-21. Lands to which this chapter applies.

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

Sec. 9-22. Basis for establishing the special flood hazard areas.

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its FIS dated July 7, 2009 shown on FIS for Caldwell County and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of this ordinance, and all revisions thereto.

~~The special flood hazard areas are those identified on the most recently adopted flood insurance rate maps (FIRMs) for Caldwell County, including revisions to data shown on the FIRMs approved by FEMA.~~

~~The applicable FIRMs are incorporated by reference automatically into the City of Lenoir zoning map. The planning department shall maintain a digital or paper copy of the applicable FIRMs for public inspection.~~

Sec. 9-28. Penalties for violation.

~~Any person who violates this chapter or fails to comply with any of its requirements shall be subject to civil penalties in accordance with section 1-15 of the Lenoir Code of Ordinances.~~

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor under N.C. General Statute § 143-215.58. Nothing herein contained shall prevent the City of Lenoir from taking such other lawful action as is necessary to prevent or remedy any violation.

Secs. 9-29—9-44. Reserved.

ARTICLE IV. ADMINISTRATION

Sec. 9-45. Designation of floodplain administrator.

The Lenoir Planning Director, hereinafter referred to as the "~~F~~Floodplain ~~a~~AAdministrator," is hereby appointed to administer and implement the provisions of this chapter. In instances where the Floodplain Administrator receives assistance from others to complete tasks to administer and implement this ordinance, the Floodplain Administrator shall be responsible for the coordination and community's overall compliance with the National Flood Insurance Program and the provisions of this ordinance. ~~Administrative decisions made by the floodplain administrator pursuant to the development regulations in this chapter may be appealed to the Lenoir Board of Adjustment, consistent with the process for appeals laid out in section 1-308 of appendix A of this Code of Ordinances.~~

Sec. 9-46. Floodplain development application, permit and certification requirements.

- (1) *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:
 - a. A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
 1. The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
 2. The boundary of the special flood hazard area as delineated on the FIRM or other flood map as determined in section 9-22, or a statement that the entire lot is within the special flood hazard area;

3. Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in section 9-22;
 4. The boundary of the floodway(s) or non-encroachment area(s) as determined in section 9-22;
 5. The base flood elevation (BFE) where provided as set forth in section 9-22; section 9-47; section 9-69;
 6. The old and new location of any watercourse that will be altered or relocated as a result of proposed development; and
 7. The certification of the plot plan by a registered land surveyor or professional engineer.
- b. Proposed elevation, and method thereof, of all development within a special flood hazard area including, but not limited to:
1. Elevation in relation to NAVD 1988 ~~mean-sea-level~~ of the proposed reference level (including basement) of all structures;
 2. Elevation in relation to NAVD 1988 ~~mean-sea-level~~ to which any non-residential structure in Zone AE, A or AO will be floodproofed; and
 3. Elevation in relation to NAVD 1988 ~~mean-sea-level~~ to which any proposed utility systems will be elevated or floodproofed.
- c. If floodproofing, a floodproofing certificate (FEMA Form 81-65-FF-206-FY22-153_0) with supporting data, an operational plan, and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of floodproofing measures.
- d. A foundation plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this chapter are met. These details include, but are not limited to:
1. The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls); and
 2. Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with subsection 9-67(4)c. when solid foundation perimeter walls are used in Zones A, AO, AE, and A1-30 A, AE, AH, AO, A99.

- (2) *Permit requirements.* The floodplain development permit shall include, but not be limited to:
- a. A complete description of all the development to be permitted under the floodplain development permit (e.g. house, garage, pool, septic, bulkhead, cabana, pier, bridge, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc.). ~~A description of the development to be permitted under the floodplain development permit.~~
 - b. The special flood hazard area determination for the proposed development in accordance with available data specified in section 9-22.
 - c. The regulatory flood protection elevation required for the reference level and all attendant utilities.
 - d. The regulatory flood protection elevation required for the protection of all public utilities.

- e. All certification submittal requirements with timelines.
- f. A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse, unless the requirements of section 9-71 are met-as applicable.
- g. The flood openings requirements, if in zones A, AO, AE or A1-30.
- h. Limitations of below BFE enclosure uses (if applicable). (i.e., parking, building access and limited storage only).
- i. A statement, that all materials below BFE/RFPE must be flood resistant materials.

(3) *Certification requirements.*

a. Elevation certificates.

