

## Administrative Procedures Regarding the Application of Flood Damage Prevention

A floodplain development permit, conforming to the provisions of the Flood Damage Prevention Ordinance (“the Ordinance”, shall be required before the commencement of any substantial improvement or repairs to substantial damage activities within Special Flood Hazard Areas (SFHAs). No structure or land within a SFHA in Orange County shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of the Ordinance and other applicable regulations.

***No new residence, building, accessory building, or structure shall be built within a SFHA.***

### **Floodplain development permit and certification requirements.**

1. Planning and Inspections Department staff has placed notices in the permit system on all parcels containing SFHAs. For all permits received in the Department, the Administrator makes a determination that the lowest adjacent grade of the improvement is at least five (5) feet above the base flood elevation. If the elevation difference is greater than five (5) feet, the permit is processed and the appropriate elevation information is included in the approval. If not, then the applicant shall fill out a floodplain development permit and follow the procedures described below.

**2. Plans and Application requirements.** Contractors or owners shall make application on furnished floodplain development permit forms to the Administrator before any substantial improvement or repairs for substantial damage activities within flood prone areas commence or a building permit review commences. To apply for a ***floodplain development permit***, the following information shall be presented to the Floodplain Administrator (“the Administrator”).

a. Permit applicants shall provide the following information, at a minimum, on the ***floodplain development permit*** with a site plan drawn to scale. Signed, and sealed by a North Carolina licensed professional land surveyor or professional engineer, which shall include but not limited to the following specific details:

- i. The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other improvements;
- ii. A description of the improvements;
- iii. The boundary of the SFHA as delineated on the Flood Insurance Rate Map (FIRM) or other flood map or a statement that the entire lot is within the SFHAs;
- iv. The Base Flood Elevation (BFE);
- v. Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map;
- vi. The boundary of the floodway(s) or non-encroachment area(s);
- vii. The old and new location of any watercourse that will be altered or relocated as a result of proposed development;

- viii. Elevation (NAVD –1988) of the proposed reference level (including basement) of all structures on the property;
  - ix. Elevation (NAVD –1988) to which any non-residential structure in Zone AE, or A will be flood-proofed;
  - x. Elevation (NAVD –1988) to which any proposed utility systems will be elevated or flood proofed;
  - xi. A foundation plan, drawn to scale, shall include details of the proposed foundation system. These details include but are not limited to how the proposed method of elevation (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear wall); and all openings to facilitate equalization of hydrostatic flood forces on walls, when solid foundation perimeter walls are used.
- e. Usage details and limitations of any enclosed space below the BFE. **Only storage, parking and building access are permitted uses within enclosed spaces at or below the BFE, plus freeboard.**
- f. Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located above the BFE and constructed to minimize flood damage;
- g. Copies of all other appropriate Local, State and Federal permits required prior to floodplain development permit issuance (i.e. Wetlands, Erosion and Sedimentation Control, etc.)
- h. Documentation to ensure that the improvements comply with the Ordinance if the Administrator issues a floodplain development permit for placement of recreational vehicles and/or temporary structures.

### 3. Certification Requirements

- a. An Elevation Certificate (FEMA Form 81-31) or Flood Proofing Certificate (FEMA Form 81-65) after the reference level is completed. Within twenty-one (21) calendar days of establishment of the reference level elevation, or flood proofing, by whatever construction means, whichever is applicable, it shall be the duty of the permit holder to submit to the Administrator a certification of the elevation of the reference level, or flood proofing elevation, whichever is applicable, in relation to mean sea level. Said certification shall be prepared by, or under the direct supervision of, a North Carolina licensed professional land surveyor or professional engineer and certified by it. Any work done within the twenty-one (21) day calendar period and before submission of the certification shall be at the permit holder's risk. The Administrator shall review the certificate data submitted. The permit holder shall correct any deficiencies detected by such review immediately and before further work is 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.
- b. A complete Final As-Built Elevation Certificate (FEMA Form 81-31) after construction is completed and before Certificate of Compliance/Occupancy issuance. The permit holder shall submit to the Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. Elevation certification shall be prepared by, or under the direct supervision of, either a North Carolina licensed professional land surveyor or professional engineer and

certified by the same. The Administrator shall review the certificate data submitted. The permit holder shall immediately correct any deficiencies detected by such review and before 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 said corrections required shall be cause to withhold issuing a Certificate of Compliance/Occupancy.

b. An engineered foundation certification if an owner places a manufactured home within a flood zone and the elevation of the chassis is more than thirty-six (36) inches in height.

c. An engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse the effects to properties located both upstream and downstream if an applicant proposes to alter or relocate a watercourse, a description of the extent of watercourse alteration or relocation. ***The permit applicant shall submit a map showing the location of the proposed watercourse alteration or relocation before the Administrator issues the floodplain development permit.***

e. Any public road, private road, or driveway crossing a SFHA shall require a 'No-Impact' certification approval from the North Carolina Emergency Management Division (NCEMD) before any building permits for new construction can be issued, which derive their vehicular access from such public roads, private roads, or driveways. If the "No-Rise" certification data demonstrate that the BFE will rise more than one vertical foot, then the developer shall file a Conditional Letter of Map Revision (CLOMR) with the NCDEM for review and approval. Before any building permit can be issued for the improvements associated with the stream crossing, an approved Letter of Map Revision (LOMR) shall be on file in the Planning Department.

