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

Whereas, the North Carolina Department of Public Safety, Emergency Management Division has issued updated revisions to the State's model non-coastal Flood Damage Prevention Ordinance to align with current NFIP guidance; and

Whereas, the National Flood Insurance Program, authorized under 42 U.S.C. §§ 4001–4128, requires participating communities to maintain floodplain management regulations consistent with Federal standards in order to ensure continued eligibility for reduced rates for flood insurance; and

Whereas, the City of Lenoir finds it necessary to update its local Flood Damage Prevention Ordinance to incorporate these State-recommended revisions, including enhanced administrative procedures, updated technical definitions, and improved flood hazard reduction standards; and

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

Section 1. Chapter 9 of the Code of Ordinance, City of Lenoir, North Carolina "Flood Damage Prevention Ordinance" is hereby amended to read as follows:

Sec. 9-2. Findings of fact.

(1) The floodprone areas within the jurisdiction of Lenoir are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(2) These flood losses are caused by the cumulative effect of obstructions in floodplains, <u>both inside and outside the identified Special Flood Hazard Areas</u>, causing increases in flood heights and velocities and by the occupancy in floodprone areas of uses vulnerable to floods or other hazards. <u>These obstructions and occupancy by uses vulnerable to floods may be</u>

hazardous to other lands which are inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

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Sec. 9-5. Definitions.

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

A Zone is the Special Flood Hazard Area subject to inundation by the 1% annual chance flood where base flood elevations have NOT been determined.

AE Zone is the Special Flood Hazard Area subject to inundation by the 1% annual chance flood where base flood elevations have been determined by detailed or limited detailed methods.

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

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

AH Zone is the Special Flood Hazard Area with a 1% annual chance of shallow flooding (usually areas of ponding), where average depths are between one (1) and three (3) feet. Base flood elevations derived from detailed hydraulic analyses are shown in this zone.

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

AO Zone is the Special Flood Hazard Area with a 1% annual chance of shallow flooding (usually sheet flow on sloping terrain) where average depths are between one (1) and three (3) feet. Average flood depths derived from detailed hydraulic analyses are shown in this zone.

Appeal means a request for a review of the floodplain administrator's interpretation of any provision of this ordinance.

Area of shallow flooding means a designated Zone AO on a community's flood insurance rate map (FIRM) with base flood depths determined to be from one to three feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard. See "Special flood hazard area (SFHA)."

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Base flood elevation (BFE) means a determination of the water surface elevations of the base flood as published in the flood insurance study. When the BFE has not been provided in a "special flood hazard area," it may be obtained from engineering studies available from a federal, state, or other source using FEMA approved engineering methodologies. This elevation, when combined with the "freeboard," establishes the "regulatory flood protection elevation."

Basement means any area of the building having its floor subgrade (below ground level) on all sides.

Building. See "Structure".

Chemical storage facility means a building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

Community means any State or area or political subdivision thereof, or any Indian tribe or authorized tribal organization, which has authority to adopt and enforce flood plain management regulations for the areas within its jurisdiction. For the purposes of this ordinance, references to "the City" are references to "the community." They are synonymous with each other.

Community Rating System (CRS) means a program developed by the Federal Insurance Administration to provide incentives for those communities in the Regular Program that have gone beyond the minimum floodplain management requirements to develop extra measures to provide protection from flooding.

Critical facility (also called critical action) means facilities for which the effects of even a slight chance of flooding would be too great. The minimum floodplain of concern for critical facilities is the 0.2 percent chance flood level. Critical facilities include, but are not limited to facilities critical to the health and safety of the public such as: emergency operations centers, designated public shelters, schools, nursing homes, hospitals, police, fire, and emergency response installations, vital data storage centers, power generation and water and other utilities (including related infrastructure such as principal points of utility systems) and installations which produce, use, or store hazardous materials or hazardous waste.

Design flood. See *Regulatory Flood Protection Elevation.*

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

Development activity means any activity defined as development which will necessitate a floodplain development permit. This includes buildings, structures, and nonstructural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.

