Lincolnton NC

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ZTA-6-2025

Application from Staff, requesting an amendment to the following Sections

- Chapter 152: Flood Damage Prevention
- Chapter 153.051 One Principal Building
- Chapter 153.074 Supplementary Requirements For Development In The Central Business And Transitional Business Districts

MEMO TO: Planning Board

FROM: Planning Staff

SUBJECT: ZTA-6-2025 - Zoning Text Amendments to Chapters 152 and 153 Unified Development Ordinance

DATE: December 16, 2025

Background

Occasionally, minor errors in the text or changes in circumstances necessitate amendments to the Unified Development Ordinance (UDO). To enhance the UDO's enforceability and effectiveness, it is essential to modify, update, or add specific sections of the ordinance.

Proposed Amendments:

1. **CHAPTER 152: Flood Damage Prevention**

Staff Comment: All references to zones AO and AH have been removed. These zones are not a part of our jurisdiction, and their inclusion in our ordinance is unnecessary. The state advised that this language be eliminated. Additionally, changing the wording from the Zoning Administrator to the Planning Director or their appointee. This allows more than one person in the department to administer the floodplain.

2. **153.051 One Principal Building**

Staff Comment: Our ordinance does not allow for more than one principal residential structure (home) per lot. There are nonconforming lots with multiple homes within our jurisdiction. Currently, if you wanted to subdivide the lots and have one home per lot, you would need a variance because, typically, you cannot meet the regulations of your zoning district. To make the process easier and more expedited for our citizens, we are asking that this type of subdivision be approved at the staff level.

3. **§ 153.074 Supplementary Requirements For Development In The Central Business And Transitional Business Districts.**

Staff Comment: The supplementary requirements indicate that tinted or mirrored windows are not permitted. However, several businesses currently have these types of windows, and many others are interested in installing tinted windows for energy efficiency. We propose removing this requirement.

New language in yellow, language to be removed is struck through and in red.

CHAPTER 152: FLOOD DAMAGE PREVENTION

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GENERAL PROVISIONS

§ 152.01 STATUTORY AUTHORITY.

The Legislature of the State of North Carolina has in G.S. Chapter 143, Article 21, Part 6; G.S. Chapter 153A, Article 6; G.S. Chapter 160A, Article 8; and G.S. Chapter 160D, Articles 7, 9, and 11, delegated to local governmental units the authority to adopt regulations designed to promote the public health, safety, and general welfare. Therefore, the City Council of Lincolnton, North Carolina, does ordain as set out in this chapter.

(Prior Code, § 4-76) (Ord. passed 3-5-1991; Ord. O-02-07, passed 7-12-2007; Ord. passed 11-2-2023)

§ 152.02 FINDINGS OF FACT.

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

(B) These flood losses are caused by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities, and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.

(Prior Code, § 4-77) (Ord. passed 3-5-1991; Ord. O-02-07, passed 7-12-2007; Ord. passed 11-2-2023)

§ 152.03 STATEMENT OF PURPOSE.

It is the purpose of this chapter to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:

(A) Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;

(B) Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;

(C) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;

(D) Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and

(E) Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

(Prior Code, § 4-78) (Ord. passed 3-5-1991; Ord. O-02-07, passed 7-12-2007; Ord. passed 11-2-2023)

§ 152.04 OBJECTIVES.

The objectives of this chapter are to:

(A) Protect human life, safety, and health;

(B) Minimize expenditure of public money for costly flood control projects;

(C) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(D) Minimize prolonged business losses and interruptions;

(E) Minimize damage to public facilities and utilities (i.e. water and gas mains; electric, telephone, cable and sewer lines; streets; and bridges) that are located in flood prone areas;

(F) Minimize damage to private and public property due to flooding;

(G) Make flood insurance available to the community through the National Flood Insurance Program;

(H) Maintain the natural and beneficial functions of floodplains;

(I) Help maintain a stable tax base by providing for the sound use and development of flood prone areas; and

(J) Ensure that potential buyers are aware that property is in a special flood hazard

area.

(Prior Code, § 4-79) (Ord. passed 3-5-1991; Ord. O-02-07, passed 7-12-2007; Ord. passed 11-2-2023)

§ 152.05 DEFINITIONS.

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

ACCESSORY STRUCTURE (APPURTENANT STRUCTURE). 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). An extension or increase in the floor area or height of a building or structure.

ALTERATION OF A WATERCOURSE. 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.

APPEAL. A request for a review of the Floodplain Administrator's interpretation of any provision of this chapter.

~~AREA OF SHALLOW FLOODING. A designated Zone AO or AH 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.~~

AREA OF SPECIAL FLOOD HAZARD. See SPECIAL FLOOD HAZARD AREA (SFHA).

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year.

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

BASEMENT. Any area of the building having its floor subgrade (below ground level) on

all sides.

BUILDING. See STRUCTURE.

CHEMICAL STORAGE FACILITY. A building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

DESIGN FLOOD. See REGULATORY FLOOD PROTECTION ELEVATION.

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

DIGITAL FLOOD INSURANCE RATE MAP (DFIRM). 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. 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.

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

ENCROACHMENT. The advance or infringement of uses, fill, excavation, buildings, structures or development into a special flood hazard area, which may impede or alter the flow capacity of a floodplain.

EXISTING BUILDING AND EXISTING STRUCTURE. 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 November 3, 2023.

EXISTING MANUFACTURED HOME PARK OR MANUFACTURED HOME SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community, dated November 3, 2023.

FLOOD or FLOODING. A general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters; and/or

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

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM). An official map of a community, issued by the FEMA, on which the special flood hazard areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the flood insurance rate map (FIRM).

