

**Board Chair:**  
Rodney Cheek

**Planning Director:**  
Matthew Hoagland



Commissioners' Meeting Room  
124 W Elm Street  
Graham, NC 27253  
August 8, 2024 at 7:00 PM

# **ALAMANCE COUNTY PLANNING BOARD**

## **AGENDA**

Virtual-

<https://www.youtube.com/channel/UC1QADkhkyUpac9rMs42imjA>

- I. CALL TO ORDER**
- II. ROLL CALL**
- III. APPROVAL OF PLANNING BOARD MINUTES**
  1. July 11, 2024 Regular Meeting
- IV. PUBLIC COMMENTS\***
- V. BOARD/COMMISSIONER RESPONSES**
- VI. OLD BUSINESS**
  1. Consideration of Clarifying UDO Article 6.1 Amendments
  2. Consideration of Clarifying UDO Article 6.2 Amendments
- VII. NEW BUSINESS**
  1. Consideration of Clarifying UDO Article 6.3 Amendments
  2. Consideration of Clarifying UDO Article 6.4 Amendments
- VIII. ANNOUNCEMENTS/DISCUSSION**
- IX. ADJOURNMENT**

*\*Meeting Notes:*

- 1. Those wishing to make public comments should sign-in prior to the meeting.*
- 2. In order to be fair and ensure that all citizens wishing to speak may be heard, the Chair may place time limits on public comments.*
- 3. Any further discussion by the public on a given agenda item is subject to the discretion of the Chair of the Planning Board*

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### **Members Present**

Rodney Cheek  
Vaughn Willoughby  
Anthony Pierce  
Henry Vines  
Stephen Dodson  
Bill Poe  
Lee Isley  
Amie Perkins  
Ernest Bare

### **Members Absent**

John Paisley

### **Staff Present**

Matthew Hoagland,  
*Planning Director*  
Ian Shannon, *Planner II*  
Mitchell Pinsky, *Planner I*  
Rob Snow, *Environmental Health Program Specialist*  
Ryan Langley,  
*Environmental Health Program Specialist*

## **I. CALL TO ORDER**

Called to order at 7:01 pm.

## **II. ROLL CALL**

Staff handled roll call through in-person roster.

## **III. APPROVAL OF PLANNING BOARD MINUTES**

1. June 13, 2024 Regular Meeting

Motion to accept: Vaughn Willoughby

Second: Henry Vines

Vote: Unanimous

## **IV. PUBLIC COMMENTS\***

**Henry Chandler:** Henry told the board that there have been many contractors speaking out against these proposals because it impacts their livelihoods. He told the board that he wanted to see what was best for the citizens. He wanted the board to work from last month in considering the larger lot size and that he was in favor of the 65,000 square feet proposal. He said a larger lot was better for well and septic and quality of life.

**Rodney Garrison:** Rodney said that he agreed with Henry Chandler and that the higher density needed to be managed. He said that the chances for cross contamination went way up with multiple individual wells and septic systems in a small area. He said that something needed to be done and the board should learn from the communities around us. The lower

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taxes and higher quality of living draw people to Alamance. He told the board that they needed to protect that.

**Chris Foust:** Chris told the board that they are trusted to make decisions but from previous comments it did not seem like there were developments at that large of a scale in the county right now. He mentioned that there is monitoring of stormwater by DEQ so that should not be a concern. He told the board that they have been ignoring a large number of comments from the public but at this point he just wanted them to come to a decision so developers knew what they would have to work with. He said that in his experience he doesn't develop lots much less than 1 acre and that he doesn't know of a subdivision that dense in the county. He urged the board not to increase the minimum lot size.

### **V. BOARD/COMMISSIONER RESPONSES**

Amie clarified a comment made during last month's meeting in regards to stormwater and how the county does not have a mechanism for registering and ensuring cleaning and maintenance not only for residential but for commercial and industrial as well.

### **VI. OLD BUSINESS**

#### **1. Consideration of Clarifying UDO Article 6.1 Amendments**

Matthew gives an overview and answered some of the board's questions on the temporary residence permit process.

#### **2. Consideration of Clarifying UDO Article 6.2 Amendments**

Matthew gave another overview and told the board that the majority of changes here would be to correct numbering and references to state law.

### **VII. NEW BUSINESS**

#### **1. Subdivision Ordinance Lot Size and Width Amendments Draft**

Matthew outlines the proposed changes that were requested by Rodney. He clarified that these are not the same subdivision ordinance changes that the board recently considered. For example, these changes do not include items like cluster subdivisions, fire code road standards, or the Planning Board subdivision review option. He explained that these changes would be to increase the minimum lot size from 30,000 square feet to 65,000 square feet for lots on individual well and septic, to increase new lot road frontage from 60 feet to 175 feet, to change cul-de-sac lot frontage from 20 feet to 26 feet, and to require cul-de-sac lots to be 175 feet wide at the building site.

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Rodney told the board that there would be more work to do but this would be a start. Bill brought up the balance of the watershed and how that should be increased as well since it didn't make any sense to have that be lower than the standard.

Motion to change balance of watershed minimum lot size from 1 acre to 2 acres: Bill Poe  
Second: Vaughn Willoughby

Amie pointed out that the watershed critical area has a current 2-acre minimum and proposed increasing that as well. Anthony proposes an increase to 3 acres.

