

**THE ERWIN BOARD OF COMMISSIONERS
OCTOBER 2025 REGULAR MEETING
THURSDAY, OCTOBER 9, 2025 @ 7:00 P.M.
ERWIN MUNICIPAL BUILDING BOARDROOM**

AGENDA

1. MEETING CALLED TO ORDER

- A. Invocation
- B. Pledge of Allegiance

2. AGENDA ADJUSTMENTS /APPROVAL OF AGENDA

3. CONSENT

All items on Consent Agendas are considered routine, to be enacted on one motion without discussion. If a Board member or citizen requests discussion of an item, the item will be removed from the Consent Agenda and considered under New Business.

- A. Regular Workshop Minutes for August 25, 2025 **(Page 2)**
- B. Regular Meeting Minutes on September 4, 2025 **(Page 7)**
- C. Solid Waste RFP- Liberty **(Page 13)**
- D. FAMPO MOU **(Page 14)**
- E. Personnel Policy Update- Holiday Pay **(Page 36)**

4. PUBLIC HEARING

- A. Chapter 16- Flood Plain Development Ordinance **(Page 38)**

5. PUBLIC COMMENT

Each speaker is asked to limit comments to 3 minutes, and the requested total comment period will be 30 minutes or less. Citizens should sign up prior to the start of the meeting. Please provide the clerk with copies of any handouts you have for the Board. Although the Board is interested in hearing your concerns, speakers should not expect Board action or deliberation on the subject matter brought up during the Public Comment segment. Thank you for your consideration of the Town Board, staff, and other speakers. §160A-81.1

6. MANAGER'S REPORT

7. ATTORNEY'S REPORT

8. ADJOURNMENT

****IN ACCORDANCE WITH ADA REGULATIONS, PLEASE NOTE THAT ANYONE WHO NEEDS AN ACCOMMODATION TO PARTICIPATE IN THE MEETING SHOULD NOTIFY THE TOWN CLERK AT (910) 591-4202 AT LEAST 48 HOURS PRIOR TO THE MEETING.****

ERWIN BOARD OF COMMISSIONERS**REGULAR MINUTES****OCTOBER 9, 2025****ERWIN, NORTH CAROLINA**

The Board of Commissioners for the Town of Erwin, with Mayor Baker presiding, held its Regular Meeting in the Erwin Municipal Building Board Room on Thursday, October 9, 2025, at 7:00 P.M. in Erwin, North Carolina.

Board Members present were Mayor Randy Baker, Mayor Pro Tem Ricky Blackmon, and Commissioners David Nelson, Alvester McKoy, and Timothy Marbell.

Board Members absent were Commissioners Charles Byrd and Billy Turnage.

Town Manager Snow Bowden, Town Clerk Lauren Evans, Town Attorney Tim Morris, Town Planner Dylan Eure, and Police Chief Jonathan Johnson were present.

Mayor Baker called the meeting to order at 7:00 PM.

Commissioner McKoy gave the invocation.

Town Clerk Lauren Evans led the Pledge of Allegiance.

AGENDA ADJUSTMENT/APPROVAL OF AGENDA

Commissioner Blackmon made a motion to approve the agenda as presented and was seconded by Commissioner Nelson. **The Board voted unanimously.**

CONSENT

Commissioner Blackmon made a motion to approve **(ITEM A)** Minutes of Regular Workshop on August 25, 2025 **(ITEM B)** Minutes of Regular Meeting on September 4, 2025 **(ITEM C)** Solid Waste RFP- Liberty **(ITEM D)** FAMPO MOU **(ITEM E)** Personnel Policy Update-Holiday Pay and was seconded by Commissioner Nelson. **The Board voted unanimously.**

PUBLIC HEARING**Chapter 16- Flood Plain Development Ordinance**

Commissioner Blackmon made a motion to open the Public Hearing and was seconded by Commissioner Nelson. **The Board voted unanimously.**

ATTACHMENT A UPDATED
Fee Proposal for Solid Waste and Recycling Collection Services

FEE PROPOSAL

Proposed fees must be complete and should include at least collection, transportation, processing fees and containers. The final fee must be guaranteed for at least twelve (12) months after the Contract execution date.

Residential Solid Waste Service (96 Gallon Container)

Weekly Collection of one (1) 96 Gallon Poly Cart Roll-Container (each) for trash emptied one time per week and one ninety-six-gallon cart each emptied once a month for recycling.

\$ 7.92 per month for trash (each) Seven dollars & ninety-two cents

\$ 3.02 per month for recyclables (each) Three dollars & two cents

\$10.94 total per month for trash and recycling Ten dollars & ninety-four cents

~~Alternative A. Residential Solid Waste Service (96 Gallon Container)~~

~~Weekly Collection of one (1) 96 Gallon Poly Cart Roll-Container (each) for trash emptied one time per week and one ninety-six-gallon cart each emptied twice per month for recycling.~~

~~\$ _____ per month for trash (each) _____~~

~~\$ _____ per month for recyclables (each) _____~~

Alternative B. Residential Solid Waste Service (96 Gallon Container)

Weekly Collection of one (1) 96 Gallon Poly Cart Roll-Container (each) for trash emptied one time per week (DOES NOT INCLUDE ANY RECYCLING)

\$ 7.92 per month for trash (each) Seven dollars & ninety-two cents

Date: 8/18/2025

Company Name: Liberty Waste Solutions

Address: 2126 Garner Rd., Raleigh, NC 27601

Telephone: 919-582-7777 Fax: _____

E-mail: mprathers@libertywastesolutions.com Website: libertywastesolutions.com

Authorized Signature: 

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MEMORANDUM OF UNDERSTANDING FOR COOPERATIVE,
COMPREHENSIVE, AND CONTINUING TRANSPORTATION PLANNING
FOR THE FAYETTEVILLE URBAN AREA

AMONG

THE CITY OF FAYETTEVILLE, THE TOWN OF EASTOVER, THE TOWN OF HOPE MILLS, THE TOWN OF PARKTON, THE CITY OF RAEFORD, THE TOWN OF SPRING LAKE, THE TOWN OF ERWIN, THE FORT BRAGG MILITARY RESERVATION, THE COUNTY OF CUMBERLAND, THE COUNTY OF HARNETT, THE COUNTY OF HOKE, THE COUNTY OF MOORE, THE COUNTY OF ROBESON, AND THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION IN COOPERATION WITH THE UNITED STATES DEPARTMENT OF TRANSPORTATION
WITNESSETH:

WHEREAS, certain of the parties hereto have previously entered into a Memorandum of Understanding for cooperative, comprehensive, and continuing transportation planning through the Fayetteville Area Metropolitan Planning Organization (FAMPO), which agreement was last amended in July, 2024 to add new membership reflective of the expanded FAMPO MPA; and

WHEREAS, the parties desire to continue that transportation planning through the FAMPO and amend and expand the agreement to include additional parties and clarify their respective roles and responsibilities; and

WHEREAS, each Metropolitan Planning Organization (MPO) is required to develop a Metropolitan Transportation Plan in cooperation with NCDOT and in accordance with 23 U.S.C. §134, any amendments thereto, and any implementing regulations; and a Comprehensive Transportation Plan in accordance with North Carolina General Statute §136-66.2; and

WHEREAS, the Metropolitan Transportation Plan serves as the basis for future transportation improvements within the Metropolitan Planning Area; and

WHEREAS, the parties intend that this Memorandum of Understanding shall supersede all prior memoranda of understanding among any of them pertaining to the FAMPO.