1. An Elevation Certificate (FEMA Form FF-206-FY 22-152) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to NAVD 1988 (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. ~~An elevation certificate (FEMA Form 81-31) is required after the reference level is established. Within seven calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the floodplain administrator a certification of the elevation of the reference level, in relation to mean sea level. Any work done within the seven-day calendar period and prior to submission of the certification shall be at the permit holder's risk. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.~~
2. An Elevation Certificate (FEMA Form FF-206-FY 22-152) 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 NAVD 1988. 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. ~~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 permit holder immediately and prior to certificate of compliance/occupancy issuance. In some instances, another certification may be required to certify corrected as-built~~

~~construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a certificate of compliance/occupancy.~~

3. A final Finished Construction Elevation Certificate (FEMA Form FF-206-FY 22-152) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to certificate of compliance/occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a certificate of compliance/occupancy.

b. Floodproofing certificate.

1. If non-residential floodproofing is used to meet the Regulatory Flood Protection Elevation requirements, a Floodproofing Certificate (FEMA Form FF-206-FY22-153_0), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy. ~~If non-residential floodproofing is used to meet the regulatory flood protection elevation requirements, a floodproofing certificate (FEMA Form 81-65), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to 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, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a certificate of compliance/occupancy.~~

- c. If a manufactured home is placed within Zones A, AE, AH, AO, A99 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of section 9-67, (3)(b). ~~Reserved.~~

Sec. 9-47. Duties and responsibilities of the floodplain administrator.

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

- (1) Review all floodplain development applications and issue permits for all proposed development within special flood hazard areas to assure that the requirements of this chapter have been satisfied.
- (2) Review all proposed development within Special Flood Hazard Areas to assure that all necessary local, state and federal permits have been received, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334. ~~Review all proposed development within special flood hazard areas to assure that all necessary local, state and federal permits have been received.~~
- (3) Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
- (4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.
- (5) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of section 9-71 are met.
- (6) Obtain actual elevation (in relation to NAVD 1988 ~~mean sea level~~) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with the provisions of subsection 9-46(3).
- (7) Obtain actual elevation (in relation to NAVD 1988 ~~mean sea level~~) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of subsection 9-46(3).
- (8) Obtain actual elevation (in relation to NAVD 1988 ~~mean sea level~~) of all public utilities in accordance with the provisions of subsection 9-46(3).
- (9) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of subsection 9-46(3) and subsection 9-67(2).
- (10) Where interpretation is needed as to the exact location of boundaries of the special flood hazard areas, floodways, or non-encroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
- (11) When base flood elevation (BFE) data has not been provided in accordance with the provisions of section 9-22, obtain, review, and reasonably utilize any BFE data, along with floodway data or non-encroachment area data available from a federal, state, or other source, including data developed pursuant to subsection 9-69(2)b., in order to administer the provisions of this chapter.
- (12) When base flood elevation (BFE) data is provided but no floodway or non-encroachment area data has been provided in accordance with the provisions of section 9-22 obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a federal, state, or other source in order to administer the provisions of this chapter.
- (13) ~~When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a special flood hazard area is above the base flood elevation (BFE), advise the property~~

~~owner of the option to apply for a letter of map amendment (LOMA) from FEMA. Maintain a copy of the LOMA issued by FEMA in the floodplain development permit file.~~

- (134) Permanently maintain all records that pertain to the administration of this chapter and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.
- (145) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the floodplain administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the floodplain administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.
- (156) Issue stop work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this chapter, the floodplain administrator may order the work to be immediately stopped. The stop work order shall be in writing and directed to the person doing or in charge of the work. The stop work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed.
- (167) Revoke floodplain development permits as required. The floodplain administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable state or local law may also be revoked.
- (178) Make periodic inspections throughout the special flood hazard areas within the jurisdiction of the community. The floodplain administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
- (189) Follow through with corrective procedures of section 9-48.
- (1920) Review, provide input, and make recommendations for variance requests.
- (201) Maintain a current map repository to include, but not limited to, the FIS report, FIRM and other official flood maps and studies adopted in accordance with the provisions of section 9-22 of this chapter, including any revisions thereto including letters of map change, issued by FEMA. Notify state and FEMA of mapping needs.
- (212) Coordinate revisions to FIS reports and FIRMs, including letters of map revision based on fill (LOMR-Fs) and letters of map revision (LOMRs).

Sec. 9-48. Corrective procedures.

- (1) *Violations to be corrected.* When the floodplain administrator finds violations of applicable state and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.