Bill rescinds his motion for more discussion.

The board discussed the classification of the types of watersheds, based on proximity to the main water reservoir.

Motion to increase the balance of watershed minimum to 65,000 square feet: Bill Poe  
Second: Henry Vines

The vote would be to change the draft amendment proposal with a final vote after all changes are considered.

Vote: Approved unanimously

Discussion returns to overall lot size. Rodney told the board that the number was something Vaughn had proposed at a previous meeting. Vaughn mentioned how the average approved lot size fell close to that number.

Motion to increase the minimum lot size for well and septic lots from 30,000 square feet to 65,000: Vaughn Willoughby  
Second: Henry Vines

Lee mentioned that this was more than he was comfortable with and would rather see 1.25 acres but would agree to this to get something passed. Amie told the board she would rather see 1 acre but this would be a good medium. Henry said he would like to see something larger. Stephen told the board that lots were already being approved around this size on average and that it made more sense to let the land patterns dictate this rather than force it. Bill told the board that he was in favor of this but was still concerned because the county had no zoning to back this up. He said he would also like to see something for land spacing but that could come later.

Roll call vote:  
Bill: yes  
Henry: yes  
Amie: yes

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Ernest: yes  
Anthony: yes  
Lee: yes  
Vaughn: yes  
Stephen: no  
Rodney: yes

Motion passes.

The board moves on to discussing road frontage. Rodney told the board that the goal was to create wider lots which would help with impervious surface and setbacks. Lee said that 175 feet was very excessive, almost tripling the current requirement. Bill suggested doubling the frontage requirement since lot size was almost doubling. Amie told the board that a developer would not be able to adequately develop a property with an increase of this size. Vaughn brought up the lots along 62 North and how they were set up with frontage on the highway to avoid building a new private road. Bill told the board that these concerns with frontage and protecting other kinds of lots is what made the hybrid subdivision option so appealing.

There was more discussion on the concerns for increasing frontage this much and the previous hybrid option. Amie told the board that on the developer side you want to be able to maximize the land, you can't build the same house for the same price everywhere. She told the board that there needed to be some flexibility and a 175-foot frontage requirement would eliminate that. The board discussed some of the width and depth standards already in the UDO, including an exception for lots over 1 acre. Matthew told the board that if they were going to propose a change to the percentage that a specific number would be much simpler.

Motion to eliminate the 175 ft frontage amendment and increase the 1-acre width and depth exception to 65,000 square feet: Vaughn Willoughby  
Second: Lee Isley

Rodney suggests raising the exception to 2 acres, Vaughn agrees and amends his motion.

Vote: Approved unanimously

The board discusses the cul-de-sac frontage amendment to 26 feet on the chord. The current measurement is 20 feet on the arc.

Motion to accept: Vaughn Willoughby  
Second: Stephen Dodson

The board discusses the reason for this change, Rodney states it is largely because NCDOT requires a 26-foot-wide road.

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Vote: Approved unanimously

Motion to accept the 4 revisions and present to the commissioners: Bill Poe  
Second: Henry Vines

Ernest asks for a summary of the proposed amendments:

- Changing the minimum lot size to 65,000 square feet
- Changing the minimum lot size in the Balance of the Watershed to 65,000 square feet
- Changing the exception for width and depth to lots over 2 acres
- Changing the frontage requirement for cul-de-sac lots to 26 feet measured along the chord, and a cul-de-sac lot must be 175 feet wide at the building site

Vote: Approved unanimously

Matthew reads from a consistency statement that will go with the proposed amendments.

Motion to approve: Vaughn Willoughby  
Second: Lee Isley  
Vote: Unanimous

### **VIII. ANNOUNCEMENTS/DISCUSSION**

Commissioner Pam Thompson thanked the board for their work and mentioned the recent ag luncheon. She said that she wanted the county grow but not to outgrow. Vaughn said he appreciated Pam being present to see the discussion.

### **IX. ADJOURNMENT**

Motion: Stephen Dodson  
Second: Vaughn Willoughby

Vote: Unanimous

Adjourned at 9:30pm

**PART I. GENERAL REGULATIONS**

Section 6.1.1. Applicability ..... p.2

Section 6.1.2. Setbacks ..... p.2

Section 6.1.3. Stream Buffers ..... p.2

Section 6.1.4. Stream Buffers Within Jordan Lake Watershed Areas ..... p.3

Section 6.1.5. Water Supply Lake Buffers ..... p.3

Section 6.1.6 Temporary Residences ..... p.3

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6.1.1. ~~General~~ APPLICABILITY

This section is intended to provide standards for the use of property within the jurisdiction of this Ordinance. No building or land shall hereafter be used and no development shall take place except in conformity with the regulations herein specified.

6.1.12. SETBACKS

Buildings and structures shall not be erected within the setback area between said lot lines and the building setback lines. Setbacks should be measured from any right-of-way line.

Setback Type	Required Distance
<b>Front Setback</b>	
From Arterial Road	40'
From Major Collector Road	40'
From Minor Collector Road	35'
From Local Road	30'
From Cul-de-sac right-of-way	30'
<b>Side Setback</b>	25' if abutting street ROW; 10' if abutting property line that is not ROW
<b>Rear Setback</b>	20'

Accessory structures may be located no closer than three (3') feet ~~of~~ from a rear property line or easement line, if an easement is present on the property.