NOW THEREFORE, in consideration of the mutual benefits afforded to each party, the parties agree as follows:

Section 1. Boundary of the Metropolitan Planning Area

The Fayetteville Urban Metropolitan Planning Area consists of the Fayetteville Urban Area as defined by the United States Department of Commerce, Bureau of the Census, plus that area beyond the existing urbanized area boundary that is expected to become urbanized within a twenty-year planning period. This area is hereinafter referred to as the Metropolitan Planning Area. Per federal regulation, a Metropolitan Planning Organization, in cooperation with the NCDOT and public transit operators, is required to review the Metropolitan Planning Area (MPA) after each Census to determine if the existing MPA boundary meets the minimum statutory requirements for new and updated urbanized areas and shall adjust the boundary as necessary. This MOU recognizes the FAMPO's adherence to this regulation and has fulfilled its requirements by completing a formal Boundary Assessment which has involved collaboration

and engagement with all agencies within the NCDOT 2050 Travel Demand Model Boundary.

Section 2. Planning Responsibility within the Metropolitan Planning Area

Cooperative, continuing and comprehensive transportation planning shall be undertaken in the Metropolitan Planning Area by the FAMPO in accordance with all applicable federal and state statutes. The FAMPO shall coordinate any transportation planning it undertakes which may have a regional impact with the Capital Area Metropolitan Planning Organization, Sandhills Metropolitan Planning Organization, Central Pines Rural Planning Organization, Mid-Carolina Rural Planning Organization and the Lumber River Rural Planning Organization.

Section 3. Establishment of the FAMPO Transportation Advisory Committee (TAC)

The FAMPO shall be governed by a Transportation Advisory Committee (TAC) which shall be the policy making board for the MPO and shall be constituted as follows:

The voting members of the FAMPO TAC shall generally consist of Elected Officials. An Elected Official will represent each member Local Government party to this agreement, plus two additional representatives from the City Council of Fayetteville appointed by the Chief Elected Official (Mayor), a representative of the Transit Operator for the City of Fayetteville (FAST), and a representative from the Fort Bragg Military Reservation. A member of any local elected board may serve as an alternate to the designated TAC member for each member. The MPO staff shall be notified of changes in TAC members and TAC alternate members each year and/or as changes are made. As established in its Bylaws, the TAC may create subcommittees to assist it in carrying out its responsibilities. TAC will meet with the necessary regularity to ensure adequate performance of duties as described herein.

In addition, the board of directors of the FAMPO shall include a non-voting representative from the Federal Highway Administration-North Carolina Division, and a non-voting representative from the Federal Transit Administration-Region IV. The members representing the Fort Bragg Military Reservation and the state and federal agencies shall be selected as determined by the agencies they are representing.

TAC Voting members:

1. County of Cumberland
2. County of Harnett
3. County of Hoke
4. County of Moore
5. County of Robeson
6. Town of Eastover
7. Town of Erwin
8. City of Fayetteville
9. City of Fayetteville
10. Fort Bragg Military Reservation
11. Town of Hope Mills
12. Town of Parkton
13. City of Raeford
14. Town of Spring Lake
15. North Carolina Board of Transportation - Division 6

16. North Carolina Board of Transportation - Division 8

17. Fayetteville Area System of Transit

Section 4. Conduct of Business by the FAMPO TAC

The FAMPO Transportation Advisory Committee will meet as often as it deems appropriate and advisable. The Transportation Advisory Committee will adopt by-laws and select a Chair and Vice-Chair and conduct its business in accordance with its adopted by-laws. All meetings of the board of directors shall be subject to the Open Meetings Law.

Section 5. Role and Responsibilities of the FAMPO TAC

The FAMPO TAC will be responsible for carrying out the provisions of 23 U.S.C. §134 (Federal Highway Administration); and 49 U.S.C. §§5303, 5304, 5305, 5306 and 5307(Federal Transit Administration); including the following duties and responsibilities:

5.1. Review and approval of the annual transportation Unified Planning Work Program and any subsequent amendments;

5.2. Review and approval of the Transportation Improvement Program for multimodal capital and operating expenditures to insure coordination between local and State capital and operating improvement programs and any subsequent amendments.

5.3 Review and approval of the Metropolitan Transportation Plan, and subsequent changes thereto, and the Comprehensive Transportation Plan as required by the N.C.G.S. §136-66.2(d). Revisions in the transportation plans must be jointly approved by the FAMPO TAC and the North Carolina Department of Transportation.

5.4. Endorsement, review and approval of changes to the Federal Highway Administration Functional Classification System, the Adjusted Urbanized Area Boundary and the Metropolitan Planning Area Boundary.

5.5. Endorsement, review and approval of a Prospectus for Transportation Planning which defines work tasks and responsibilities for the various agencies participating in the transportation planning process.

5.6. Establishment of goals and objectives for the transportation planning process reflective of and responsive to such comprehensive plans for growth and development in the Metropolitan Planning Area as adopted by FAMPO Local Government Boards.

5.7. Approval and distribution of federal funds designated for the Metropolitan Planning Area under the provisions of Infrastructure Investment and Jobs Act (IIJA) and any other subsequent transportation funding authorizations.

Section 6. Establishment of the Executive Committee

There shall be an Executive Committee comprised of TAC Members present at the meeting, who shall enter into a separate session to meet as required

Section 7. Role and Responsibilities of the Executive Committee

The Executive Committee shall approve recommendations made by the Executive Director as they pertain to the hiring of FAMPO staff members and other organizational changes within the MPO, including but not limited to the structure of FAMPO, and other major decisions in coordination with the Executive Director. The Executive Committee shall develop and carry out an annual performance review process for the Executive Director, which will include a documented assessment of the performance, and recommend changes to the responsibilities and duties of, and salary adjustments for the position.

The Executive Committee shall approve recommendations developed by the Executive Director for other MPO Staff as well, to be prepared by the Executive Director, including hiring decisions, approval of an annual performance review process, changes in job descriptions, salary ranges and adjustments, and recommended changes to the responsibilities and duties of other MPO staff positions. The Executive Committee shall also approve such recommendations as they pertain to the selection and contracting of professional services from time to time as required and recommended.

Section 8. Establishment of the Technical Coordinating Committee (the TCC)

8.1. The parties acknowledge that transportation planning is a specialized field. In order to give the FAMPO, through its duly constituted Transportation Advisory Committee (the TAC), access to the technical expertise necessary to meet the requirements of federal and state law, a Technical Coordinating Committee (the TCC) shall be established with the responsibility for advising the FAMPO on the technical aspects of the transportation planning process, performing such technical analysis as necessary to support transportation planning and making recommendations to the FAMPO and local and State governmental agencies for any necessary actions relating to the continuing transportation planning process.