Digital flood insurance rate map (DFIRM) means the digital official map of a community, issued by the Federal Emergency Management Agency (FEMA), on which both the special flood hazard areas and the risk premium zones applicable to the community are delineated.

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

Dry Floodproofing means a combination of measures that make a building and attendant utilities and equipment watertight and substantially impermeable to floodwater, with structural components having the capacity to resist flood loads. Please refer to Technical Bulletin 3, Requirements for the Design and Certification of Dry Floodproofed Non-Residential and Mixed-Use Buildings, and available from the FEMA.

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

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

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

Existing manufactured home park or *"Manufactured home subdivision"* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the initial effective date of the floodplain management regulations adopted by the community.

Expansion to an Existing Manufactured Home Park or Subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood or Flooding means:

(a) A general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters.

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

(3) Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (a)(2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

(b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(1) of this definition.

~~*Flood* or *"Flooding"* means a general and temporary condition of partial or complete inundation of normally dry land areas from~~

~~(1) The overflow of inland; and/or~~

~~(2) The unusual and rapid accumulation or runoff of surface waters from any source.~~

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New Manufactured Home Park or Subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

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

Non-encroachment area means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot as designated in the flood insurance study report.

Post-FIRM means construction or other development for which the "start of construction" occurred on or after the effective date of the initial flood insurance rate map.

Pre-FIRM means construction or other development for which the "start of construction" occurred before the effective date of the initial flood insurance rate map.

Principally above ground means that at least 51 percent of the actual cash value of the structure is above ground.

Public safety and/or *"Nuisance"* means anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

Recreational vehicle (RV) means a vehicle, which is:

(1) Built on a single chassis;

(2) Four hundred square feet or less when measured at the largest horizontal projection;

(3) Designed to be self-propelled or permanently towable by a light duty truck; and

(4) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

(5) Has no attached deck, porch, or shed, and

(6) Has quick-disconnect sewage, water, and electrical connectors.

Reference level is the top of the lowest floor for structures within special flood hazard areas designated as Zone A1-A30, AE, A, A99 or AO.

Regulatory flood protection elevation means the "base flood elevation" plus the "freeboard." In "special flood hazard areas" where base flood elevations (BFEs) have been determined, this elevation shall be the BFE plus two feet of freeboard. In "special flood hazard areas" where no BFE has been established, this elevation shall be at least two feet above the highest adjacent grade.

Remedy a violation means to bring the structure or other development into compliance with state and community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

Repetitive Loss means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

Repetitive Loss Property means any insurable building for which two or more claims of more than $1,000 were paid by the National Flood Insurance Program (NFIP) within any rolling 10-year period, since 1978. At least two of the claims must be more than ten days apart but, within ten years of each other. A RL property may or may not be currently insured by the NFIP.

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

Salvage yard means any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including, but not limited to, vehicles, appliances and related machinery.

Section 1316 means that section of the National Flood Insurance Act of 1968, as amended, which states that no new flood insurance coverage shall be provided for any property that FEMA finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that are intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

Severe Repetitive Loss Structure means any insured property that has met at least one of the following paid flood loss criteria since 1978, regardless of ownership. In either case, two of the claim payments must have occurred within ten years of each other. Multiple losses at the same location within ten days of each other are counted as one loss, with the payment amounts added together.

1. Four or more separate claim payments of more than $5,000 each (including building and contents payments); or
2. Two or more separate claim payments (building payments only) where the total of the payments exceeds the current market value of the property.

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Water surface elevation (WSE) means the height, in relation to NAVD 1988 ~~mean sea level~~, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

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

X Zones means areas determined to be low to moderate risk flood zones and are located outside the community's delineated Special Flood Hazard Area (SFHA) and include the following:

(a) Shaded - is the area of moderate flood hazard and can represent:
    (1) 0.2% annual chance flood hazard area (500-year flood zone),
    (2) Areas of 1% annual chance flood with average depth less than one (1) foot, or
    (3) Areas of 1% annual chance flood with drainage areas of less than one (1) square mile
(b) Unshaded - is the area of minimal flood hazard determined to be outside of the 0.2% annual chance flood (500-year flood zone).