Cul-de-sac lots shall have a minimum frontage of twenty (20') feet at the street right-of-way line and a minimum width of sixty (60') feet when measured at thirty (30') feet back from the right-of-way.

The determination of front, side, and rear property lines on irregularly shaped lots shall be determined by the Planning Director or their designee. The determination will be based on the spirit and intent of this Ordinance to achieve an appropriate spacing and location of buildings and structures on individual lots.

Where these regulations conflict with setback standards in the Subdivision Ordinance, the standards specifically related to subdivisions shall apply in those instances.

6.1.23. STREAM BUFFERS

A fifty (50') foot buffer of vegetation shall be maintained on both sides of all perennial streams at all times to retard rapid water runoff and soil erosion. Perennial streams are identified as the solid blue lines on United States Geological Survey Maps. Streets, roadways, railroads, and driveways are permitted in the buffer, but shall be constructed to cross the buffer as near to perpendicular as possible. Utility lines, greenways, and greenway type recreation facilities are permitted within the buffer but should be designed to have minimal impact. If the vegetative cover must be removed or disturbed, it shall be restored as soon as possible. The fifty (50') foot buffer shall be measured on a horizontal plane from the top of the bank of the stream. The buffer zone may be included in calculating the lot size as long as the area within the buffer doesn't also meet the classification of Marginal Land, as defined in Section 6.9.4 (G.v).

#### 6.1.34. STREAM BUFFERS WITHIN JORDAN LAKE WATERSHED AREAS

Stream buffers within the Jordan Lake Watershed areas are to follow the riparian buffer protection rules of 15A NCAC 02B .0267 ~~and .0268~~ and Section 6(g) of Session Law 2009-216, found in Section 7(b) of Session Law 2009-484, Jordan Water Supply Nutrient Strategy. Stream determinations will also follow these rules.

#### 6.1.45. WATER SUPPLY LAKE BUFFERS

A one hundred (100') foot wide natural buffer shall be maintained around all water supply reservoirs, measured from the normal pool elevation outward. Desirable artificial streambank or shoreline stabilization is permitted. No new development is allowed in the buffer except for water dependent structures and public projects such as road crossings and greenways where no practical alternative exists, and other structures causing diminutive increases in impervious areas such as flag poles, signs, and security lights.

#### 6.1.56. TEMPORARY RESIDENCES

Temporary residences may only be allowed on properties that are either vacant or that are designated for residential use. Temporary residences may not be allowed within Manufactured Home Parks or RV Parks.

Temporary use of a manufactured home, ~~or~~ travel trailer, or recreational vehicle (RV), as a temporary residence shall be permitted only as outlined below:

- A. Manufactured homes used for this purpose must be installed in accordance with the Set-Up and Installation Standards adopted by the Commissioner of Insurance.
- B. Travel trailers, ~~and~~ RVs used as temporary residences for a period of more than thirty (30) days must be permitted by the Planning Department. A temporary residences permit, which shall be conspicuously affixed to the travel trailer or RV shall be issued by the Planning Department and valid for the below periods of time.

- a) 1) If used as a supplementary residence in addition to a permanent residential dwelling on the property, for up to twelve (12) months.
- b) 2) If used as a temporary residence based on a bona fide emergency which has made permanent residential dwelling units on a parcel unsuitable for habitation, for up to twelve (12) months with the option of permit renewal for an additional twelve (12) month period ~~by the Planning Department. Use of the travel trailer or RV as a temporary residence must cease within 30 days of receipt of a certificate of occupancy for the permanent residential dwelling unit.~~
- c) 3) If used as a temporary residence during the course of renovation or construction on the permanent residential dwelling units on a parcel, for up to twelve (12) months with the option of permit renewal for an additional six (6) month periods ~~by the Planning Department.~~

All temporary residences permitted under this section must conform to the standards in ~~Chapter 26 Article II~~ Section 6.4, "Flood Damage Prevention Ordinance" and shall tie into properly permitted water, electrical, and septic/sewer services on the property. Temporary residences which are used as a supplementary residence to a permanent residence may not be required to connect to water and septic/sewer services on the property. However, they must submit an Alamance County Environmental Health alternate sewage disposal consent form with their Temporary Residence Permit Application.

For temporary uses associated with bona fide emergencies or renovation or construction of a permanent residence, Use of the travel trailer, or RV as temporary housing must cease within thirty (30) days of receipt of a certificate of occupancy for the primary housing unit. Upon the expiration of a temporary residence permit, no new temporary permits may be issued for the same parcel of land within one (1) calendar year of the expiration date as outlined above.

## **PART II. ADULT ESTABLISHMENTS AND SEXUALLY ORIENTED BUSINESSES**

Section 6.2.1. Applicability .....	p.2
Section 6.2.2. Location, Operation, Appearance, and Advertising Requirements.....	p.2
Section 6.2.3. License Requirements .....	p.4

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### 6.2.1 APPLICABILITY

Alamance County recognizes that sexually oriented businesses can and do cause adverse secondary impacts on neighboring properties. For example, increases in crime rates and decreases in neighboring property values can result from the location of sexually oriented businesses in inappropriate locations or from the operation of such businesses in an inappropriate manner.