8.2. Membership of the TCC shall include technical representation from all local and State governmental agencies directly related to and concerned with the transportation planning process for the Metropolitan Planning Area and shall consist of the following:

Voting members:

1. City Manager, City of Raeford
2. County Manager, County of Cumberland
3. County Manager, County of Hoke
4. County Manager or Director of Planning and Inspections, County of Moore
5. County Manager, County of Robeson
6. Town Manager, Town of Eastover
7. Manager, Town of Hope Mills
8. Manager, Town of Spring Lake
9. Town Manager, Town of Erwin
10. Director, Cumberland County Planning and Inspections Department

11. Director, Fayetteville Area System of Transit (FAST)
12. Director, Fayetteville -Cumberland County Parks and Recreation Department
13. Director, City of Fayetteville, Public Services
14. Director, Cumberland County Engineering and Infrastructure Department
15. Director, Fayetteville Regional Airport
16. Director, City of Fayetteville, Development Services
17. City Traffic Engineer, City of Fayetteville
18. Director, Central Pines Rural Planning Organization
19. Director, Mid Carolina Rural Planning Organization
20. Planner, Lumber River Rural Planning Organization
21. Regional Planner, IMD NCDOT
22. Director of Development Services, Harnett County
23. Supervisor, Cumberland County Schools Planning Department
24. Supervisor, Hoke County Schools Planning Department
25. Supervisor, Harnett County Schools Planning Department
26. Transportation Planning Division, NCDOT
27. Executive Director, Mid-Carolina Council of Governments
28. Executive Director, Sustainable Sandhills
29. Assoc. Vice-Chancellor for Facilities Management, Fayetteville State University
30. Facilities Director, Methodist University
31. Facilities Director, Fayetteville Technical Community College
32. Directorate of Facilities, Fort Bragg Military Reservation
33. Division Engineer, Division Six, Division of Highways, NCDOT
34. Division Engineer, Division Eight, Division of Highways, NCDOT
35. County Manager, County of Harnett

At Large Voting Members, selected by the agency they represent:

1. President/C.E.O. of the Fayetteville -Cumberland County Chamber of Commerce
2. Director of Cumberland County Transportation Program

Non-voting members, serving ex-officio:

1. Transportation Planner, FHWA, NC Division
2. Region IV, Federal Transit Administration (FTA)

Section 9. Conduct of Business by the TCC

The TCC will meet as often as it deems appropriate and advisable. The TCC will adopt by-laws and select a Chair and Vice-chair and conduct its business in accordance with its adopted by-laws. All meetings of the TCC shall be subject to the Open Meetings Law.

Section 10. Role and Responsibilities of the TCC

The TCC shall be responsible for development, review, and recommendation for approval of the Prospectus, Transportation Improvement Program, Federal-Aid Urban System and Boundary, revisions to the Transportation Plan, planning citizen participation, and documentation reports on the transportation study.

Section 11. Establishment of the Citizens Advisory Committee (the CAC)

There shall also be a Citizens Advisory Committee (the CAC) established consisting of no less than 11 and not more than 17 interested citizens who reside within the Metropolitan Planning Area. The members of the CAC shall be appointed by the FAMPO board of directors and shall be selected to represent areas of interest and interest groups, including traditionally underrepresented members of the community, to address such interests as bicycle paths, pedestrian greenways, environmental concerns, road safety, traffic congestion, freight, rail and transit and with representatives including advocates for the disabled, seniors and minorities.

Section 12. Conduct of Business by the CAC

The CAC will meet as often as it deems appropriate and advisable to make recommendations to the TAC and the TCC. The CAC will adopt by-laws and select a Chair and Vice-chair and conduct its business in accordance with its adopted by-laws. All meetings of the CAC shall be subject to the Open Meetings Law.

Section 13. The Executive Director

Administrative coordination for the FAMPO TAC, the TCC and the CAC will be performed by an Executive Director. The Executive Director shall be selected by a panel consisting of the Development Services Director and the Public Services Director for the City of Fayetteville, the Director of Planning and Inspections for Cumberland County, the managers or the designees of the managers of Harnett and Hoke Counties, and the TAC Chair and Vice – Chair (if not one of the previously mentioned positions). The Executive Director shall become an employee of Cumberland County (LPA) and shall be subject to the provisions established by the FAMPO Executive Committee. The Executive Director shall select such other staff as may be budgeted in accordance with the selection and recruitment rules and policies set forth by the FAMPO Executive Committee. All staff selected by the Executive Director shall become employees of Cumberland County (LPA). The Executive Director shall have authority over the selection of staff and assigned job duties as well as authority over starting and adjusting salaries of all FAMPO staff members with the approval of the Executive Committee.

Section 14. Role and Responsibilities of the Executive Director

14.1. The Executive Director shall serve *ex officio* as the Secretary of the FAMPO Board of Directors (the TAC), the TCC and the CAC and shall be responsible to arrange the meetings and agendas and maintain the minutes and records of each. In addition, the Executive Director shall prepare the Prospectus, the Unified Planning Work Program the (UPWP), a Transportation Improvement Program in accordance with federal and state regulations and requirements; develop a Transportation Plan in accordance with federal and state regulations; maintain the Transportation Plan; execute the transportation planning process in accordance with federal and state laws and regulations; prepare invoices and progress reports in accordance with federal, state, and local requirements; structure the public involvement process needed to ensure that the UPWP, Transportation Plan, Transportation Improvement Program, and any transportation conformity determinations meet federal requirements; and consult with the FAMPO TAC, TCC and CAC regarding the best approaches to performing the duties listed above.

14.2. In advance of making any proposal or recommendation to the TAC, the TCC or the CAC, the Executive Director shall provide such recommendation to the chief planning official for every jurisdiction within the Metropolitan Planning Area which may be impacted by such proposal or recommendation in sufficient time for the chief planning official to review and

comment on the proposal or recommendation.

Section 15. Additional Responsibilities of Member Governments

15.1. The representative from each Local Government on the FAMPO board of directors shall be responsible for instructing the clerk of his/her local government to provide to the Executive Director copies of the minutes of any action taken by his/her local government which involves any MPO plan.

15.2. Each member signatory local government shall coordinate zoning and subdivision approval in their respective jurisdictions in accordance with the FAMPO adopted transportation plan.

15.3. As the host agency, the Cumberland County Planning and Inspections Department will serve as the Lead Planning Agency for transportation planning in the Metropolitan Planning Area. All other member signatory local governments will assist in the transportation planning process by providing planning assistance, data, and inventories in accordance with the Prospectus for Transportation Planning.

Section 16. Funding and Fiscal Matters

16.1. All transportation and related federal aid planning grant funds available to promote the cooperative transportation planning process will be expended in accordance with the Unified Planning Work Program adopted by the TAC, Administration of funding in support of the Transportation Planning Process on behalf of the TAC will be conducted by the County of Cumberland as the host planning agency. Cumberland County will execute appropriate agreements with funding agencies as provided by the Planning Work Program.

16.2. The local match for the Federal Aid planning funds will be determined based on the current federal matching requirements. The signatory General Purpose Local Governments will contribute to the local match requirement based on their percentage of the population within the Metropolitan Planning Area at the most recent decennial census. Only the non-municipal population of those portions of counties located within the Metropolitan Planning Area shall be counted for counties. Member governments may also be asked to contribute additional local funding for projects wholly within their jurisdictional limits.

Section 17. Duration of the Agreement

Any party may terminate its participation in the MPO and remove itself from this Agreement by giving sixty days' advance notice in a writing signed by the Chief Elected Official, if a local government, or by the chief executive officer of the agency, if not a local government. This notice shall be delivered to the Chairman of the FAMPO Board of Directors and to the Executive Director.