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

This ordinance shall apply to all special flood hazard areas within the jurisdiction, including extra-territorial jurisdictions (ETJs), of the City of Lenoir.

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

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

~~The special flood hazard areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its FIS dated July 7, 2009 shown on FIS for~~

~~Caldwell County and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of this ordinance, and all revisions thereto.~~

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Sec. 9-28. Penalties for violation.

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor under G.S. § 143-215.58. Any person who violates this ordinance or fails to comply with its requirements shall be subject to civil penalties set forth in Section 1-15 of this Code. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Lenoir from taking such other lawful action as is necessary to prevent or remedy any violation.

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Sec. 9-45. Designation of floodplain administrator.

The City of Lenoir Planning Director, hereinafter referred to as the "floodplain administrator," is hereby appointed to administer and implement the provisions of this chapter. In instances where the floodplain administrator receives assistance from others to complete tasks to administer and implement this ordinance, the floodplain administrator shall be responsible for the coordination and ~~community's~~ the City's overall compliance with the National Flood Insurance Program and the provisions of this ordinance.

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

(1) *Application requirements.* Application for a floodplain development permit shall be made to the floodplain administrator prior to any development activities located within special flood hazard areas. The following items shall be presented to the floodplain administrator to apply for a floodplain development permit:

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c. If floodproofing, a floodproofing certificate (FEMA Form FF-206-FY22-153~~3~~ ~~0~~) with supporting data, an operational plan, and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of floodproofing measures.

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(2) *Permit requirements.* The floodplain development permit shall include, but not be limited to:

a. A complete description of all the development to be permitted under the floodplain development permit (e.g. house, garage, pool, septic, bulkhead, cabana, pier, bridge, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc.), including a cost estimate of proposed work.

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(3) *Certification requirements.*

a. Elevation certificates.

1. An elevation certificate (FEMA Form FF-206-FY 22-152) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of the elevation of the reference level, in relation to NAVD 1988 ~~mean sea level~~. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.

2. An elevation certificate (FEMA Form FF-206-FY 22-152) is required after the reference level is established. Within seven calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the floodplain administrator a certification of the elevation of the reference level, in relation to NAVD 1988. Any work done within the seven day calendar period and prior to submission of the certification shall be at the permit holder's risk. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.

3. A final finished construction elevation certificate (FEMA Form-FF-206-FY 22-152) is required after construction is completed and prior to certificate of compliance/occupancy issuance. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to certificate of compliance/occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a certificate of compliance/occupancy. <u>The Finished Construction Elevation Certificate certifier shall provide at least 2 photographs showing the front and rear of the building taken within 90 days from the date of certification. The photographs must be taken with views confirming the building description and diagram number provided in Section A. 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" × 3". Digital photographs are acceptable.</u>

b. Floodproofing certificate.

1. If non-residential floodproofing is used to meet the regulatory flood protection elevation requirements, a floodproofing certificate (FEMA Form FF-206-FY22-153~~-0~~), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The floodplain administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in

accordance with the certified design shall be cause to withhold the issuance of a certificate of compliance/occupancy.

2. A final Finished Construction Floodproofing Certificate (FEMA Form FF-206-FY-22-153), 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.

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

d. If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.

e. Certification exemptions. The following structures, if located within zone A, AO, AE or A1-30, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) of this subsection:

1. Recreational vehicles meeting requirements of subsection 9-67(6)a.;

2. Temporary structures meeting requirements of subsection 9-67(7); and

3. Accessory structures less than 150 square feet meeting requirements of subsection 9-67(8).

(4) Substantial Improvement/Damage 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:

a. Estimate the market value, or require the applicant to obtain an 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 of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;

b. 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;

c. Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and

d. 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.

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

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

(1) Review all floodplain development applications and issue permits for all proposed development within special flood hazard areas to assure that the requirements of this chapter have been satisfied.