This section is designed to govern the location and operation of adult establishments and sexually-oriented businesses as defined herein. The goal of these regulations is to prevent or ameliorate adverse secondary impacts from the location and operation of such businesses.

### 6.2.2 LOCATION, OPERATION, APPEARANCE, AND ADVERTISING REQUIREMENTS

#### 6.2.2(a) Location Restrictions

Adult establishments and sexually-oriented businesses must:

- a) Not be located within one thousand (1,000') feet of any other adult establishment or sexually-oriented business regulated by this ordinance.
- b) Not be located in a building, premises, structure, or other facility that contains another adult establishment or sexually-oriented business.
- c) Be located within one thousand (1,000') feet of another building, premises, structure or other facility that contains an adult establishment or a sexually-oriented business as a secondary business activity.
- d) Not be located within one thousand, five hundred (1,500') feet of a park, school, house of worship, community center, or child day care center.
- e) Not be located within one thousand, five hundred (1,500') feet of a major residential subdivision.

#### Waiver of Variance from Location Requirement

A property owner may petition the Board of ~~Commissioners of the County of Alamance~~ Adjustment to waive for a variance from the location requirements established above if they believe it causes an unnecessary hardship. ~~A petition should contain the name and address of the property owner, a description of the use(s) and size of the proposed adult establishment or sexually oriented business, and a preliminary plan for the property.~~

~~If the Board finds that the proposed use will not be contrary to the public interest or injurious to nearby properties, and that the spirit and intent of this Ordinance will be observed, it may waive the location requirement.~~

Variance petitions will be processed in accordance with Article 2, Section 2.3 of this Ordinance as well as N.C. Gen. Stat. 160D-705(d) and other applicable law.

#### 6.2.2(b) Operation Restrictions

Adult Establishments and Sexually Oriented Businesses must conform to the following:

- a) Hours of operation may only be between the hours of 2:00 p.m. and 2:00 a.m.
- b) No one under the age of twenty-one (21) may be admitted into the business operation.
- c) In the case of massage parlors, no masseur or masseuse may massage a person under twenty-one (21) years old except under the direction of or by order of a license health professional.
- d) No one under the age of twenty-one (21) may be employed by the business operation.
- e) Performances in an adult establishment should occur only upon platforms that are raised at least four (4) feet from the floor.
- f) Adult establishment and sexually oriented business entertainers must remain at least four (4) feet from patrons at all times during their performances.
- g) In the course of an entertainment performance, adult establishment or sexually oriented business entertainers shall wear clothing that keeps their private parts completely and opaquely covered at all times.
- h) In the course of all business except for an entertainment performance, entertainers must wear clothing that completely and opaquely covers their Specified Anatomical Areas at all times.
- i) In the course of business, servers and other employees must wear clothing that completely and opaquely covers their Specific Anatomical Areas at all times.
- j) No adult establishment or sexually oriented business shall permit Specified Sexual Activities to occur as part of its featured entertainment or as a primary or secondary activity within or outside of the building.
- k) Viewing booths or rooms within an adult establishment or sexually oriented business must remain open and visible to the operator at all times. In the case of an adult mini motion picture theatre, no more than one (1) person shall be permitted in each booth or room at once.
- l) Any sexually-oriented merchandise should be contained within a sealed wrapper. Merchandise with a sexually-explicit cover should be contained within an opaque sealed wrapper.
- m) No adult establishment shall allow any entertainment or business activities to occur outside of the building in an area that is visible to or accessible by the public.
- n) No person employed as a masseur or masseuse shall, in the course of business, massage a customer's Specified Anatomical Areas.

- o) All individuals employed as a masseur or masseuse must comply with applicable rules and regulations promulgated by the Alamance County Health Department.
- p) The operation of an adult establishment or sexually oriented business shall comply with the Alamance County Noise Ordinance at all times. Any violation of the Noise Ordinance shall be subject to the penalties prescribed in Section ~~1(b)~~ 9 therein.

#### Appearance and Advertising Restrictions

- a) No sexually-oriented merchandise or entertainment shall be visible from the exterior of the building.
- b) Each adult establishment or sexually oriented business is limited to one primary sign measuring twenty (20) square feet, and two (2) window signs measuring six (6) square feet.
- c) Signs and other forms of on- and off-premises advertising or display may not contain sexually-oriented graphics or language that is designed to attract patrons with allusions to Specified Anatomical Areas, nudity, and Specified Sexual Activities.
- d) An adult establishment or sexually oriented business may not use lighting on its property that will adversely impact the use and enjoyment of adjacent properties.

#### 6.2.3 LICENSE REQUIREMENTS

##### **A. License to Operate**

It shall be a violation of this Ordinance to operate any Adult Establishment or Sexually Oriented Business in Alamance County's ordinance-making jurisdiction without a license issued pursuant to this ordinance. Any individual or entity desiring to operate an adult establishment or sexually oriented business on property located within Alamance County's ordinance-making jurisdiction must apply to the Alamance County Planning Department for a license.