IN WITNESS WHEREOF, the parties to this Memorandum of Understanding have been authorized by appropriate action to sign the same, the City of Fayetteville by its Mayor, the Town of Eastover by its Mayor, the Town of Erwin by its Mayor, the Town of Hope Mills by its Mayor, the Town of Parkton by its Mayor, the City of Raeford by its Mayor, the Town of Spring Lake by its Mayor, Fort Bragg Military Reservation by its Director of Public Works, the County of Cumberland by its Chair, the County of Harnett by its Chair, the County of Hoke by its Chair, the County of Moore by its Chair, the County of Robeson by its Chair and the North Carolina Department of Transportation by the Secretary of Transportation.



(Seal)

Town of Erwin

Lamen Egan
Clerk

By

[Signature]
Mayor

Approval Date: October 9, 2025

Erwin Board of Commissioners

REQUEST FOR CONSIDERATION

To: The Honorable Mayor and Board of Commissioners

From: Snow Bowden, Town Manager

Date: October 9, 2025

Subject: Personnel Policy Update- Holiday Pay

Town Staff have prepared an update to our Personnel Policy that addresses holidays and holiday pay. The proposed update should address several issues that have been brought to our attention. The proposed updated language should improve staff morale, and it clarifies how we pay our shift employees who must work on a holiday.

Attachments:

- Updated language in Personnel Policy

Section 4. Holidays: Compensations When Work is required or regularly scheduled Off for Shift Personnel

~~Employees required to perform work on a designated holiday shall receive time and a half pay for each hour worked on the holiday and shall receive straight-time hours of pay equivalent to the workweek equivalent average day (8.4 hours for Police) in compensation for the holiday.~~

~~If a holiday falls on a regularly scheduled off-duty day for shift personnel, the employee shall receive straight-time hours of pay equivalent to the workweek equivalent average day (8.4 hours for Police) in compensation for the holiday.~~

~~This section of the policy will be in effect as of July 1, 2013.~~

1. Holiday Benefit for All Employees

All employees shall receive eight (8) hours of holiday pay for each designated holiday.

2. Work on a Holiday

Employees who are required to work on a designated holiday shall receive their eight (8) hours of holiday pay at one and a half times (1.5x) their regular rate.

This section of the policy shall take effect on October 9, 2025.

MINUTES CONTINUED FROM OCTOBER 9, 2025

Town Planner Dylan Eure stated this was a simple text amendment to Chapter 16, our Flood Plain Development Ordinance. These amendments were required by the State in order to remain a part of NFIP. No additional amendments were being requested besides the requirements of the State.

Mayor Baker asked if the Board had any questions for Town Staff.

No questions were asked.

Mayor Baker asked if anyone was present to ask any questions about the text amendment being presented.

No one came forward.

Commissioner Blackmon made a motion to close the Public Hearing and was seconded by Commissioner McKoy. **The Board voted unanimously.**

Commissioner Byrd made a motion to approve the Erwin Board of Commissioners Resolution on Statement of Consistency for Chapter 16- Flood Damage Prevention 2025-2026—003 and was seconded by Commissioner Nelson. **The Board voted unanimously.**

PUBLIC COMMENT

Alex Babbitt of 56 East Williams Street in Angier came forward. He stated he wanted to speak regarding the Solid Waste RFP. Carolina Trash and Septic's proposal comes in slightly higher at \$.40 per can. He bet that more money was spent monthly by Town staff chasing down service complaints with the current provider. He hoped to show the Board that their service extended far beyond that small difference. He asked the Board to reconsider its award for the Solid Waste RFP.

MANAGER'S REPORT

Town Manager Snow Bowden provided the Board with a detailed report at their seats. He stated that if they had any questions, they should give him a call.

The Manager's Report is part of these minutes as an attachment.

ATTORNEY'S REPORT

Town Attorney Tim Morris thanked the Board for allowing him to be the Town Attorney.

Erwin Board of Commissioners

REQUEST FOR CONSIDERATION

To: The Honorable Mayor and Board of Commissioners

From: Snow Bowden, Town Manager

Date: October 9, 2025

Subject: Chapter 16- Flood Prevention Development Ordinance

Our Town Planner Dylan Eure has prepared several updates to our Flood Damage Prevention Ordinance (Chapter 16). All the updates follow updated North Carolina legislation. The updates have been reviewed and approved for recommendation by our Planning Board. These updates need to be approved to keep the Town of Erwin in good standing with the Federal Emergency Management Agency (FEMA) and North Carolina Emergency Management.

Attachments:

- Proposed text amendments to Chapter 16 “Flood Damage Prevention”

Erwin Planning Board

REQUEST FOR CONSIDERATION

To: The Honorable Mayor and Board of Commissioners

From: Snow Bowden, Town Manager

Date: October 9, 2025

Subject: Chapter 16- Flood Prevention Development Ordinance

The Town Staff of Erwin wishes to amend Chapter 16 of the Code of Ordinances entitled “Flood Damage Prevention” in order to bring Erwin’s Code of Ordinances to North Carolina state standards since the passing of North Carolina General Statute 160D.

Sec. 16-1. Statutory authorization.

The legislature of the state has in part 6, article 21 of chapter 143; ~~parts 3,5,8 of article 19 of Chapter 160A of the North Carolina General Statutes~~ Article 6 of Chapter 153A; Article 8 of chapter 160A; and article 7,9, and 11 of chapter 160D of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety and general welfare of its citizenry.

Therefore, the Governing Board of the Town of Erwin, North Carolina, does ordain as follows:

(Ord. No. 2013-2014:007, § 9-5001, 1-9-2014)

Sec. 16-2. Findings of fact.

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

(Ord. No. 2013-2014:007, § 9-5002, 1-9-2014)

Sec. 16-3. 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 floodprone areas by provisions designed to:

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

- (2) Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels and natural protective barriers, which are involved in the accommodation of floodwaters;
- (4) Control filling, grading, dredging and all other development that may increase erosion or flood damage; and
- (5) Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

(Ord. No. 2013-2014:007, § 9-5003, 1-9-2014)

Sec. 16-4. Objectives.

The objectives of this chapter are to:

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

(Ord. No. 2013-2014:007, § 9-5004, 1-9-2014)

Sec. 16-5. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

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

Alteration of a watercourse means a dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or other forms 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 means a request for a review of the floodplain administrator's interpretation of any provision of this chapter.

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

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

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

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

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

Building. See *Structure*.

Certified local government (CLG) programs are approved by the U.S. Department of the Interior in cooperation with the state department of cultural resources through the state historic preservation officer as having met the requirements of the National Historic Preservation Act of 1966, as amended in 1980.

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

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

Development activity means any activity defined as development which will necessitate a floodplain development permit.

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

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

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

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

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

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland 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) means an official map of a community, issued by 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) means an official map of a community, issued by FEMA, where the boundaries of the special flood hazard areas have been defined as Zone A.

Flood insurance means the insurance coverage provided under the National Flood Insurance Program.

Flood insurance rate map (FIRM) means an official map of a community, issued by FEMA, on which both the special flood hazard areas and the risk premium zones applicable to the community are delineated.

Flood insurance study (FIS) means 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 FEMA. The flood insurance study report includes flood insurance rate maps (FIRMs) and flood boundary and floodway maps (FBFMs), if published.