FLOOD HAZARD BOUNDARY MAP (FHBM). An official map of a community, issued by the FEMA, where the boundaries of the special flood hazard areas have been defined as Zone A.

FLOOD INSURANCE. The insurance coverage provided under the National Flood Insurance Program.

FLOOD INSURANCE RATE MAP (FIRM). An official map of a community, issued by the FEMA, on which both the special flood hazard areas and the risk premium zones applicable to the community are delineated (see also DFIRM).

FLOOD INSURANCE STUDY (FIS). An examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the FEMA. The flood insurance study report includes flood insurance rate maps (FIRMs) and flood boundary and floodway maps (FBFMs), if published.

FLOOD PRONE AREA. See FLOODPLAIN.

FLOOD ZONE. A geographical area shown on a flood hazard boundary map or flood insurance rate map that reflects the severity or type of flooding in the area.

FLOODPLAIN. Any land area susceptible to being inundated by water from any source.

FLOODPLAIN ADMINISTRATOR. The individual appointed to administer and enforce the floodplain management regulations.

FLOODPLAIN DEVELOPMENT PERMIT. Any type of permit that is required in conformance with the provisions of this chapter, prior to the commencement of any development activity.

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

FLOODPLAIN MANAGEMENT REGULATIONS. This chapter and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power. This term describes federal, state or local regulations, in any combination thereof, which provide standards for preventing

and reducing flood loss and damage.

FLOODPROOFING. Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

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

FLOODWAY. The channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

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

FREEBOARD. The height added to the BFE to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, precipitation exceeding the base flood, and the hydrological effect of urbanization of the watershed. The BFE plus the freeboard establishes the regulatory flood protection elevation.

FUNCTIONALLY DEPENDENT FACILITY. A facility which cannot be used for its intended purpose unless it is located in close proximity to water, limited to a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term docs not include long-term storage, manufacturing, sales, or service facilities.

HAZARDOUS WASTE MANAGEMENT FACILITY. As defined in G.S. Chapter 130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

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

HISTORIC STRUCTURE.

(1) Any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) Individually listed on a local inventory of historic landmarks in communities with a "certified local government (CLG) program"; or

(d) Certified as contributing to the historical significance of a historic district designated by a community with a "certified local government (CLG) program."

(2) Certified local government (CLG) programs arc approved by the U.S. Department of the Interior in cooperation with the North Carolina Department of Cultural Resources and through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966, as amended in 1980.

LETTER OF MAP CHANGE (LOMC). An official determination issued by the FEMA that amends or revises an effective flood insurance rate map or flood insurance study. LETTERS OF MAP CHANGE include:

(1) LETTER OF MAP AMENDMENT (LOMA). An official amendment, by letter, to an effective National Flood Insurance Program map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the base flood elevation. A LOMA amends the current effective flood insurance rate map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.

(2) LETTER OF MAP REVISION (LOMR). A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.

(3) LETTER OF MAP REVISION BASED ON FILL (LOMR-F). A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been pennitted and placed in accordance with the community's floodplain management regulations.

(4) CONDITIONAL LETTER OF MAP REVISION (CLOMR). A formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR docs not revise the effective flood insurance rate map or flood insurance study; upon submission and approval of certified as-built documentation, a letter of map revision may be issued by FEMA to revise the effective FIRM.

LIGHT DUTY TRUCK. Any motor vehicle rated at 8,500 pounds gross vehicular weight rating or less which has a vehicular curb weight of 6,000 pounds or less, which has a basic vehicle frontal area of 45 square feet or less as defined in 40 CFR 86.082-2, and is:

(1) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle; or

(2) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or

(3) Available with special features enabling off-street or off-highway operation and use.

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

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

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

MANUFACTURED HOME PARK OR SUBDIVISION. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MAP REPOSITORY. The location of the official flood hazard data to be applied for floodplain management. It is a central location in which flood data is stored and managed; in North Carolina, FEMA has recognized that the application of digital flood hazard data products have the same authority as hard copy products. Therefore, the NCEM's floodplain mapping program website houses current and historical flood hazard data. For effective flood hazard data the NC FRIS website (http://FRIS.NC.GOV/FRIS) is the map repository, and for historical flood hazard data the FloodNC website (http://FLOODNC.GOV/NCFLOOD) is the map repository.

MARKET VALUE. The building value, not including the land value and that of any accessory structures or other improvements on the lot. MARKET VALUE may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (actual cash value); or adjusted tax assessed values.

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

NON-CONVERSION AGREEMENT. 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 this chapter 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 (NEA). The channel of a river or other watercourse, including the area above a bridge or culvert when applicable, 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. 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. 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. At least 51% of the actual cash value of the structure is above ground.

PUBLIC SAFETY and/or NUISANCE. 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).

(1) A vehicle which is:

(a) Built on a single chassis;

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

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

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

(e) Is fully licensed and ready for highway use.

(2) For the purpose of this chapter, tiny homes/houses and park models that do not meet the items listed above are not considered recreational vehicles and should meet the standards of, be permitted as residential structures, and be inspected by building inspectors.

REFERENCE LEVEL. The top of the lowest floor for structures within special flood hazard areas designated as Zones A, AE, and A99. The reference level is the bottom of the lowest horizontal structural member of the lowest floor for structures within special flood hazard areas designated as Zones VE.

REGULATORY FLOOD PROTECTION ELEVATION. The base flood elevation plus the

freeboard. In special flood hazard areas where base flood elevations (BFEs) have been determined, this elevation shall be the BFE plus two feet 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. 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 this chapter or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

RIVERINE. Relating to, formed by, or resembling a river (including tributaries), stream, brook, and the like.

SALVAGE YARD. 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.

SOLID WASTE DISPOSAL FACILITY. Any facility involved in the disposal of solid waste, as defined in G.S. § 130A-290(a)(35).