- (2) *Actions in event of failure to take corrective action.* If the owner of a building or property shall fail to take prompt corrective action, the floodplain administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:
 - a. That the building or property is in violation of the floodplain management regulations;
 - b. That a hearing will be held before the floodplain administrator at a designated place and time, not later than ten days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
 - c. That following the hearing, the floodplain administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.
- (3) *Order to take corrective action.* If, upon a hearing held pursuant to the notice prescribed above, the floodplain administrator shall find that the building or development is in violation of the flood damage prevention ordinance, he or she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than 60 calendar days, nor more than 180 days. Where the floodplain administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.
- (4) *Appeal.* Any owner who has received an order to take corrective action may appeal the order to the Lenoir Board of Adjustment by giving notice of appeal in writing to the floodplain administrator and the clerk within ten days following issuance of the final order. In the absence of an appeal, the order of the floodplain administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.
- (5) *Failure to comply with order.* If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be subject to civil penalties in accordance with section 1-15 of the Lenoir Code of Ordinances. A violation of this subsection is a civil violation and does not constitute a misdemeanor or infraction.

Sec. 9-49. Variance procedures.

- (1) The Lenoir Board of Adjustment, hereinafter referred to as the "appeal board," shall hear and decide requests for variances from the requirements of this chapter.

- (10) A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in special flood hazard areas provided that all of the following conditions are met.
 - a. The use serves a critical need in the community.
 - b. No feasible location exists for the use outside the special flood hazard area.
 - c. The reference level of any structure is elevated or floodproofed to at least the regulatory flood protection elevation.
 - d. The use complies with all other applicable federal, state and local laws.
 - e. The city of Lenoir has notified the Secretary of the North Carolina Department of ~~Crime~~ Control and Public Safety of its intention to grant a variance at least 30 calendar days prior to granting the variance.

Secs. 9-50—9-65. Reserved.

ARTICLE IV. PROVISIONS FOR FLOOD HAZARD REDUCTION

Sec. 9-66. 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 in accordance with the FEMA Technical Bulletin 2, *Flood Damage-Resistant Materials Requirements*. ~~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 to the regulatory flood protection elevation. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, hot water heaters, and electric outlets/switches.
 - a. Replacements part of a substantial improvement must also meet the above provisions
 - b. Replacements that are for maintenance and not part of a substantial improvement, may be installed at the original location provided the addition and/or improvements comply with the standards for new construction consistent with the code and requirements for the original structure.
- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of 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 floodwaters.
- (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 chapter, shall meet the requirements of "new construction" as contained in this chapter.~~
- (89) Nothing in this chapter shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this chapter and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this chapter.

- (940) 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 subsection 9-49(10). A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a special flood hazard area only if the structure or tank is either elevated or floodproofed to at least the regulatory flood protection elevation and certified in accordance with the provisions of subsection 9-46(3).
- (104) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.
- (112) 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.
- (123) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (134) 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.
- (145) When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.
- (156) When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest base flood elevation (BFE) shall apply.
- (16) Buildings and structures that are located in more than one flood hazard area shall comply with the provisions associated with the most restrictive flood hazard area.
- (17) Fill is prohibited in the SFHA, including construction of buildings on fill. This includes not approving Conditional Letters or Letters of Map Revision - Based on Fill (CLOMR-F or LOMR-F).

Sec. 9-67. Specific standards.

In all special flood hazard areas where base flood elevation (BFE) data has been provided, as set forth in section 9-22 and section 9-69 the following provisions, in addition to the provisions of section 9-66, 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 9-5 of this chapter.
- (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 9-5 of this ordinance. Structures located in Zones A, AE, AH, AO, and A1-30 A99 may be floodproofed to the Regulatory Flood Protection Elevation (RFPE) in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the Regulatory Flood Protection Elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance with

subsection 9-72(2). A registered professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in subsection 9-46(3), along with the operational plan and the inspection and maintenance plan.

(3) *Manufactured homes.*

(a) ~~New and replacement manufactured homes are prohibited in all A, AE, AO, and A1-30 Zones.~~

New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the Regulatory Flood Protection Elevation (RFPE), as defined in section 9-5 of this ordinance.

(b) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, 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 9-67(4).

(db) 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 not be temperature-controlled or conditioned;
- eb. Shall be constructed entirely of flood-resistant materials at least to the regulatory flood protection elevation; and
- de. Shall include, ~~in zones A, AO, 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:
 1. A minimum of two flood openings on different sides of each enclosed area subject to flooding;
 2. The total net area of all flood openings must be at least one square inch for each square foot of enclosed area subject to flooding;
 3. If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;

4. The bottom of all required flood openings shall be no higher than one foot above the adjacent grade;
5. 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
6. 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:
 1. 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.
 2. A substantial improvement, with modifications/rehabilitations/improvements to the existing structure or the common wall is structurally modified more than installing a doorway, both the existing structure and the addition must comply with the standards for new construction. ~~A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.~~
- b. Additions to pre-FIRM or 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:
 1. Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.
 2. A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

d. Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a one (1) year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the one (1) year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this ordinance. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

(6) *Recreational vehicles.* Recreational vehicles shall either:

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

2. Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions)

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

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

- (a) Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;
- (b) Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be elevated to or above the Regulatory Flood Protection Elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;
- (c) Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of Section 9-67 of this ordinance shall be permitted in flood hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions.
- (d) Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:
 1. At or above the Regulatory Flood Protection Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
 2. Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

- (10) Other Development.