Flood zone means 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 means any land area susceptible to being inundated by water from any source.

Floodplain administrator means the individual appointed to administer and enforce the floodplain management regulations.

Floodplain development permit means 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 means 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 mean this chapter and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances and other applications of police power. The term "floodplain management regulations" describes federal, state or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

Floodprone area. See *Floodplain*.

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

Technical Bulletin 2, Flood Damage-Resistant Materials Requirements, and available from the FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood resistant materials.

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

Floodway encroachment analysis means an engineering analysis of the impact a proposed encroachment into a floodway or nonencroachment area is expected to have on the floodway boundaries, base flood elevations and floodway surcharge elevations. The evaluation shall be prepared by a qualified state-licensed engineer using standard engineering methods and models.

Freeboard means the height added to the base flood elevation (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 openings and the hydrological effect of urbanization of the watershed. The base flood elevation (BFE) plus the freeboard establishes the regulatory flood protection elevation.

Functionally dependent facility means 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 "functionally dependent facility" does not include long-term storage, manufacture, sales or service facilities.

Hazardous waste management facility, as defined in G.S. ch. 130A, art. 9, means a facility for the collection, storage, processing, treatment, recycling, recovery or disposal of hazardous waste.

Highest adjacent grade (HAG) means the highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

Historic structure means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the 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;
- (3) Individually listed on a local inventory of historic landmarks in communities with a certified local government (CLG) program; or
- (4) Certified as contributing to the historical significance of a historic district designated by a community with a certified local government (CLG) program.

Certified Local Government (CLG) programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources 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) means an official determination issued by FEMA that amends or revises an effective flood insurance rate map or flood insurance study. Letters of map change include:

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

Letter of map amendment (LOMA) means an amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. 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.

Letter of map revision (LOMR) means 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.

Letter of map revision based on fill (LOMR-F) means a determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.

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

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

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

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

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

Mean sea level means, for purposes of this chapter, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD), as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which base flood elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

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

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete slabs is completed on or after February 6, 1997.

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

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

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

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

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

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

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use.

Reference level means the top of the lowest floor for structures within special flood hazard areas designated as zone A-1, A30, AE, A, A99 or AO. Alternative acceptable language for reference level: The term "reference level" refers to the bottom of the lowest horizontal structure member of the lowest floor, excluding the foundation system, for structures within all special flood hazard areas.

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

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

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

Salvage yard means any nonresidential 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 means any facility involved in the disposal of solid waste, as defined in G.S. 130A-290(a)(35).

Solid waste disposal site means, 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) means the land in the floodplain subject to a one percent or greater chance of being flooded in any given year, as determined in this chapter.

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

Substantial damage means 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 percent of the market value of the structure before the damage occurred. (See definition of substantial improvement.) The term "substantial damage" also means flood-related damage sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

Substantial improvement means 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 percent of the market value of the structure before the start of construction of the improvement. The term "substantial improvement" includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term "substantial improvement" 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 ensure 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 section 16-26.

Technical Bulletin and Technical Fact Sheet Means a FEMA publication that provides guidance concerning the building performance of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at Section 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.

Variance means a grant of relief from the requirements of this chapter.

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

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

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

(Ord. No. 2013-2014:007, § 9-5011, 1-9-2014)

Secs. 16-6—16-21. Reserved.

ARTICLE II. ADMINISTRATION

Sec. 16-22. Designation of floodplain administrator.

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

(Ord. No. 2013-2014:007, § 9-5031, 1-9-2014)

Sec. 16-23. 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 section 16-59, or a statement that the entire lot is within the special flood hazard area;
 - c. Flood zone designation of the proposed development area as determined on the FIRM or other flood map as determined in section 16-59;
 - d. The boundary of the floodways or nonencroachment areas as determined in this chapter;
 - e. The base flood elevation (BFE) where provided as set forth in section 16-59, 16-24 or 16-117;
 - 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 mean sea level of the proposed reference level, including basement, of all structures;
 - b. Elevation in relation to mean sea level to which any nonresidential structure in zone AE, A or AO will be floodproofed; and
 - c. Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed.

- (3) If floodproofing, a floodproofing certificate (FEMA Form 086-0-34 (7/12)) 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 article 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 section 16-116(4)c, elevated buildings, when solid foundation perimeter walls are used in zones A, AO, AE, and A1-30.
 - (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 section 16-116(6) and (7), are met.
 - (9) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map, if not shown on plot plan, showing the location of the proposed watercourse alteration or relocation.
- (b) *Permit requirements.* The floodplain development permit shall include, but is not limited to:
- (1) A description of the development to be permitted under the floodplain development permit.
 - (2) The special flood hazard area determination for the proposed development in accordance with available data specified in section 16-60.
 - (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 nonencroachment area of any watercourse, as applicable.
 - (7) The flood openings requirements, if in zones A, AO, AE or A1-30.
 - (8) Limitations of below BFE enclosure uses, if applicable (i.e., parking, building access and limited storage only).
- (c) *Certification requirements.*
- (1) *Elevation certificates.*
 - a. An elevation certificate (FEMA Form 086-0-33 (7/12)) 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 mean sea level. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction.

Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.

- b. An elevation certificate (FEMA Form 086-0-33 (7/12)) is required after the reference level is established. Within seven calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the floodplain administrator a certification of the elevation of the reference level, in relation to mean sea level. Any work done within the seven-day calendar period and prior to submission of the certification shall be at the permit holder's risk. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop work order for the project.
- c. A final as-built elevation certificate (FEMA Form 086-0-33 (7/12)) 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 use of the FEMA elevation certificate is required for the purchase of flood insurance, and mandatory for CRS participation.

(2) *Floodproofing certificate.*

(a) If nonresidential floodproofing is used to meet the regulatory flood protection elevation requirements, a floodproofing certificate (FEMA Form 086-0-34 (7/12)), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The floodplain administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a certificate of compliance/occupancy.

(b) A final Finished Construction Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan and an inspection and maintenance plan are required prior to the issuance of a Certificate of Compliance/Occupancy. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certificate shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance of 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) *Engineering foundation certificate.* If a manufactured home is placed within zone A, AO, or AE and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of section 16-116(3)b.
- (4) *Watercourse alteration requirements.* 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 zone A, AO, or AE are exempt from the elevation/floodproofing certification requirements specified in subsections (c)(1) and (2) of this section:
 - a. Recreational vehicles meeting requirements of section 16-116(6)a;
 - b. Temporary structures meeting requirements of section 16-116(7); and
 - c. Accessory structures less than 150 square feet meeting requirements of section 16-116(8).
- (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 structure shall be the market value before the damage occurred and before any repairs are made;
 - (2) Compare the cost to perform the improvement, the cost to repair a damaged building to its predamaged 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 state building code and this article is required.

(Ord. No. 2013-2014:007, § 9-5032, 1-9-2014)

Sec. 16-24. Duties and responsibilities of the floodplain administrator.

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

- (1) Review all floodplain development applications and issue permits for all proposed development within special flood hazard areas to ensure that the requirements of this article have been satisfied.
- (2) Review all proposed development within special flood hazard areas to ensure that all necessary local, state and federal permits have been received, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334.