SOLID WASTE DISPOSAL SITE. As defined in G.S. § 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

SPECIAL FLOOD HAZARD AREA (SFHA). The land in the floodplain subject to a 1% or greater chance of being flooded in any given year, as determined in § 152.07.

START OF CONSTRUCTION. Includes substantial improvement, and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE. A walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to its before damaged

condition would equal or exceed 50% of the market value of the structure before the damage occurred. See SUBSTANTIAL IMPROVEMENT.

SUBSTANTIAL IMPROVEMENT. Any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

(1) Any correction of existing violations of state or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or

(2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure and the alteration is approved by variance issued pursuant to § 152.29.

TECHNICAL BULLETIN AND TECHNICAL FACT SHEET.

(1) A FEMA publication that provides guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at § 60.3. The bulletins and fact sheets are intended for use primarily by state and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations.

(2) It should be noted that TECHNICAL BULLETINS AND TECHNICAL FACT SHEETS provide guidance on the minimum requirements of the NFIP regulations. State or community requirements that exceed those of the NFIP take precedence. Design professionals should contact the community officials to determine whether more restrictive state or local regulations apply to the building or site in question. All applicable standards of the state or local building code must also be met for any building in a flood hazard area.

TEMPERATURE CONTROLLED. Having the temperature regulated by a heating and/or cooling system, built-in or appliance.

VARIANCE. A grant of relief from the requirements of this chapter.

VIOLATION. The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in §§ 152.25 through 152.29 and §§ 152.40 through 152.46 is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION (WSE). The height, in relation to NAVD 1988, of

floods of various magnitudes and frequencies in the floodplains of riverine areas.

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

(Prior Code, § 4-80) (Ord. passed 3-5-1991; Ord. O-02-07, passed 7-12-2007; Ord. passed 11-2-2023)

§ 152.06 LANDS TO WHICH THIS CHAPTER APPLIES.

This chapter shall apply to all special flood hazard areas within the jurisdiction, including extra-territorial jurisdictions (ETJs), as allowed by law, of the City of Lincolnton.

(Prior Code, § 4-81) (Ord. passed 3-5-1991; Ord. O-02-07, passed 7-12-2007; Ord. passed 11-2-2023)

§ 152.07 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 August 16, 2007 for Lincoln 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 chapter, and all revisions thereto.

(Prior Code, § 4-82) (Ord. passed 3-5-1991; Ord. O-02-07, passed 7-12-2007; Ord. passed 11-2-2023)

§ 152.08 ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT.

A floodplain development permit shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities within special flood hazard areas determined in accordance with the provisions of § 152.07.

(Prior Code, § 4-83) (Ord. passed 3-5-1991; Ord. O-02-07, passed 7-12-2007; Ord. passed 11-2-2023) Penalty, see § 152.99

§ 152.09 COMPLIANCE.

No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this chapter and other applicable regulations.

(Prior Code, § 4-84) (Ord. passed 3-5-1991; Ord. O-02-07, passed 7-12-2007; Ord. passed 11-2-2023) Penalty, see § 152.99

§ 152.10 ABROGATION AND GREATER RESTRICTIONS.

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Prior Code, § 4-85) (Ord. passed 3-5-1991; Ord. O-02-07, passed 7-12-2007; Ord. passed 11-2-2023)

§ 152.11 INTERPRETATION.

In the interpretation and application of this chapter, all provisions shall be:

(A) Considered as minimum requirements;

(B) Liberally construed in favor of the governing body; and

(C) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Prior Code, § 4-86) (Ord. passed 3-5-1991; Ord. O-02-07, passed 7-12-2007; Ord. passed 11-2-2023)

§ 152.12 WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this chapter 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 chapter 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 chapter shall not create liability on the part of the City of Lincolnton or by any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

(Prior Code, § 4-87) (Ord. passed 3-5-1991; Ord. O-02-07, passed 7-12-2007; Ord. passed 11-2-2023)

ADMINISTRATION

§ 152.25 DESIGNATION OF FLOODPLAIN ADMINISTRATOR.

The ~~Zoning Administrator,~~ Planning Director, or their appointee, 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 chapter, the Floodplain Administrator shall be responsible for the coordination and community's overall compliance with the National Flood Insurance Program and the provisions of this

chapter.

(Prior Code, § 4-96) (Ord. passed 3-5-1991; Ord. O-02-07, passed 7-12-2007; Ord. passed 11-2-2023)

§ 152.26 FLOODPLAIN DEVELOPMENT APPLICATION; PERMIT AND CERTIFICATION REQUIREMENTS.

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

(1) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:

(a) The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;

(b) The boundary of the special flood hazard area as delineated on the FIRM or other flood map as determined in § 152.07, or a statement that the entire lot is within the special flood hazard area;

(c) Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in § 152.07;

(d) The boundary of the floodway(s) or non-encroachment area(s) as determined in § 152.07;

(e) The base flood elevation (BFE) where provided as set forth in § 152.07; § 152.27; or § 152.42;

(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 or AE~~, AH, AO~~ will be floodproofed; and

(c) Elevation in relation to NAVD 1988 to which any proposed utility systems will be elevated or floodproofed;

(3) If floodproofing, a floodproofing certificate (FEMA Form 086-0-34) 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) A foundation plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this chapter are met. These details include but are not limited to:

(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 § 152.41(D)(4) when solid foundation perimeter walls are used in Zones A or AE~~, AH, and AO~~;

(5) Usage details of any enclosed areas below the lowest floor;

(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 § 152.41(F) and (G) are met; and

(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-canying 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, and the like);

(2) The special flood hazard area determination for the proposed development in accordance with available data specified in § 152.07;

(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 § 152.44 have been met;

(7) The flood openings requirements;

(8) Limitations of below BFE enclosure uses (if applicable) (i.e., parking, building access and limited storage only); and

(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 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. 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 caused to deny a floodplain development permit.