(2) Review all proposed development within special flood hazard areas to assure that all necessary local, state and federal permits have been received, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

(3) Notify adjacent communities and the North Carolina Department of ~~Crime Control and~~ Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).

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(14) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the floodplain administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the floodplain administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the City ~~community~~ at any reasonable hour for the purposes of inspection or other enforcement action.

(15) Issue stop work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this chapter, the floodplain administrator may order the work to be immediately stopped. The stop work order shall be in writing and directed to the person doing or in charge of the work. The stop work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed.

(16) Revoke floodplain development permits as required. The floodplain administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable state or local law may also be revoked.

(17) Make periodic inspections throughout the special flood hazard areas within the jurisdiction of the ~~community~~ City. The floodplain administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

(18) Follow through with corrective procedures of section 9-48.

(19) Review, provide input, and make recommendations for variance requests.

(20) Maintain a current map repository to include, but not limited to, the FIS report, FIRM and other official flood maps and studies adopted in accordance with the provisions of section 9-22 of this chapter, including any revisions thereto including letters of map change, issued by FEMA. Notify state and FEMA of mapping needs.

(21) Coordinate revisions to FIS reports and FIRMs, including letters of map revision based on fill (LOMR-Fs) and letters of map revision (LOMRs).

(22) Make substantial improvement and post event damage assessments and determinations:

(a) Conduct damage assessments for damaged structures located within the SFHA. Complete substantial improvement/damage determinations in accordance with the provisions of Section 9-46(4).

(23) When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a Special Flood Hazard Area is above the BFE, advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the LOMA issued by FEMA in the floodplain development permit file

(24) In any lot or lots/areas that will be or have been removed from the special flood hazard area utilizing a Letter of Map Revision Based on Fill (LOMR-F), the top of fill level must meet the community's freeboard elevation at that location. If the top of fill level is below the freeboard elevation, all new structures, additions to existing buildings or substantial improvement must meet the required community freeboard elevation.

Sec. 9-48. Corrective procedures.

1. Stop Work Order: The City may issue a stop work order, which shall be served on the applicant or other responsible person. The stop work order shall remain in effect until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise remedied the violation or violations described therein, provided the stop work order may be withdrawn or modified to enable the applicant or other responsible person to take the necessary remedial measures to remedy such violation or violations

2. Notice of Violation. If the City determines that an owner, occupant, applicant or other responsible person has failed to comply with the terms and conditions of a permit, or the provisions of this ordinance, it shall issue a written notice of violation, by certified return receipt mail, to such applicant or other responsible person. Where the person is engaged in activity covered by this ordinance without having first secured a permit, the notice shall be served on the owner or the responsible person in charge of the activity being conducted on the site. The notice

of violation shall contain:

(a) The name and address of the owner or the applicant or the responsible person;

(b) The address or other description of the site upon which the violation is occurring;

(c) A statement specifying the nature of the violation;

(d) A description of the remedial measures necessary to bring the action or inaction into compliance with the permit or this ordinance and the date for the completion of such remedial action;

(e) A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed, and;

(f) A statement that the determination of violation may be appealed to the City of Lenoir Board of Adjustment by filing a written notice of appeal within thirty days after the notice of violation (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24-hour notice shall be sufficient).

3. Additional Enforcement Actions. If the remedial measures described in the Notice of Violation have not been completed by the date set forth for such completion in the Notice of Violation, any one or more of the following enforcement actions may be enacted against the person to whom the Notice of Violation was directed. Before taking any of the following actions or imposing any of the following penalties, the City of Lenoir shall first notify the owner, applicant or other responsible person in writing of its intended action. The City of Lenoir shall provide reasonable opportunity, of not less than ten days (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24-hour notice shall be sufficient) to remedy such violation. In the event the applicant or other responsible person fails to remedy such violation after such notice and remedial period, the City of Lenoir may take or impose any one or more of the following enforcement actions or penalties:

(a) Termination of utility service and/or withhold or revoke Certificate of Occupancy: The City may terminate utilities and/or refuse to issue and/or revoke a certificate of occupancy for the building or other improvements and/or repairs conducted or being conducted on the site until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise remedy the violation or violations described therein.