- (3) Notify adjacent communities and the state department of public safety, division of emergency management, and state coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA.
- (4) Ensure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.
- (5) Prevent encroachments into floodways and nonencroachment areas, unless the certification and flood hazard reduction provisions of section 16-26 are met.
- (6) Obtain actual elevation, in relation to mean sea level, of the reference level, including basement, and all attendant utilities of all new and substantially improved structures, in accordance with the provisions of section 16-23, certification requirements.
- (7) Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of section 16-23(c), certification requirements.
- (8) Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with the provisions of section 16-23(c), certification requirements.
- (9) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of section 16-23(c), Certification requirements, and section 16-116(2), nonresidential construction.
- (10) Where interpretation is needed as to the exact location of boundaries of the special flood hazard areas, floodways, or nonencroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
- (11) When base flood elevation (BFE) data has not been provided in accordance with the provisions of section 16-59 obtain, review and reasonably utilize any BFE data, along with floodway or nonencroachment area data available from a federal, state or other source, including data developed pursuant to section 16-117(2)b, in order to administer the provisions of this article.
- (12) When base flood elevation (BFE) data is provided but no floodway or nonencroachment area data has been provided in accordance with the provisions of section 16-59, obtain, review and reasonably utilize any floodway data or nonencroachment area data available from a federal, state or other source in order to administer the provisions of this article.
- (13) When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a special flood hazard area is above the base flood elevation (BFE), advise the property owner of the option to apply for a letter of map amendment (LOMA) from FEMA. Maintain a copy of the LOMA issued by FEMA in the floodplain development permit file.
- (14) Permanently maintain all records that pertain to the administration of this article and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.
- (15) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the floodplain administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the floodplain administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.

- (16) Issue stop work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered or repaired in violation of this article, 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 for the stoppage, and the conditions under which the work may be resumed. Violation of a stop work order constitutes a misdemeanor.
- (17) 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 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.
- (18) Make periodic inspections throughout the special flood hazard areas within the jurisdiction of the community. The floodplain administrator and each member of the 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.
- (19) Follow through with corrective procedures of section 16-25.
- (20) Review, provide input and make recommendations for variance requests.
- (21) Maintain a current map repository to include, but not limited to, the FIS report, FIRM and other official flood maps and studies adopted in accordance with the provisions of section 16-59, including any revisions thereto, including letters of map change, issued by FEMA. Notify state and FEMA of mapping needs.
- (22) Coordinate revisions to FIS reports and FIRMs, including letters of map revision based on fill (LOMR-Fs) and letters of map revision (LOMRs).

(Ord. No. 2013-2014:007, § 9-5033, 1-9-2014)

Sec. 16-25. Corrective procedures.

- (a) *Violations to be corrected.* When the floodplain administrator finds violations of applicable state and local laws, it shall be the floodplain administrator's 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 in this section, the floodplain administrator shall find that the building or development is in violation of this chapter, the floodplain administrator 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 90 calendar days. Where the floodplain administrator finds that there is imminent danger to life or other property, the floodplain administrator 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 misdemeanor and shall be punished at the discretion of the court.

(Ord. No. 2013-2014:007, § 9-5034, 1-9-2014)

Sec. 16-26. Variance procedures.

- (a) The board of adjustment as established by the town, hereinafter referred to as the "appeal board," shall hear and decide requests for variances from the requirements of this article.
- (b) Any person aggrieved by the decision of the appeal board may appeal such decision to the court, as provided in G.S. ch. 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 article II of this chapter, provided provisions of subsections (i)(2), (3) and (5) of this section 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 article, 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 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 article, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this article.
 - (g) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation (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 will result in increased premium rates for flood insurance up to \$25.00 per \$100.00 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 upon request.
 - (i) Conditions for variances include the following:
 - (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 nonencroachment 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 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.
- (5) The town has notified the secretary of the state department of public safety of its intention to grant a variance at least 30 calendar days prior to granting the variance.

(Ord. No. 2013-2014:007, § 9-5035, 1-9-2014)

Secs. 16-27—16-57. Reserved.

ARTICLE III. GENERAL PROVISIONS

Sec. 16-58. Lands to which this article applies.

This article shall apply to all special flood hazard areas within the jurisdiction, including extraterritorial jurisdictions (ETJs), of the town.

(Ord. No. 2013-2014:007, § 9-5021, 1-9-2014)

Sec. 16-59. 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 and FEMA in its FIS dated October 3, 2006, for the county and associated DFIRM panels (0586J, 0596J, 0597J, 0598J, 1506J), including any digital data developed as part of the flood insurance study, which are adopted by reference and declared a part of this article. Future revisions to the FIS and DFIRM panels that do not change flood hazard data within the jurisdictional authority of the town are also adopted by reference and declared a part of this article, *and all revisions thereto*.

(Ord. No. 2013-2014:007, § 9-5022, 1-9-2014)

Sec. 16-60. Establishment of floodplain development permit.

A floodplain development permit shall be required, in conformance with the provisions of this article, prior to the commencement of any development activities within special flood hazard areas determined in accordance with the provisions of section 16-59.

(Ord. No. 2013-2014:007, § 9-5023, 1-9-2014)

Sec. 16-61. 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 article and other applicable regulations.

(Ord. No. 2013-2014:007, § 9-5024, 1-9-2014)

Sec. 16-62. Abrogation and greater restrictions.

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

(Ord. No. 2013-2014:007, § 9-5025, 1-9-2014)

Sec. 16-63. Interpretation.

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

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. No. 2013-2014:007, § 9-5026, 1-9-2014)

Sec. 16-64. Warning and disclaimer of liability.

The degree of flood protection required by this article 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 manmade or natural causes. This article 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 article shall not create liability on the part of the town or by any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made hereunder.

(Ord. No. 2013-2014:007, § 9-5027, 1-9-2014)

Sec. 16-65. Penalties for violation.

Violation of the provisions of this article or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this article or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$50.00 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 town from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. No. 2013-2014:007, § 9-5028, 1-9-2014)

Secs. 16-66—16-114. Reserved.

ARTICLE IV. PROVISIONS FOR FLOOD HAZARD REDUCTION

Sec. 16-115. General standards.

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

- (1) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse and lateral movement of the structure.
- (2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (3) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.
- (4) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding to the regulatory flood protection elevation. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, hot water heaters and electric outlets/switches.
 - (a) Replacements part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.
 - (b) Replacements that are for maintenance and not part of a substantial improvement, may be installed at the original location provided the addition and/or improvements only comply with the standards for new construction consistent with the code and requirements for the original structure.
- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.
- (7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (8) Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the provisions of this article, shall meet the requirements of new construction as contained in this article.
- (9) Nothing in this article shall prevent the repair, reconstruction or replacement of a building or structure existing on the effective date of the ordinance from which this article is derived and located totally or partially within the floodway, nonencroachment area, or stream setback, provided there is no additional encroachment below the regulatory flood protection elevation in the floodway, nonencroachment area, or stream setback, and provided that such repair, reconstruction or replacement meets all of the other requirements of this chapter.
- (10) 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 this chapter. 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 section 16-23(c).
- (11) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.
- (12) 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.
- (13) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

- (14) All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334.
- (15) 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.
- (16) When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest base flood elevation (BFE) shall apply.

(Ord. No. 2013-2014:007, § 9-5041, 1-9-2014)

Sec. 16-116. Specific standards.