(b) 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 caused to issue a stop-work order for the project.

(c) 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. The finished construction elevation certificate certifier shall provide at least two 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 § 152.40. 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 two 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 three inches by three inches. 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 FF-206-FY-22-153), 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 caused to withhold the issuance of a certificate of compliance/occupancy.

(b) 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. The floodproofing certificate shall be prepared by or under the direct supervision of a professional engineer or architect and ceriified 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 the 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) If a manufactured home is placed within Zones A or AE~~, AH, and/or AO~~ 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 § 152.41(C)(2).

(4) 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.

(5) Certification exemptions. The following structures, if located within Zones A or AE~~, AH, and AO,~~ are exempt from the elevation/floodproofing certification requirements specified in items (C)(1) and (2):

(a) Recreational vehicles meeting the requirements of § 152.41(F)(1);

(b) Temporary structures meeting the requirements of § 152.41(G); and

(c) Accessory structures that are 150 square feet or less or $5,000 or less and meeting the requirements of § 152.41(H).

(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 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 stmcturc 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 N.C. Building Code and this chapter is required.

(Prior Code, § 4-97) (Ord. passed 3-5-1991; Ord. O-02-07, passed 7-12-2007; Ord. passed 11-2-2023) Penalty, see § 152.99

§ 152.27 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.

The Floodplain Administrator shall perform, but not be limited to, the following duties:

(A) 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;

(B) Review all proposed development within special flood hazard areas to assure that all necessary local, state and federal permits have been received, including § 404 of the

Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334;

(C) Notify adjacent communities and the North Carolina Department of 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);

(D) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained;

(E) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of § 152.44 are met;

(F) Obtain actual elevation (in relation to NAVD 1988) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with the provisions of § 152.26(C);

(G) Obtain actual elevation (in relation to NAVD 1988) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of 152.26(C);

(H) Obtain actual elevation (in relation to NAVD 1988) of all public utilities in accordance with the provisions of § 152.26(C);

(I) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of § 152.26(C) and § 152.41(B);

(J) Where interpretation is needed as to the exact location of boundaries of the special flood hazard areas, floodways, or non-encroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable oppottunity to appeal the interpretation as provided in this subchapter;

(K) When BFE data has not been provided in accordance with the provisions of § 152.07, obtain, review, and reasonably utilize any BFE data, along with floodway data or non-encroachment area data available from a federal, state, or other source, including data developed pursuant to § 152.42(B)(3), in order to administer the provisions of this chapter;

(L) When BFE data is provided but no flood way or non-encroachment area data has been provided in accordance with the provisions of § 152.07, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a federal, state, or other source in order to administer the provisions of this chapter;

(M) Permanently maintain all records that pertain to the administration of this chapter and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended;

(N) 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 this chapter and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action;

(O) 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. Violation of a stop-work order constitutes a misdemeanor;

(P) 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;

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

(R) Follow through with corrective procedures of § 152.28;

(S) Review, provide input, and make recommendations for variance requests;

(T) Maintain a current map repository to include, but not limited to, historical and effective FIS report, historical and effective FIRM and other official flood maps and studies adopted in accordance with the provisions of § 152.07, including any revisions thereto including letters of map change, issued by FEMA. Notify state and FEMA of mapping needs;

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

(V) 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.

(Prior Code, § 4-98) (Ord. passed 3-5-1991; Ord. O-02-07, passed 7-12-2007; Ord. passed 11-2-2023)

§ 152.28 CORRECTIVE PROCEDURES.

(A) Violations to be corrected. When the Floodplain Administrator finds violations of applicable state and local laws; it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.

(B) Actions in event of failure to take corrective action. If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:

(1) That the building or property is in violation of the floodplain management regulations;

(2) That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and

(3) That following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.

(C) Order to take corrective action. If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of this chapter, he or she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than 60 calendar days nor more than least 180 calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.

(D) Appeal. Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the Clerk within ten days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

(E) Failure to comply with order. If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a Class I misdemeanor pursuant to G.S. § 143-215.58 and shall be punished at the discretion of the court.

(Prior Code, § 4-99) (Ord. passed 3-5-1991; Ord. O-02-07, passed 7-12-2007; Ord. passed 11-2-2023) Penalty, see § 152.99

§ 152.29 VARIANCE PROCEDURES.

(A) The Board of Adjustment as established by the City of Lincolnton, hereinafter referred to as the "Appeal Board", shall hear and decide requests for variances from the requirements of this chapter.

(B) Any person aggrieved by the decision of the Appeal Board may appeal such decision to the Court, as provided in G.S. Chapter 7A.

(C) Variances may be issued for:

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

(2) Functionally dependent facilities if determined to meet the definition as stated in § 152.05, provided provisions of division (I)(2), (3), and (5) below 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

(3) Any other type of development provided it meets the requirements of this section.

(D) In passing upon variances, the Appeal Board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:

(1) The danger that materials may be swept onto other lands to the injury of others;

(2) The danger to life and property due to flooding or erosion damage;

(3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(4) The importance of the services provided by the proposed facility to the community;

(5) The necessity to the facility of a waterfront location as defined under § 152.05 as a functionally dependent facility, where applicable;

(6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(7) The compatibility of the proposed use with existing and anticipated development;

(8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(9) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(10) The expected heights, velocity, duration, rate of rise, and sediment transport of

the floodwaters and the effects of wave action, if applicable, expected at the site; and

(11) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

(E) A written report addressing each of the above factors shall be submitted with the application for a variance.