**4. Certification Exemptions.** The following structures, if located within a SFHA, are exempt from the elevation/flood proofing certification requirements specified above:

a. Recreational vehicle that is on the site for fewer than 180 consecutive days and is fully licensed and 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 meets all the requirements for new construction, including anchoring and elevation requirements;

b. Temporary structures for which the applicant has submitted a plan for the removal of such structure(s) in the event of a hurricane or flash flood warning notification. The plan must include the following information:

- i. A specified time period for which the temporary use will be permitted;
- ii. The name, address, and phone number of the individual responsible for the removal of the temporary structure;
- iii. The time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
- iv. A copy of the contract or other suitable instrument with a trucking company to ensure the availability of removal equipment when needed; and
- v. Designation, accompanied by documentation, of a location outside the SFHA to which the permit holder will move the temporary structure.

- c. Accessory Structures with any dimension that is twelve feet or less in height, width, which:
- i. Are not used for human habitation (including work, sleeping, living, cooking or restroom areas);
  - ii. Are designed to have low flood damage potential;
  - iii. Are constructed and placed on the building site so as to offer the minimum resistance to the floodwater flow;
  - iv. Are firmly anchored;
  - v. Have all service facilities such as electrical and heating equipment, shall be properly installed; and
  - vi. Have openings to relieve hydrostatic pressure during a flood.

## 5. Corrective procedures.

a. *Violations to be corrected.* When the Administrator finds violations of applicable State and local laws, s/he shall notify the owner or occupant of the building in violation. The owner or occupant shall immediately remedy each of the violations listed.

b. *Actions in Event of Failure to Take Corrective Action.* If the building or property owner shall fail to take prompt corrective action, the Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating that:

- i. The building or property is in violation of the Ordinance;
  - ii. The Administrator will schedule a hearing at a designated place and time, not later than ten (10) 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
  - iii. Following the hearing, the Administrator may issue such order to alter, vacate, or demolish the building; or to remove fill as appears appropriate.
- c. *Order to Take Corrective Action.* If, upon a hearing held pursuant to the notice prescribed above, the Administrator shall find that the building or development is in violation of the Ordinance, he or she shall make an order in writing to the owner, requiring the owner to remedy the violation within a specified time, but not less than sixty (60) days. When the Administrator finds that there is imminent danger to life or other property, corrective action may be taken in such lesser period, as may be feasible.

d. *Appeal.* Any owner who has received an order to take corrective action may appeal the order to the Board of Adjustment (BoA) by giving notice of appeal in writing to the Administrator and the Clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the Administrator shall be final. The BoA shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

e. *Failure to Comply with Order.* If the owner of a building or property fails to comply with an order to take corrective action from which there was no appeal or fails to comply with a BoA order following an appeal, the owner shall be guilty of a Class 3 misdemeanor and shall be punished in the discretion of the court of competent jurisdiction.

**6. General Standards.** In all SFHAs, the following provisions are required. Any alteration, repair, reconstruction, or improvements to a structure shall meet the requirements of "new construction." Permit holders or their contractors shall:

1. Anchor substantial improvements or damage repairs to prevent flotation, collapse, or lateral movement of the structure.
2. Construct substantial improvements or damage repairs with materials and utility equipment resistant to flood damage.
3. Construct substantial improvements or damage repairs using methods and practices that minimize flood damages.
4. Design and locate electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities to prevent water from entering or accumulating within the components during conditions of flooding. These include, but are not limited to HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric meter panels/boxes, utility/cable boxes, appliances (washers, dryers, refrigerator, etc.), hot water heaters, and electric outlets/switches.
5. Design replacement water supply systems to eliminate infiltration of floodwaters into the system.
6. Design replacement sanitary sewage systems to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.
7. Locate and construct on-site waste disposal systems outside the SFHA and the required stream buffer to avoid impairment to them or contamination from them during flooding.
8. Not enlarge, replace, or rebuild non-conforming buildings or uses or other development, unless such enlargement or reconstruction conforms to the provisions above. The repair, reconstruction, or replacement of a building or structure existing on March 16, 1981, which is located totally or partially within the floodway non-encroachment area, or stream setback is permitted. The bulk of the building or structure below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback cannot be increased and if such repair, reconstruction, or replacement meets all other requirements.
9. Not permit new solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities in SFHAs. 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

SFHA only if the structure or tank is either elevated or flood proofed to at least the regulatory flood protection elevation and certified as such.

## **7. Guidelines for Completing Elevation Certificates**

- The licensed professional certifying the elevations shall file out the original document in other than black ink to minimize or eliminate potential fraud.
- The licensed professional shall complete all data fields with appropriate information.
- Any data field, which is not applicable to the particular situation, shall be completed as not applicable (NA).
- No one shall make any changes to an old certificate. Instead, a new certificate shall be prepared to reflect new conditions or finished construction.
- The licensed professional certifying the elevations shall sign Sections C and D.
- Floor elevation of attached garages, not garages directly underneath an elevated structure, is documented in line item C3 (d), not in C3 (a).
- The Comments Section is to provide additional details.
- Photographs of the structure showing pertinent features on at least two sides (four sides for a split level) are required.