In all special flood hazard areas where base flood elevation (BFE) data has been provided, as set forth in section 16-59 or 16-117, the following provisions, in addition to the provisions of section 16-115, are required:

- (1) *Residential construction.* New construction and substantial improvement of any residential structure, including manufactured homes, shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in article II of this chapter.
- (2) *Nonresidential construction.* New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in article II of this chapter. Structures located in A, AE, AO, and A1-30 zones may be floodproofed to the regulatory flood protection elevation in lieu of elevation, provided that all areas of the structure, together with attendant utility and sanitary facilities below the regulatory flood protection elevation, are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO zones, the floodproofing elevation shall be in accordance with section 16-120(2). A registered professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the floodplain administrator as set forth in section 16-23(c), along with the operational plan and the inspection and maintenance plan.
- (3) *Manufactured homes.*
 - a. New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, as defined in article II of this chapter.
 - b. Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse and lateral movement, either by certified engineered foundation system or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes, adopted by the commissioner of insurance pursuant to 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.
 - c. All enclosures or skirting below the lowest floor shall meet the requirements of subsection (4) of this section.
 - d. An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within

floodprone areas. This plan shall be filed with and approved by the floodplain administrator and the local emergency management coordinator.

- (4) *Elevated buildings.* Fully enclosed area of new construction and substantially improved structures, which is below the lowest floor:
- a. Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;
 - b. Shall be constructed entirely of flood resistant materials at least to the regulatory flood protection elevation; and
 - c. Shall include, in Zones A, AO, AE, and A1-30, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:
 1. A minimum of two flood openings on different sides of each enclosed area subject to flooding;
 2. The total net area of all flood openings must be at least one square inch for each square foot of enclosed area subject to flooding;
 3. If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
 4. The bottom of all required flood openings shall be no higher than one foot above the adjacent grade;
 5. Flood openings may be equipped with screens, louvers or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and
 6. Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.
- (5) *Additions/improvements.*
- a. Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 1. Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more nonconforming than the existing structure.
 2. A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
 - b. Additions to post-FIRM structures that are a substantial improvement with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.
 - c. Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

1. Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.
 2. A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
- d. Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a three-year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the three-year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of the ordinance from which this article is derived. 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:
1. 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 ensure safe living conditions.
 2. Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.
- (6) *Recreational vehicles.* Recreational vehicles shall either:
- a. *Temporary placement.*
 1. Be on site for fewer than 180 consecutive days; or
 2. Be fully licensed and ready for highway use. (A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions.)
 - b. *Permanent placement.* Recreational vehicles that do not meet the limitations of temporary placement shall meet all the requirements for new construction.
- (7) *Temporary nonresidential 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 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:
- a. A specified time period for which the temporary use will be permitted. Time specified may not exceed three months, renewable up to one year;
 - b. The name, address, and phone number of the individual responsible for the removal of the temporary structure;
 - c. The time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
 - d. A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and
 - e. Designation, accompanied by documentation, of a location outside the special flood hazard area, to which the temporary structure will be moved.
- (8) *Accessory structures.* When accessory structures (sheds, detached garages, etc.) are to be placed within a special flood hazard area, the following criteria shall be met:

- a. Accessory structures shall not be used for human habitation, including working, sleeping, living, cooking or restroom areas;
- b. Accessory structures shall not be temperature-controlled;
- c. Accessory structures shall be designed to have low flood damage potential;
- d. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
- e. Accessory structures shall be firmly anchored in accordance with the provisions of section 16-115(1);
- f. All service facilities such as electrical shall be installed in accordance with the provisions of section 16-115(4); and
- g. Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with the provisions of subsection (4)(c) of this section.

An accessory structure with a footprint less than 150 square feet or that is a minimal investment of \$3,000.00 or less and satisfies the criteria outlined in this section is not required to meet the elevation or floodproofing standards of subsection (2) of this section. Elevation or floodproofing certifications are required for all other accessory structures in accordance with section 16-23(c).

- (9) *Tanks.* When gas and liquid storage tanks are to be placed within a special flood hazard area, the following criteria shall be met:
- a. *Underground tanks.* Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty.
 - b. *Above-ground tanks, elevated.* Above-ground tanks in flood hazard areas shall be attached to and elevated to or above the design flood elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area.
 - c. *Above-ground tanks, not elevated.* Above-ground tanks that do not meet the elevation requirements of subsection (9)b of this section shall be permitted in flood hazard areas provided the tanks are anchored or otherwise designed and constructed 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 and the effects of flood-borne debris.
 - d. *Tank inlets and vents.* Tank inlets, fill openings, outlets and vents shall be:
 - 1. At or above the design flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
 - 2. Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.
- (10) *Other development.* 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 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:

- a. *Fences in regulated floodways and NEAs.* Fences that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of section 16-119.
- b. *Retaining walls, sidewalks and driveways in regulated floodways and NEAs.* Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of section 16-119.
- c. *Roads and watercourse crossings in regulated floodways and NEAs.* Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of section 16-119.

(Ord. No. 2013-2014:007, § 9-5042, 1-9-2014)

Sec. 16-117. Standards for floodplains without established base flood elevations.

Within the special flood hazard areas designated as approximate Zone A and established in section 16-59, where no base flood elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of section 16-115 shall apply:

- (1) 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.
- (2) The BFE used in determining the regulatory flood protection elevation shall be determined based on the following criteria:
 - a. When base flood elevation (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 article and shall be elevated or floodproofed in accordance with standards in sections 16-115 and 16-116.
 - b. When floodway or nonencroachment data is available from a federal, state or other source, all new construction and substantial improvements within floodway and nonencroachment areas shall also comply with the requirements of sections 16-116 and 16-119.
 - c. All subdivision, manufactured home park and other development proposals shall provide base flood elevation (BFE) data if development is greater than five acres or has more than 50 lots/manufactured home sites. Such base flood elevation (BFE) data shall be adopted by reference in accordance with section 16-59 and utilized in implementing this article.
 - d. When base flood elevation (BFE) data is not available from a federal, state or other source as outlined in this section, the reference level shall be elevated or floodproofed (nonresidential) to or above the regulatory flood protection elevation, as defined in article II of this chapter. All other applicable provisions of section 16-116 shall also apply.

(Ord. No. 2013-2014:007, § 9-5044, 1-9-2014)

Sec. 16-118. Standards for riverine floodplains with base flood elevations but without established floodways or nonencroachment areas.

Along rivers and streams where base flood elevation (BFE) data is provided by FEMA or is available from another source, but neither floodway nor nonencroachment areas are identified for a special flood hazard area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

- (1) Standards of sections 16-115 and 16-116; and
- (2) Until a regulatory floodway or nonencroachment 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 within the community.

(Ord. No. 2013-2014:007, § 9-5045, 1-9-2014)

Sec. 16-119. Floodways and nonencroachment areas.

Areas designated as floodways or nonencroachment areas are located within the special flood hazard areas established in section 16-59. The floodways and nonencroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in sections 16-115 and 16-116, shall apply to all development within such areas:

- (1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:
 - a. It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the floodplain administrator prior to issuance of floodplain development permit; or
 - b. A conditional letter of map revision (CLOMR) has been approved by FEMA. A letter of map revision (LOMR) must also be obtained within six months of completion of the proposed encroachment.
- (2) If subsection (1) of this section is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this article.
- (3) Manufactured homes may be permitted provided the following provisions are met:
 - a. The anchoring and the elevation standards of section 16-116(3); and
 - b. The encroachment standards of subsection (1) of this section.