- (a) Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Article 5, Section F of this ordinance.
- (b) Retaining walls, sidewalks and driveways in regulated floodways and NEAs. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Article 5, Section F of this ordinance.
- (c) Roads and watercourse crossings in regulated floodways and NEAs. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that

encroach into regulated floodways shall meet the limitations of Article 5, Section F of this ordinance.

- (d) Commercial storage facilities are not considered "limited storage" as noted in this ordinance, and shall be protected to the Regulatory Flood Protection Elevation as required for commercial structures.

Sec. 9-71. Floodways and non-encroachment areas.

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard areas established in section 9-22. 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 9-66 and 9-67, shall apply to all development within such areas:

- (1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:
 - a. It is demonstrated that 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
 - b. A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter Of Map Revision (LOMR) must also be obtained ~~upon~~ within six months of completion of the proposed encroachment.
- (2) If subsection 9-71(1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.
- (3) No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:
 - a. The anchoring and the elevation standards of subsection 9-67(3); and
 - b. The no encroachment standard of subsection 9-71(1).

Sec. 9-72. Standards for areas of shallow flooding (zone AO).

Located within the special flood hazard areas established in section 9-22, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to sections 9-66 and 9-67, all new construction and substantial improvements shall meet the following requirements:

- (1) The reference level shall be elevated at least as high as the depth number specified on the flood insurance rate map (FIRM), in feet, plus a freeboard of two feet, above the highest adjacent grade; or at least four feet above the highest adjacent grade if no depth number is specified.
- (2) Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in subsection 9-72(1) so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with subsections 9-46(3) and 9-67(2).

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

Sec. 9-73. Standards for areas of shallow flooding (zone AH).

Located within the Special Flood Hazard Areas established in section 9-22, are areas designated as shallow flooding areas. These areas are subject to inundation by 1-percent-annual-chance shallow flooding (usually areas of ponding) where average depths are one (1) to three (3) feet. Base Flood Elevations are derived from detailed hydraulic analyses are shown in this zone. In addition to sections 9-66 and 9-67, all new construction and substantial improvements shall meet the following requirements:

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

Secs. 9-743—9-88. Reserved.

ARTICLE VI. LEGAL STATUS PROVISIONS

Sec. 9-89. 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 February 27, 1978 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 City of Lenoir enacted on February 27, 1978, as amended, which are not reenacted herein are repealed.

Sec. 9-90. 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 chapter; provided, however, that when construction is not begun under such outstanding permit within a period of six months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this chapter.

SECTION 9-91. SEVERABILITY.

If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

Article VII. EFFECTIVE DATE.

This ordinance shall become effective upon adoption.

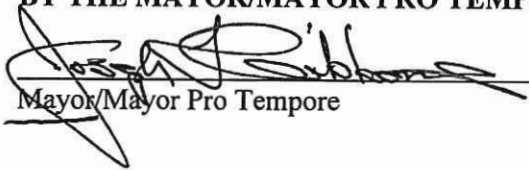
Article VIII. ADOPTION CERTIFICATION.

DONE, THE FIRST READING, by an affirmative vote of a majority of a quorum present of the City Council of the City of Lenoir, North Carolina, at a regular meeting, this 5th day of March, 2024.

DONE, THE PUBLIC NOTICE, in a newspaper of general circulation in the City of Lenoir, North Carolina, by the City Clerk of the City of Lenoir, North Carolina, the 22nd and 29th day of February, 2024.

DONE, THE SECOND READING AND PUBLIC HEARING, AND ENACTED ON FINAL PASSAGE, by an affirmative vote of a majority of a quorum present of the City Council of the City of Lenoir, North Carolina, at a regular meeting, this 5th day of March, 2024

BY THE MAYOR/MAYOR PRO TEMPORE OF THE CITY OF LENOIR, NORTH CAROLINA:


Mayor/Mayor Pro Tempore

ATTEST, BY THE CLERK OF THE CITY COUNCIL OF THE CITY OF LENOIR, NORTH CAROLINA:


City Clerk

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CITY OF LENOIR, NC
CHARTERED
JANUARY 28, 1951

SEAL