(b) Suspension, revocation, or modifications of permit: The City may suspend, revoke, or modify the permit authorizing the development project. A suspended, revoked, or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise remedy the violations described therein, provided such permit may be reinstated (upon such conditions as the City may deem necessary) to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.

(c) Civil penalties: Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions shall constitute a Class 1

misdemeanor pursuant to North Carolina General Statute § 143-215.58.

(i) Any person who violates this ordinance or fails to comply with its requirements shall be subject to civil penalties set forth in Section 1-15 of this Code. Each day such violation continues shall be considered a separate offense.

(ii) Enforcement by an appropriate equitable remedy issuing from a court of competent jurisdiction may be pursued if the offender fails to remedy the violation, pays assessed fines, and/or fails to file an appeal within the prescribed period of time. In such case, the general court of justice shall have jurisdiction to issue such orders as may be appropriate.

Administrative appeal; judicial review. Any person receiving a Notice of Violation may appeal the determination of the City, including but not limited to the issuance of a stop work order, the assessment of an administratively-imposed monetary penalty, the suspension, revocation, modification, or grant with condition of a permit by the community upon finding that the holder is in violation of permit conditions, or that the holder is in violation of any applicable ordinance or any of the City's rules and regulations, or the issuance of a notice of bond forfeiture.

Any person receiving a Notice of Violation may appeal the determination of the floodplain administrator to the local elected governing body. The Notice of Appeal must be in writing and be received by the floodplain administrator and the clerk within thirty (30) days of the date of the Notice of Violation. In the absence of an appeal, the determination of the floodplain administrator shall be final.

All appeals shall be heard and decided by the City's designated Appeal Board, which shall be the Lenoir Board of Adjustment, or their designees. The Appeal Board shall hear an appeal within a reasonable time and shall have the power to affirm, modify, or reject the original penalty, including the right to increase or decrease the amount of any monetary penalty and the right to add or delete remedial actions required for correction of the violation and compliance with the City's flood damage prevention ordinance, and any other applicable local, state, or federal requirements. In the absence of a petition for review of a quasi-judicial decision, the decision of the Appeal Board shall be final.

A petition for review of a quasi-judicial decision can be requested by any person with standing aggrieved by a decision or order of the City, after exhausting his/her administrative remedies. The petition shall be received by the clerk of superior court within 30 days of the date of the local governing body decision.

Section 1316 Declaration: Section 1316 of the National Flood Insurance Act authorizes FEMA to deny flood insurance to a property declared by the State, County, or Municipal government to be in violation of the local floodplain management ordinance. A Section 1316 declaration shall be used when all other legal means to remedy a violation have been exhausted and the structure remains noncompliant. The community must coordinate a request for Section 1316 declaration to the FEMA Regional Office through the State NFIP Coordinator.

Once invoked, the property's flood insurance coverage will be terminated and no new or renewal policy can be issued; no flood insurance claim can be paid on any policy on the property, and disaster assistance will be denied. If a structure that has received a Section 1316 declaration is made compliant with the community's floodplain management ordinance, then the Section 1316 declaration can be rescinded by FEMA and flood insurance eligibility restored.

Sec. 9-49. Variance procedures.

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

(2) Any person aggrieved by the decision of the appeal board may appeal such decision to the court, as provided in Chapter 7A of the North Carolina General Statutes.

(3) Variances may be issued for:

a. The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;

b. Functionally dependent facilities if determined to meet the definition as stated in section 9-5 of this chapter, provided provisions of subsections 9-49(9)b., c. and e. have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or

c. Any other type of development, provided it meets the requirements of this section.

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e. The City of Lenoir has notified the Secretary of the North Carolina Department of Public Safety of its intention to grant a variance at least 30 calendar days prior to granting the variance, in accordance with North Carolina General Statutes §143-215.54A(b).

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Sec. 9-66. General standards.

In all special flood hazard areas the following provisions are required:

(1) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.