#### Application Requirements

Application for Licensure to Operate shall include:

1. The name and address of the owner(s);
2. The physical address of the property, including tax map block and lot numbers;
3. The name and addresses of the agent(s) and officers, if the applicant is a corporation;
4. The name and address of the operator(s), if different from the owner(s), and;

5. A copy of a valid form of government-issued photo identification for each owner, operator, and agent. This photo identification may include a driver's license, United States passport, United States military identification card, a state identification card, or any other form of photo identification considered reliable by the Administrator.
6. A non-refundable license fee of \$500.00.

Upon submission of the license application, a criminal background check shall be performed upon the owner(s), operator(s), and agent(s), if applicable. This background check shall be conducted in order to determine whether the individual(s) has been convicted of any drug-related felony or sexually-related crimes. The review period for the license application, including criminal background check, shall not exceed a period of twenty-one (21) business days.

If the applicant follows the above application procedure, meets the standards described herein, and satisfactorily passes the criminal background check, a license to operate an adult establishment or sexually-oriented business shall be issued. This license attaches only to the business and is valid for one (1) year or for the period of ownership by the applicant, whichever is shorter.

#### License Renewal

A license may be renewed for one year upon its expiration with the payment of a renewal fee of \$250.00 made to the Alamance County Planning Department.

#### Denial of Application

In the event that a background check reveals that any of the above individuals ~~has~~ have been convicted of a sexually-oriented or drug related felony within the past fifteen (15) years, or a sexually-oriented or drug related misdemeanor within the past ten (10) years, the license shall be denied. Failure to follow the procedures set forth herein, as well as failure to meet the standards established in this Ordinance, ~~the license shall be denied.~~ shall also result in the denial of the permit.

Appeals of denied permits may be filed per Section ~~4.2.2-2.3.1.b~~ of this Ordinance.

### **B. Licensing for Managerial Employees**

It shall be a violation of this Ordinance to operate any adult establishment or sexually oriented business on property located within Alamance County's ordinance-making jurisdiction without licenses issued pursuant to this section. It shall be the responsibility of the owner and/or operator of an adult establishment or sexually oriented business to apply for a license for all employees who shall be involved in the managerial operation of the business. This shall include operators and managers, but does not include servers, entertainers, escorts, masseurs, and clerks.

#### Application Requirements

Application for Managerial or Operator Licensure shall include:

1. The name and address of each operator and manager;
2. Any aliases or other names by which each operator and manager has been known;
3. A copy of a valid form of government-issued photo identification, which may include a driver's license, United States passport, United States military identification card, state identification card, or any other photo identification considered reliable by the Administrator;
4. The initial date of employment of each operator and manager; and
5. A completed background check authorization form.

Application for a Managerial or Operator License shall be made within fifteen days from the first date of his or her employment. A nonrefundable fee of \$200.00 per operator and/or manager shall accompany the application. Upon submission of the license application, a criminal background check shall be performed upon the operator and/or manager. This background check shall be conducted in order to determine whether each individual has been convicted of any human trafficking, drug-related or sexually-related crimes.

The review period for the license application, including criminal background check and written notification of the decision, shall not exceed a period of twenty-one (21) business days. If the above application procedure is followed and an operator or manager satisfactorily passes the criminal background check, an adult establishment or sexually oriented business managerial/operator license shall be issued. This license is valid for one (1) year and is personal to the managerial/operating employee. Said license shall not be sold or transferred and expires when the manager/operator leaves the employment of the business.

#### License Renewal

A manager/operator license may be renewed for one (1) year upon its expiration with the payment of a renewal fee of \$100.00 to the Alamance County Planning Department.

#### Denial of Application

If the background check reveals that an individual has been convicted of a human trafficking, sexually-oriented or drug related felony within the past fifteen (15) years, or a human trafficking, sexually-oriented, or drug related misdemeanor within the past ten (10) years, the manager/operator license shall be denied. Failure to follow the application procedure outlined above shall also result in a denial of the application.

### **C. Licensing for Entertainers**

It shall be a violation of this Ordinance to operate any adult establishment or sexually oriented business on property located within Alamance County's ordinance-making jurisdiction without licenses issued pursuant to this section. It shall be the responsibility of the owner/operator of an adult establishment or sexually-oriented business to apply for a license for all employees who shall be involved in entertainment activities at the adult establishment. This shall not include servers, escorts, masseurs, and clerks.

#### Application Requirements

Application for Entertainer Licensure shall include:

1. The name and address of each entertainer;
2. Any aliases or other names by which the entertainer has been known, including stage names used in entertaining;
3. A copy of a valid form of government-issued photo identification, which may include a driver's license, passport, military identification card, state identification card, or any other form of photo identification considered reliable by the Administrator;
4. The initial date of employment of each entertainer; and
5. A complete background check authorization form.

Application for a license for an entertainer shall be made within fifteen (15) days from the first date of his or her employment. A nonrefundable fee of \$50.00 per entertainer shall accompany the application.

Upon submission of the license application, a criminal background check shall be performed upon the entertainer. This background check shall be conducted in order to determine whether the individual has been convicted of any drug-related or sexually-related crimes. The review period for the license application, including criminal background check and written notification of the decision, shall not exceed a period of twenty-one (21) business days.

If the above application procedure is followed and an operator or manager satisfactorily passes the criminal background check, an entertainer license shall be issued. This license is valid for 1 year and is personal to the entertainer. Said license shall not be sold or transferred and expires when the entertainer leaves the employ of the applicant.