(F) Upon consideration of the factors listed above and the purposes of this chapter, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the pmvoses and objectives of this chapter.

(G) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the BFE and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE may result in increased premium rates for flood insurance up to $25 per $100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.

(H) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to FEMA and the State of North Carolina upon request.

(I) Conditions for variances.

(1) Variances shall not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or ordinances.

(2) Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.

(3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(4) Variances shall only be issued prior to development permit approval.

(5) Variances shall only be issued upon:

(a) A showing of good and sufficient cause;

(b) A determination that failure to grant the variance would result in exceptional hardship; and

(c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create a nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(J) A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in special flood hazard areas provided that all of the following conditions are

met.

(1) The use serves a critical need in the community;

(2) No feasible location exists for the use outside the special flood hazard area;

(3) The reference level of any structure is elevated or floodproofed to at least the regulatory flood protection elevation;

(4) The use complies with all other applicable federal, state and local laws; and

(5) The City of Lincolnton 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.

(Prior Code, § 4-100) (Ord. passed 3-5-1991; Ord. O-02-07, passed 7-12-2007; Ord. passed 11-2-2023) Penalty, see § 152.99

PROVISIONS FOR FLOOD HAZARD REDUCTION

§ 152.40 GENERAL STANDARDS.

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

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

(B) 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.

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

(D) All new electrical, heating, ventilation, air-conditioning, plumbing, duct systems, and other building utility systems, equipment, and service facilities must be located at or above the regulatory flood protection elevation (RFPE) and/or specially designed to prevent water from entering or accumulating within the components and installed to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of flooding to the design flood elevation. Utility systems, equipment, and service facilities include, but are not limited to, HVAC equipment, water softener units, bath/kitchen plumbing fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, water heaters, fuel tanks, and electric outlets/switches.

(1) Replacements that are part of a substantial improvement must also meet the above provisions.

(2) Replacements that are for maintenance and not part of a substantial

improvement may be installed at the original location, provided the addition and/or improvements comply with the standards for new construction consistent with the code and requirements for the original structure.

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

(F) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.

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

(H) Nothing in this chapter shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this chapter and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this chapter.

(I) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in § 152.29. A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a special flood hazard area only if the structure or tank is either elevated or floodproofed to at least the regulatory flood protection elevation and certified in accordance with the provisions of § 152.26(C).

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

(K) All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

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

(M) All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by federal or state law, including § 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

(N) 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.

(O) When a structure is located in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest BFE shall apply.

(P) Buildings and structures that are located in more than one flood hazard area shall comply with the provisions associated with the most restrictive flood hazard area.

(Prior Code, § 4-111) (Ord. passed 3-5-1991; Ord. O-02-07, passed 7-12-2007; Ord. passed 11-2-2023) Penalty, see § 152.99

§ 152.41 SPECIFIC STANDARDS.

In all special flood hazard areas where BFE data has been provided, as set forth in § 152.07 or § 152.42, the following provisions, in addition to the provisions of § 152.40, are required:

(A) 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 (RFPE), as defined in § 152.05.

(B) Non-residential construction. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in § 152.05. Structures located in Zones A or AE~~, AH, and AO~~ may be floodproofed to the regulatory flood protection elevation (RFPE) in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the regulatory flood protection elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. ~~For AO Zones, the floodproofing elevation shall be in accordance with § 152.45(B).~~ A registered professional engineer or architect shall certify that the floodproofing standards of this division are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in § 152.26(C), along with the operational plan and the inspection and maintenance plan.

(C) Manufactured homes.

(1) New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation (RFPE), as defined in § 152.05.

(2) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to G.S. § 143-143.15. 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 36 inches in height, an engineering certification is required.

(3) All enclosures or skirting below the lowest floor shall meet the requirements of

division (D) below.

(4) 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.

(D) Elevated buildings. Fully enclosed areas, of new construction and substantially improved structures, which are below the lowest floor:

(1) 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), 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;

(2) Shall not be temperature-controlled or conditioned;

(3) Shall be constructed entirely of flood-resistant materials at least to the regulatory flood protection elevation; and

(4) Shall include 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:

(a) A minimum of two flood openings on different sides of each enclosed area subject to flooding;

(b) The total net area of all flood openings must be at least 1 square inch for each square foot of enclosed area subject to flooding;

(c) If a building has more than 1 enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;

(d) The bottom of all required flood openings shall be no higher than 1 foot above the higher of the interior or exterior adjacent grade;

(e) 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

(f) Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

(5) Release of restrictive covenant. If a property which is bound by a non-conversion agreement is modified to remove enclosed areas below BFE, then the owner may request release of restrictive covenant after staff inspection and submittal of confirming documentation.

(E) Additions/improvements.

(1) 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:

(a) 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;

(b) 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.

(2) 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.

(3) 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:

(a) 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;

(b) A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

(4) Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a 1-year period, the cumulative cost of which equals or exceeds 50% 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 1-year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this chapter. Substantial damage also means flood-related damage sustained by a structure on 2 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% of the market value of the structure before the damage occurred. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:

(a) 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; or

(b) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

(F) Recreational vehicles. Not allowed for residential purposes.

(G) Temporary non-residential structures. Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:

(1) A specified time period for which the temporary use will be permitted. Time specified may not exceed 3 months, renewable up to 1 year;

(2) The name, address, and phone number of the individual responsible for the removal of the temporary structure;

(3) 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);

(4) A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and

(5) Designation, accompanied by documentation, of a location outside the special flood hazard area, to which the temporary structure will be moved.