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(16) Structural fill shall not be used unless design and construction of the structural fill accounts for the following:

(a) consolidation of the underlying soil under the weight of the fill and the structure,

(b) differential settlement due to variations in fill composition and characteristics, and

(c) slope stability and erosion control during conditions of the base flood.

Sec. 9-67. Specific standards.

In all special flood hazard areas where base flood elevation (BFE) data has been provided, as set forth in section 9-22 and section 9-69 the following provisions, in addition to the provisions of section 9-66, are required:

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(6) *Recreational vehicles.* Recreational vehicles shall ~~either~~ meet the following:

a. Placement of a Recreational Vehicle in the Regulatory Floodway or Non-Encroachment Area is prohibited. This includes both temporary and permanent placement

b. Temporary placement.

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

~~b. *Permanent placement*. Recreational vehicles that do not meet the limitations of temporary placement shall meet all the requirements for new construction.~~

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(8) *Accessory structures.* When accessory structures (sheds, detached garages, etc.) with a footprint of no more than 600 square feet are placed within A, AO, AH, AE and A99 flood zones, wet floodproofing may be permitted when the following criteria are met:~~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 section 9-66(1);

f. All service facilities such as electrical shall be installed in accordance with the provisions of section 9-66(4); 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 9-67(4)c.

An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with section 9-46(3).

(b) All other accessory structures exceeding the size restrictions in Article 5, Section B(8)(a) above must comply with the elevation or floodproofing standards and certification requirements in accordance with Section 9-46(3) and Section 9-67(8)(a).

An accessory structure with a footprint of 150 square feet or less in A, AO, AH, AE and A99 zones satisfying the criteria outlined above in Section 9-67(8)(a) is not required to meet the elevation or floodproofing certification requirements of Section 9-46(3). All other accessory structures must comply with the elevation or floodproofing certification requirements in accordance with Section 9-46(3).

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Sec. 9-71. Standards for floodways and non-encroachment areas.

Areas designated as floodways or non-encroachment areas are located within the special flood hazard areas established in section 9-22. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in sections 9-66 and 9-67, shall apply to all development within such areas:

(1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:

a. It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the floodplain administrator prior to issuance of floodplain development permit, or

b. A conditional letter of map revision (CLOMR) has been approved by FEMA for proposed encroachments resulting in increases in the flood levels during the occurrence of the base flood discharge. A letter of map revision (LOMR) must also be obtained within six months of completion of the proposed encroachment.

c. A Letter of Map Revision (LOMR) must be obtained within six months of completion of the proposed encroachment, permitted in accordance with Section 9-71(1) if the encroachment results in changes to the floodway/non-encroachment area widths, and/or changes to the stream location.

(2) If subsection 9-71(1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.

(3) No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:

a. The anchoring and the elevation standards of subsection 9-67(3); and

b. The no encroachment standard of subsection 9-71(1).

(4) Placement of recreational vehicles in the regulatory floodway or non-encroachment area is prohibited.

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Sec. 9-91. Severability.

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

SECTION 2. CODIFICATION. The City Clerk shall cause the Code of Ordinances of Lenoir, North Carolina to be amended as provided by this ordinance and may renumber, re-letter, and rearrange the codified parts of this ordinance if necessary to facilitate the finding of the law.

SECTION 3. EFFECTIVE DATE. This ordinance takes effect upon adoption.

DONE, THE FIRST READING, by an affirmative vote of a majority of a quorum present of the City Council of the City of Lenoir, North Carolina, at a regular meeting, this 16th day of June, 2026.

DONE, THE PUBLIC NOTICE, in a newspaper of general circulation in the City of Lenoir, North Carolina, by the City Clerk of the City of Lenoir, North Carolina, this _____ day of _____ and this _____ day of _____, 2026.

DONE, THE SECOND READING AND PUBLIC HEARING, AND ENACTED ON FINAL PASSAGE, by an affirmative vote of a majority of a quorum present of the City Council of the City of Lenoir, North Carolina, at a regular meeting, this _____ day of _____, 2026.

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

_____
Mayor/Mayor Pro Tempore

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

_____
City Clerk

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