#### License Renewal

An entertainer license may be renewed for one (1) year upon its expiration with the payment of a renewal fee of \$25.00 to the Alamance County Planning Department.

#### Denial of Application

If the background check reveals that an individual has been convicted of a sexually-oriented or drug related felony within the past fifteen (15) years or a sexually-oriented or drug related misdemeanor within the past ten (10) years, the entertainer license shall be denied. Failure to follow the application procedure outlined above shall also result in a denial of the application.

Appeals of denied permits may be filed per Section ~~4.2.2-2.3.1.b~~ of this Ordinance.

#### **D. Posting of Licenses**

All validly-issued licenses for an adult establishment or sexually oriented business operation and for all managerial employees must be posted in a conspicuous location and manner on the premises of the business at all times. Validly-issued licenses for all entertainer employees must be kept in a location on the premises of the business operation so that they are readily available for inspection by the authorities responsible for enforcement of this Ordinance.

#### **E. Revocation of Licenses**

A license may be revoked by the Administrator if it is established that the license application contained false information or if the license holder is convicted of a drug-related or sexually-oriented crime.

#### **F. Transfer of License Prohibited**

A license issued for any adult establishment or sexually oriented business may not be transferred with the property. A license obtained pursuant to Section ~~5.3.3~~ 6.2.3 shall be valid for one (1) year or the amount of time that the owner of record on the application owns the business, whichever is shorter. If ownership of the property is transferred, a new license must be obtained pursuant to Section ~~5.3.3~~ 6.2.3. Application for this license must be made within thirty (30) days of the transfer of ownership.

While the new license application is pending, the Planning Director shall issue a temporary license for the business within three (3) business days of being provided with the new name of the business, if applicable, and the name and address of the new owner(s). This temporary license shall attach only to the business and shall be valid for thirty (30) days or until a new license is issued or denied, whichever is shorter.

If a new license is not obtained pursuant to this Ordinance, the business shall be deemed in violation of this Ordinance and civil penalties may be imposed.

#### **G. Exceptions**

None of the above location, licensing, operation, or appearance requirements shall apply to legitimate theatre operations that present plays or films of serious literary, artistic, political, or scientific merit.

Section ~~5.3.2(b)~~ 6.2.2(b) restrictions (g), (h), and (i) shall not apply to a private club, as defined by this Ordinance.

## 6.3 Dead Storage of Manufactured Homes

### 6.3.1 APPLICABILITY

This section sets out to establish the requirement and procedures for the management of mobile homes, house trailers, and similar vehicular equipment designed for use as living or business quarters that have been allowed to deteriorate to the point of constituting a nuisance and for the identification of the owner for the purposes of appropriately disposing of the mobile home. The Board of County Commissioners hereby finds that such is necessary to enforce state ad valorem property tax laws, public health and safety laws and ordinances and other applicable state and local laws including, but not limited to, the abatement of nuisances.

### 6.3.2 DISPOSITION OF REMOVED MOBILE HOMES

Any mobile home determined to be lawfully removed pursuant to this ordinance or under Order of Abatement issued by a court of competent jurisdiction may be disposed of by the County or the County-authorized person or entity having custody of the mobile home. Disposition of such mobile home may be carried out in compliance with any applicable recycling program/and or ordinances, and shall not occur until at least thirty (30) calendar days following the probable cause hearing.

### 6.3.3 EXCEPTIONS

The provisions of Section 6.3 shall not apply to mobile homes that are actively being used for residential purposes; provided that the mobile home has been properly permitted and is being operated in a lawful manner, including but not limited to, operation so as not to constitute a public nuisance.

The provisions of Section 6.3 shall not apply to mobile homes being used for residential, commercial, or storage purposes on a bona fide farm.

The provisions of Section 6.3 shall not apply to any Class I mobile home on the premises of a business enterprise being operated in a lawful place and manner if the mobile home is necessary to the operation of the enterprise, such as a mobile home dealership.

The provisions of Section 6.3 shall not apply to any Class II or Class III mobile home on the premises of a bona fide junkyard that is being operated in a lawful manner.

### 6.3.4 IMMUNITY

No person shall be held to answer in any criminal or civil action to any owner of a manufactured home found to be in violation of this ordinance for removing and/or disposing of such manufactured home as provided in this ordinance.

## PART IV. FLOOD DAMAGE PREVENTION

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#### 6.4.1 APPLICABILITY

This section applies to all Special Flood Hazard Areas within the jurisdiction of Alamance County, including areas within any corporate limits or Extra-Territorial Jurisdictions extra-territorial jurisdictions of the Village of Alamance. any other community whose governing body agrees, by resolution, to such applicability.

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and the Federal Emergency Management Agency (FEMA) in its Flood Insurance Study (FIS), which are adopted by reference and declared a part of this ordinance. Future revisions to the FIS and Digital Flood Insurance Rate Map (DFIRM) panels that do not change flood hazard data within the jurisdictional authority of Alamance County are also adopted by reference and declared a part of this ordinance. Subsequent Letter of Map Revisions (LOMRs) and/or Physical Map Revisions (PMRs) shall be adopted within three (3) months.