(H) Accessory structures. When accessory structures (sheds, detached garages, and the like) are to be placed within a special flood hazard area, the following criteria shall be met:

(1) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);

(2) Accessory structures shall not be temperature-controlled;

(3) Accessory structures shall be designed to have low flood damage potential;

(4) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;

(5) Accessory structures shall be firmly anchored in accordance with the provisions of § 152.40(A);

(6) All service facilities such as electrical shall be installed in accordance with the provisions of § 152.40(D); and

(7) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with the provisions of division (D)(4) above. An accessory structure with a footprint less than 150 square feet or that is a minimal investment of $3,000 or less and satisfies the criteria outlined above is not required to meet the elevation or floodproofing standards of division (B) above. Elevation or floodproofing certifications are required for all other accessory structures in accordance with § 152.26(C).

(I) Tanks. When gas and liquid storage tanks are to be placed within a special flood

hazard area, the following criteria shall be met:

(1) 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.

(2) 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.

(3) Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of division (B) above 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.

(4) Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:

(a) 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

(b) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

(J) Other development.

(1) 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 § 152.44.

(2) Retaining walls, sidewalks and driveways in regulated floodways and NEAs. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of § 152.44 .

(3) Roads and watercourse crossings in regulated floodways and NEAs. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of § 152.44 .

(4) Commercial storage facilities are not considered "limited storage" as noted in this chapter, and shall be protected to the regulatory flood protection elevation as required for commercial structures.

(Prior Code, § 4-112) (Ord. passed 3-5-1991; Ord. O-02-07, passed 7-12-2007; Ord.

passed 11-2-2023; Ord. ZTA-3-2025, passed 6-5-2025)

§ 152.42 STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS.

Within the special flood hazard areas designated as approximate Zone A and established in § 152.07, where no BFE data has been provided by FEMA, the following provisions, in addition to the provisions of § 152.40, shall apply:

(A) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of 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.

(B) The BFE used in determining the regulatory flood protection elevation shall be determined based on the following criteria:

(1) 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 chapter and shall be elevated or floodproofed in accordance with standards in §§ 152.40 and 152.41.

(2) 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 §§ 152.41 and 152.44.

(3) All subdivision, manufactured home park and other development proposals shall provide BFE data if the development is greater than five acres or has more than 50 lots/manufactured home sites. Such BFE data shall be adopted by reference in accordance with § 152.07 and utilized in implementing this chapter.

(4) 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 § 152.05. All other applicable provisions of § 152.41 shall also apply.

(Prior Code, § 4-113) (Ord. passed 3-5-1991; Ord. O-02-07, passed 7-12-2007; Ord. passed 11-2-2023)

§ 152.43 STANDARDS FOR RIVERINE FLOODPLAINS WITH BFE 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:

(A) Standards of §§ 152.40 and 152.41; and

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

(Ord. O-02-07, passed 7-12-2007; Ord. passed 11-2-2023)

§ 152.44 FLOODWAYS AND NON-ENCROACHMENT AREAS.

Areas designated as floodways or non-encroachment areas are located within the special flood hazard areas are established in § 152.07. 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 §§ 152.40 and 152.41, shall apply to all development within such areas:

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

(1) 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

(2) A conditional letter of map revision (CLOMR) has been approved by FEMA. A letter of map revision (LOMR) must also be obtained within six months of completion of the proposed encroachment.

(B) If division (A) above is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this chapter.

(C) Manufactured homes may be permitted provided the following provisions are met:

(1) The anchoring and the elevation standards of § 152.41(C); and

(2) The encroachment standards of division (A) above.

(Ord. O-02-07, passed 7-12-2007; Ord. passed 11-2-2023)

~~§ 152.45 STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AO).~~

~~Located within the special flood hazard areas established in § 152.07 are areas~~

designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to §§ 152.40 and 152.41, all new construction and substantial improvements shall meet the following requirements:

(A) The reference level shall be elevated at least as high as the depth number specified on the flood insurance rate map (FIRM), in feet, plus a freeboard of two feet, above the highest adjacent grade; or at least two feet above the highest adjacent grade if no depth number is specified.

(B) Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in division (A) above so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with § 152.26(C) and § 152.41(B).

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

(Ord. passed 11-2-2023)

§ 152.46 STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AH).

Located within the special flood hazard areas established in § 152.07 are areas designated as shallow flooding areas. These areas are subject to inundation by 1%-annual-chance shallow flooding (usually areas of ponding) where average depths are one to three feet. Base flood elevations are derived from detailed hydraulic analyses are shown in this zone. In addition to §§ 152.40 and 152.41, all new construction and substantial improvements shall meet the following requirements: adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

(Ord. passed 11-2-2023)

LEGAL STATUS PROVISIONS

§ 152.55 EFFECT ON RIGHTS AND LIABILITIES UNDER THE EXISTING FLOOD DAMAGE PREVENTION PROVISIONS.

(A) This chapter in part comes forward by re-enactment of some of the provisions of the flood damage prevention ordinance enacted December 1, 1981, as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this chapter shall not

affect any action, suit or proceeding instituted or pending. All provisions of the flood damage prevention ordinance of the City of Lincolnton enacted on December 1, 1981, as amended, which are not reenacted herein are repealed.

(B) The date of the initial flood damage prevention ordinance for Lincoln County is December 1, 1981.

(Ord. O-02-07, passed 7-12-2007; Ord. passed 11-2-2023)

§ 152.56 EFFECT UPON OUTSTANDING FLOODPLAIN DEVELOPMENT PERMITS.

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the Floodplain Administrator or his or her authorized agents before the time of passage of this chapter; provided, however, that when construction is not begun under such outstanding permit within a period of six months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this chapter.

(Ord. O-02-07, passed 7-12-2007; Ord. passed 11-2-2023)

§ 152.57 EFFECTIVE DATE.

This chapter shall become effective November 3, 2023.

(Ord. O-02-07, passed 7-12-2007; Ord. passed 11-2-2023)

§ 152.99 PENALTY.

Violation of the provisions of this chapter 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 G.S. § 143-215.58. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than $100 or imprisoned for not more than 30 days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Lincolnton from taking such other lawful action as is necessary to prevent or remedy any violation.

(Prior Code, § 4-88) (Ord. passed 3-5-1991; Ord. passed 11-2-2023)

New language in yellow:

§ 153.051 ONE PRINCIPAL BUILDING.

(A) No more than one principal residential structure shall be located on a lot, except as a part of multi-family development. A lot with 2 Class A or Class B manufactured homes that existed at the time of the adoption of this amendment (May 6, 1999) may continue and the manufactured homes on the lot may be replaced provided that the replacement homes meet the minimum requirements of § 153.136(G).

(B) For non-conforming residential lots with multiple principal structures, a subdivision plat can be approved at the staff level to divide the lots, enabling one principal building per lot in the most conforming manner without requiring a variance.

(1) If staff and subdivider are not able to agree on most conforming manner, a variance will be required.

(C) More than one principal structure devoted to a nonresidential use may be located on a lot provided that access is available from a public street to each building for use by service or emergency vehicles.

(Prior UDO, § 5.7) (Ord. passed 6-25-2020) Penalty, see § 153.999

No new language. Language to be removed is struck through and in red.

§ 153.074 SUPPLEMENTARY REQUIREMENTS FOR DEVELOPMENT IN THE CENTRAL BUSINESS AND TRANSITIONAL BUSINESS DISTRICTS.

(A) Purpose. The purpose of establishing supplementary requirements for development in the Central Business (CB) and Central Business Transitional (CBT) Districts is to protect and enhance the visual character of development and to preserve the unique streetscape of downtown by encouraging compatibility among downtown structures.

(B) Development standards.

(1) Buildings within the CB and CBT Districts exhibit design elements that contribute to the unique sense of character of downtown Lincolnton. Specifically, older retail style buildings tend to have flat or low pitch roofs concealed by the front façade parapet, no front or side yard setback, large storefront windows on the first floor and strong horizontal separations between the first and any upper floors created by window and/or changes in façade materials. Adjacent retail structures should embrace that style when possible. The many churches exhibit primarily two distinct styles, late gothic revival and classic (Greek) revival. Perimeter buildings and residential buildings convey a more common pitched roof, with styles of colonial, revival and craftsman (among others) intermingled. Some of the older structures have or had steep pitched metal roofs in neutral or muted colors. New or renovated structures in CB and CBT zones are expected to compliment the nearby structures, extending styles that adjoin or creating an aesthetic blend from style to style where adjoining styles transition, particularly at the zoning district edges where blending from style to style is important.

(2) In order to continue, recreate and, in some cases, replicate (such as in the CBT District) the historic development pattern of downtown Lincolnton, the following standards shall apply to all new construction, additions, and substantial modifications to existing structures; except that the Board of Adjustment may waive or modify one or more requirements whenever, in its opinion, the waiver or modification is consistent with the intent of this section and results in a development which meets the findings of fact required herein. For the purposes of this section, SUBSTANTIAL MODIFICATION shall be defined as any work which involves the alteration of the building's footprint, construction of additional stories, changes in roof pitch, modification of building fenestration and entryways, material changes to the building façade, or painting which does not use natural material colors.

(a) Awnings and canopies. When used, awnings and canopies shall be placed at the top of window openings and shall relate to the shape of the top of the window. Awnings shall be made of canvas or treated canvas material; or standing seam prefinished metal on open metal framing. Awnings, where existing

conditions are in place and subject to staff review, can be recovered with slate or simulated slate, shingles, or standing seam metal in neutral or earth tone colors. In new construction the above standards may be incorporated when determined by staff that it is appropriate, based on review of other nearby structures, generally within approximately 300 feet of the new building and within the same zoning district. Vinyl awnings are not permitted. No awning shall extend more than two-thirds the width of the sidewalk or nine feet, whichever is less. Awnings and canopies must be self-supporting from the wall; no supports shall rest on or interfere with the use of pedestrian walkways or street. In no case shall any awning extend beyond the street curb or interfere with street trees or public utilities. The use of metal or other rigid roofing material is not intended to be used as a vertical facade for awnings or canopies. A vertical drop of acceptable scale is permitted. Metal is not permitted as a vertical wall face or screen.

(b) Building height. In no case shall any structure in the downtown exceed the height of the base of dome on the Lincoln Cultural Center.

(c) Building presentation. In individual commercial buildings, building entrances shall face the street and be accessible from the public sidewalk. Any portion of a building that faces an adjacent street right-of-way shall be considered a building front and shall be subject to the presentation entrance and fenestration requirements of this section. For non-commercial buildings (residential, religious, etc) or for commercial cluster group development, when approved, the street facade shall be addressed via fenestration requirements or design elements, and entrances shall be accessible via walkways or plazas from the public sidewalk.

(d) Building width. Additions and new construction located in the CB or CBT Districts shall maintain the existing building wall by extending the building front from side lot line to side lot line, except that an appropriate architectural wall or similar design feature may be used instead of a building extension. Where penetration through the lot line is required, such as access for pedestrians or vehicular access to an area behind the front, such as rear yard parking or courtyards, the penetration shall be appropriately visually framed by use of a fence termination feature, walls, replicated or existing building walls, or scalable landscaping where appropriate, subject to staff review.

(e) Color. Additions and new construction shall relate paint colors to natural material colors found on neighboring historic buildings and nearby buildings. Contrasting colors, which accent architectural details and entrance,s may be used. (A pallet of suggested colors is available.)