#### 6.4.2 PURPOSE AND INTENT

In keeping with purpose of this Ordinance, which is to promote public health, safety, and general welfare, and in effort to minimize public and private losses due to flood conditions within flood prone areas, this section adopts 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 velocity;
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 construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

With the above outlined provisions, it is the objective of this ordinance 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 that are located in flood prone areas;

6. Minimize damage to private and public property due to flooding;
7. Make flood insurance available to the community through the National Flood Insurance Program;
8. Maintain the natural and beneficial functions of floodplains;
9. Help maintain a stable tax base by providing for the sound use and development of flood prone areas; and
10. Ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

#### 6.4.3 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 Alamance 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.

#### 6.4.4 FLOODPLAIN DEVELOPMENT APPLICATION, PERMIT, AND CERTIFICATION REQUIREMENTS

##### **A. Application Requirements**

Application for a Floodplain Development Permit shall be made to the Planning Director, hereinafter referred to as 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. 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 by Section ~~5-6-1~~ 6.4.1, 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 by Section ~~5-6-1~~ 6.4.1;

- d. The boundary of the floodway(s) or non-encroachment area(s) as determined by Section ~~5.6.1~~ 6.4.1.
  - e. The Base Flood Elevation (BFE) where provided;
  - f. The old and new location of any watercourse that will be altered or relocated as a result of proposed development; and
  - g. The 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 NAVD 1988 of the proposed reference level (including basement) of all structures;
    - b. Elevation in relation to NAVD 1988 to which any non-residential structure in Zones A, AE, AH, AO, A99 will be floodproofed; and
    - c. Elevation in relation to NAVD 1988 to which any proposed utility systems will be elevated or floodproofed.
  3. Floodproofing Certificate (~~FEMA Form 086-0-34~~), if floodproofing, The most recent, applicable FEMA form for the dry floodproofing of residential or non-residential structures is required 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.
  4. 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); and
    - b. Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with this ordinance when solid foundation perimeter walls are used in Zones A, AE, AH, AO, A99.
  5. Usage details of any enclosed areas below the lowest floors
  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. Certification that all other Local, State, and Federal permits required prior to floodplain development permit issuance have been received.

8. Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions 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 complete description of all the development to be permitted under the floodplain development permit (e.g. house, garage, pool, septic, bulkhead, cabana, pier, bridge, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc.)
2. The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in Section ~~5.6.1~~ 6.4.1.
3. The Regulatory Flood Protection Elevation required for the reference level and all attendant utilities.
4. The Regulatory Flood Protection Elevation required for the protection of all public utilities.
5. All certification submittal requirements with timelines.
6. A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse unless the requirements of 6.4.8 have been met.
7. The flood openings requirements, if in Zones A, AE, AH, AO, A99.
8. Limitations of below BFE enclosure uses, if applicable. (i.e. parking, building access, and limited storage only)
9. A statement that all materials below BFE/RFPE must be flood resistant materials.

## **C. Certification Requirements**

1. Elevation Certificates

- a. An Elevation Certificate, ~~FEMA Form 086-0-33~~, (most up-to-date form developed by FEMA) 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. 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.
- b. An Elevation Certificate, ~~FEMA Form 086-0-33~~, (most up-to-date form developed by FEMA) is required after the reference level is established. Within 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 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 worker being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop work order for the project.
- c. A final Finished Construction Elevation Certificate, ~~FEMA Form 086-0-33~~, (most up-to-date form developed by FEMA) 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. The Finished Construction Elevation Certificate certifier shall provide at least two (2) photographs showing the front and rear of the building taken within ninety (90) days from the date of certification. The photographs must be taken with views confirming the building description and diagram number provided in accordance with this ordinance. To the extent possible, these photographs should show the entire building including foundation. If the building has split-level or multi-level areas, provide at least 2 additional photographs showing side views of the building. In addition, when applicable, provide a photograph of the foundation showing a representative example of the flood openings or vents. All photographs must be in color and measure at least ~~3~~ three inches ~~by three inches~~ (3" x 3"). Digital photographs are acceptable.

## 2. Floodproofing Certificate

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

## 3. Engineered Foundation Certificate

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 this ordinance.

## 4. Professional Engineer Certified Report

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 and relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.

5. Certification Exemptions

The following structures, if located within Zones A, AE, AH, AO, A99 are exempt from the elevation/floodproofing certification requirements specified in items ~~1. and 2.~~ "a" and "b" of this subsection:

- a. Recreational Vehicles meeting requirements of 6.4.6.
- b. Temporary Structures meeting requirements of 6.4.6.
- c. Accessory Structures that are one hundred and fifty (150) square feet or less or \$3,000.00 or less and meeting requirements of 6.4.6.

**D. Determinations for Existing Buildings and Structures**

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

1. Estimate the market value, or require the applicant to obtain and appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case or repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
2. Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
3. Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
4. Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the NC Building Code and this ordinance is required.

#### 6.4.5 PROVISIONS FOR FLOOD HAZARD REDUCTION

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*.
3. All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.
4. All new electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall be located at or above the RFPE or designed and installed to prevent water from entering or accumulating within the components during the occurrence of the base flood. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, hot water heaters, and electric outlets/switches.
  - a. Replacements part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.
  - b. Replacements that are for maintenance and not part of a substantial improvement, may be installed at the original location provided the addition and/or improvements only comply with the standards for new construction consistent with the code and requirements for the original structure.
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 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. 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.