(f) Fenestration. New construction and remodeling of existing buildings in the CB and CBT Districts shall maintain the prevalent pattern and spacing of the windows and doorways on downtown buildings. Windows on the street level front of buildings shall constitute at least 20% and not more than 50% of the façade. Window on subsequent levels shall be a minimum of 15 square feet. Windows ~~must be clear, transparent glass (not mirrored or tinted dark) and~~ shall not be lower than two feet above grade. Double-hung windows with a height-to-width ratio of 2:1 are preferred for upper stories. No window or door shall be horizontally

separated by more than 15 feet from the nearest other window or door in the same façade. Frames and sashes for windows shall be of wood, vinyl or pre-finished metal and may have stone, brick or cast concrete lintels and stills. Window glass shall always be set back from the building face rather than flush.

(g) Front build-to-line.

1. The fronts of all new commercial buildings constructed in the CB District shall abut existing sidewalks, where provided, except for outdoor café-type uses when a low wall or other architectural articulation is carried across the right-of-way to continue the visual continuity of building faces.

2. The fronts all new commercial buildings constructed in the CBT District may vary from zero to 20 feet (i.e., thus creating a maximum front yard setback of zero to 20 feet) as measured from the street right-of-way boundary. Variable front yard setbacks are encouraged in the CBT District to allow for building articulation. Any setback areas shall be geared for pedestrian use. No off-street parking shall be allowed in these areas. Outdoor storage of retail goods (during daylight hours) shall be permitted, as shall outdoor seating areas.

(h) Horizontal rhythms. Downtown building patterns traditionally emphasized a strong horizontal design element. New construction and additions to or remodeling of existing buildings shall maintain a clear visual division between street level and any upper architectural feature used to accomplish this effect.

(i) Materials. Façade materials found in the downtown district include wood, brick and stone. Additions and new construction shall use facing materials that are compatible in quality, color, texture, finish, and dimension to those common in the downtown area. Acceptable materials include, but may not be limited to brick, stone or wood. Under no circumstances shall metal siding, unfinished concrete block or vinyl siding be allowed.

(j) Roofs. Additions and new construction using flat pitch or low pitch roof design (anything under 3:12) must install parapet walls on all sides or cap the walls with a cornice treatment that provides articulation to the roofline. When the roof drains to the rear of the building and is guttered the parapet may be eliminated upon staff approval.

(k) Signs. Signs should relate in placement and size to other building elements and shall not obscure building elements such as windows, cornices or decorative details. Sign material, style and color shall complement the building façade in terms of design, scale, color and materials. Individual shop signs in a single storefront shall relate to each other in design, size, color, placement on the building, and lettering style. Canvas signs placed on the outside of buildings, excluding canopy signs, whether for permanent or temporary use are prohibited. Signs placed on the inside of window areas shall conceal no more than 20% of the area of the window on which the signs are located.

(l) Streetscape protection. Any damage to the existing streetscape design, including street trees, by development, use, or condition or private property shall

be corrected by the proper owner at the owner's expense to the satisfaction of the city's Public Works Department, prior to the release of a certificate of occupancy. Any damage not corrected by the owner shall be corrected by the city, the cost of which is to be billed to the owner, including city administrative costs. For the purposes of this section, STREETSCAPE shall be defined to include any public improvement adjacent to private property.

(m) Walls and entrances. Walls and entrances in the CB and CBT Districts shall be designated to encourage and complement pedestrian-scale activity. Recessed doorways at building fronts are required.

(C) Demolition.

(1) No building shall be demolished without the building owner or his or her representative first consulting with the city's Planning Director or his or her designee. Following initial communication from the building owner, the Director shall have 21 days to render a recommendation to the applicant.

(2) If the property owner so desires, he or she may secure a demolition permit from the Lincoln County Building Inspector at the end of the 21-day review period. The demolition of any contributing member of the National Register District is strongly discouraged.

(D) Procedures. Prior to the construction of any new building, structure or parking area or the substantial renovation of that, a zoning permit must be secured from the Administrator.

(E) Permit applications. Applications for a zoning permit shall be accompanied by supporting material sufficient to determine compliance with the standards outlined in this section. The material shall include, but may not be limited to, a detailed site plan, street elevations, a height disclosure statement, and where necessary, the location of all public utilities. The information shall be sealed by a registered engineer, surveyor, architect or landscape architect licensed in the state. Applications for a zoning permit shall be filed on forms provided by the Planning Department. The Administrator will consider no incomplete applications. All applications will be reviewed by the Administrator within 21 working days from the date of submittal.

(Prior UDO, § 5.30) (Ord. ZTA-7-2016, passed 1-5-2017; Ord. passed - -; Ord. O-5-23, passed 4-6-2023) Penalty, see § 153.999

Zoning Amendment
Staff's Proposed Statement of Consistency for
APPROVAL of Application

Case No. ZTA-6-2025

Applicant: City of Lincolnton Planning Department

Request: ZTA-6-2025 - Zoning Text Amendments to Chapters 152 Flood Damage Prevention 153 Unified Development Ordinance

Proposed Consistency Statement:

The proposed amendment aligns with the Lincolnton Land Use Plan because it does not conflict with the Plan's goals and objectives. The amendment is consistent because one of the goals of the Downtown area is to promote Downtown Lincolnton as the County's foremost and unique retail, service, cultural, governmental, and mixed-use residential hub. This text amendment supports the goal by allowing a unique retail space that is trending upward in popularity and demand.

Actions:

Approve ZTA-6-2025

or

Deny ZTA-6-2025

Motions:

Motion to approve the amendment and the Statement of Consistency for Approval

Or

Motion to deny the amendment and adopt the Statement of Consistency for Denial