9. New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance. 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 within 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 this ordinance.
10. All subdivision proposals and other development proposals:
  - a. shall be consistent with the need to minimize flood damage;
  - b. shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
  - c. shall have adequate drainage provided to reduce exposure to flood hazards;
  - d. 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.
11. 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.

#### 6.4.6 DEVELOPMENT SPECIFIC PROVISIONS FOR FLOOD HAZARD REDUCTION

In all Special Flood Hazard Areas where BFE data has been provided, the following provisions are required in addition to those specified in Section 6.4.5:

##### 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.

##### 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. Structures located in Zones A, AE, AH, AO, A99 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. For AO Zones, the floodproofing elevation shall be in accordance with 6.4.4 C. 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 this ordinance, along with the operational plan and the inspection and maintenance plan.

#### Manufactured Homes

- a) 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, as defined in definitions.
- 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. Additionally, when the elevation would be met by an elevation of the chassis 36 inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above 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 Elevated Buildings.
- 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.

#### 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;
- c) Shall be constructed entirely of flood resistant materials at least to the Regulatory Flood Protection Elevation; and
- d) Shall include, in Zones A, AE, AH, AO, A99 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 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 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 higher of the interior or exterior 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.

#### Additions and 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, 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.
- b) Additions to pre-FIRM or post-FIRM structures that are a substantial improvement with no modifications/rehabilitations/improvements 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 consistent with the code and requirements for the original structure.
  - ii. 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-year period, the cumulative cost of which equals or exceeds fifty (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-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. If the structure has sustained substantial damage, any repairs are considered substantial improvements regardless of the actual repair work performed. The requirement does not, however, include either:
  - i. Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assume safe living conditions.
  - ii. Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

#### Recreational Vehicles

Recreational vehicles shall either:

- a) Temporary Placement
  - i. Be on site for fewer than one hundred and eighty (180) consecutive days; ~~or~~

- ii. 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;);
  - iii. Be properly permitted in accordance with Section 6.1.6 of this Ordinance.
- b) Permanent Placement. Recreational vehicles that do not meet the limitations of Temporary Placement shall meet all the requirements for new construction.

#### 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 for review and written approval:

- a) A specified time period for which the temporary use will be permitted. Time specified may not exceed three (3) months, renewable up to one (1) 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 seventy-two (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.

#### 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 the provisions of 6.4.5.
- f) All service facilities such as electrical shall be installed in accordance with the provisions of 6.4.5; and

- g) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below Regulatory Flood Protection Elevation in conformance with the provisions of Section 6.4.5.

An accessory structure with a footprint less than 150 square feet or that is a minimal investment of \$3,000.00 or less and satisfies the criteria outlined above is not required to meet the elevation or floodproofing standards or 6.4.5. Elevation or floodproofing certifications are required for all other accessory structures in accordance with 6.4.5.

### 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 6.4.6 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:
  - i. 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
  - ii. Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

### 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 section 6.4.8.1 of this ordinance.

- b) Retaining walls, sidewalks, and driveways in regulated floodways and NEAs that involve the placement of fill in regulated floodways shall meet the limitations of section 6.4.8.1 of this ordinance.
- c) Roads and watercourse crossings in regulated floodways and NEAs, 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 section 6.4.8.1 of this ordinance.

**6.4.7 STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS**

Within the Special Flood Hazard Areas designated as Approximate Zone A and established in ~~Article 3, Section B, Section 6.4.1~~ where no BFE data has been provided by FEMA, the following provisions, in addition to the provisions of ~~Article 5, Section A~~ Section 6.4.5, shall apply:

- 1. 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 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.
- 2. The BFE used in determining the Regulatory Flood Protection Elevation shall be determined based on the following criteria:
  - a. When 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 ~~Article 5, Sections A and B~~ Section 6.4.5.
  - b. When floodway or non-encroachment data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of ~~Article 5, Sections B and F~~ Section 6.4.5.
  - c. All subdivision, manufactured home park and other development proposals shall provide BFE data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such BFE data shall be adopted by reference in accordance with ~~Article 3, Section B, Section 6.4.1~~ and utilized in implementing this ordinance. ~~ALAMANCE COUNTY FLOOD DAMAGE PREVENTION ORDINANCE APPROVED 9-18-17 Page 22 of 24~~

- d. When BFE data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the Regulatory Flood Protection Elevation, as defined in Article 27. All other applicable provisions of ~~Article 5, Sections~~ Section 6.4.5 shall also apply.

#### 6.4.8 STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS

Along rivers and streams where BFE data is provided by FEMA or is available from another source 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:

1. Standards of 6.4.6; and
2. 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 (1) foot at any point within the community.

#### 6.4.9 FLOODWAYS AND NON-ENCROACHMENT AREAS

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in section 6.4.1. 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 section 6.4.5 and section 6.4.6, 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 discharge, 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 within 6 months of completion of the proposed encroachment.

2. If section 6.4.8.1 is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.
3. Manufactured homes may be permitted provided the following provisions are met:
  - a. The anchoring and the elevation standards of section 6.4.6; and
  - b. The encroachment standards of section 6.4.8.1.

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