(Ord. No. 2013-2014:007, § 9-5046, 1-9-2014)

Sec. 16-120. Standards for areas of shallow flooding (zone AO).

Located within the special flood hazard areas established in section 16-59, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate.

In addition to sections 16-115 and 16-116, all new construction and substantial improvements shall meet the following requirements:

- (1) The reference level shall be elevated at least as high as the depth number specified on the flood insurance rate map (FIRM), in feet, plus a freeboard of two feet, above the highest adjacent grade; or at least two feet above the highest adjacent grade if no depth number is specified.
- (2) Nonresidential structures may, in lieu of elevation, be floodproofed to the same level as required in the provisions for flood hazard reduction 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 sections 16-23(c) and 16-116(2).
- (3) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

(Ord. No. 2013-2014:007, § 9-5047, 1-9-2014)

Secs. 16-121—16-140. Reserved.

ARTICLE V. LEGAL STATUS PROVISIONS

Sec. 16-141. Effect on rights and liabilities under the existing flood damage prevention ordinance.

This article, in part, comes forward by reenactment of some of the provisions of the flood damage prevention ordinance enacted February 6, 1997, as amended, and it is not the intention to repeal but rather to reenact 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 the ordinance from which this article is derived shall not affect any action, suit or proceeding instituted or pending. All provisions of the flood damage prevention ordinance of the town enacted on February 6, 1997, as amended, which are not reenacted herein are repealed.

(Ord. No. 2013-2014:007, § 9-5049, 1-9-2014)

Sec. 16-142. 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 authorized agents before the time of passage of the ordinance from which this article is derived; 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 article.

(Ord. No. 2013-2014:007, § 9-5050, 1-9-2014)

Statement of Consistency

The proposed text amendment is compatible with all of the Town of Erwin's regulatory documents. According to Erwin's 2023 Land Use Plan and Erwin's Code of Ordinances, the proposed text amendment would ensure that Erwin's ordinances are following North Carolina statutes.



TOWN OF ERWIN

P.O. Box 459 • Erwin, NC 28339
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www.erwin-nc.org

**ERWIN BOARD OF COMMISSIONERS
RESOLUTION ON STATEMENT OF CONSISTENCY
FOR CHAPTER 16- FLOOD DAMAGE PREVENTION
2025-2026—03**

Mayor
Randy L. Baker
Mayor Pro Tem
Ricky W. Blackmon
Commissioners
Alvester L. McKoy
Timothy D. Marbell
Charles L. Byrd
David L. Nelson
William R. Turnage

WHEREAS, the Erwin Board of Commissioners do hereby find and conclude that the proposed Ordinance Amendments to Chapter 16 – Flood Damage Prevention are reasonable and in the public interest to better reflect the desired development within the Town’s Planning Jurisdiction; and

NOW THEREFORE BE IT RESOLVED, that the Mayor and Board of Commissioners of the Town of Erwin do hereby approve and adopt the proposed text amendments to Chapter 16 – Flood Damage Prevention as presented.

ADOPTED this the 9th day of October 2025.

Randy Baker
Mayor

ATTEST:

Lauren Evans NCCMC
Town Clerk



**TOWN OF ERWIN
BOARD OF COMMISSIONERS
REGULAR MEETING
THURSDAY, OCTOBER 9, 2025 AT 7 PM**

PUBLIC COMMENT- *Each speaker is asked to limit comments to 3 minutes, and the requested total comment period will be 30 minutes or less. Citizens should sign up prior to the start of the meeting. Please provide the clerk with copies of any handouts you have for the Board. Although the Board is interested in hearing your concerns, speakers should not expect Board action or deliberation on subject matter brought up during the Public Comment segment. Thank you for your consideration of the Town Board, staff and other speakers. §160A-81.1*

Name	Address	Subject
1. <u>Alex Babbitt</u>	<u>56 E Williams St Angier, NC 27501</u>	<u>Solid Waste RFP</u>
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____
5. _____	_____	_____
6. _____	_____	_____
7. _____	_____	_____
8. _____	_____	_____
9. _____	_____	_____
10. _____	_____	_____
11. _____	_____	_____
12. _____	_____	_____



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Memo to: Mayor and Board of Commissioners

From: Snow Bowden, Town Manager

RE: October Report

Date: 10/9/2025

- The Gospel Sing went very well. I think everyone had a great time. There are a lot of people to thank for putting on such a great event that includes Erwin Town Staff, Michael West, the bands that sang, Joseph Price (sound), the food truck vendors and RLT Associates for providing flatbed trailers for the stage.
- Denim Days went well. There was a good crowd, and everyone seemed to have a good time. We had a follow-up meeting with the Erwin Area Chamber of Commerce President Frank Toth. We told him about some of the issues and offered a few suggestions to improve Denim Days in 2026. I think everyone had a great time at the concert on Friday night.
- Town Staff has been hard at work planning out events for this upcoming year. We are getting everything ready for the Christmas Tree Lightening and Parade. Both of these events will be here very quickly.
- We had our kick off meeting for our ADA Transition Plan. The consultants have started to gather data. They will most likely be here in November to analyze our facilities and infrastructure.
- Our Town Attorney Tim Morris is dealing with the code violations at 206 West D Street. The yard is in worst shape than it was the last time we were in court with this property owner. I have not heard of an update from Tim on this one as of today. I have told Tim that we want it cleaned up.
 - I have asked our Town Attorney to file a lawsuit against Neil Parker Jr. (The Gettin' Place). I think a lawsuit is going to be the only way to get a permeant solution to get this site cleaned up.
 - Tim is also trying to get the owner of 601 Lucas Road to disconnect the power for that home so we can demolish the home.
- The Town of Erwin is making progress on our Bike/Pedestrian Accelerated Plan. We have already had a few meetings with our consultant Stantec. We still have a few more steps to complete before it is presented to the Town Board for adoption. The rough draft has been sent to NCDOT for their review. We are hopefully for adoption by the Town of Erwin in early 2026. We have had a lot of involvement

from various key stakeholders in the Town. I would like to thank them all. This plan will be the first step to help us make some much-needed improvements that have been requested for a long time.

- We are making progress with our Storm Water Management Plan. The firm that is handling this plan for us (TRC) has been collecting data in town. They are reviewing all the survey data that they received. As of 10/6/2025 TRC has found 1,036 structures such as drain inlets, pipes, etc. that are a part of our storm water system. When we first started this plan, we thought there would be around 600 structures.
 - We had 82 responses to our surveys from the community. Which is a pretty good number. There were a few duplicates in one particular area of town.
 - I have reminded TRC that we are expecting some sort of proposal to deal with the drainage issue on Butler Drive and North 9th Street.
 - TRC will be sending the Town a list to review for pipes to CCTV (camera) soon. They will also be doing an evaluation of our open ditches in November 2025.
 - The hydraulic assessment should be completed in January 2026.
 - We are hoping to have the plan and capital improvement plan finalized by March 2026.
- We are making progress on the updated Cape Fear Hazard Mitigation Plan. This is a large regional plan that we will need to eventually adopt. We will probably present this in early 2026. It all depends on the plan to be finalized and approved at the state level before it is sent to FEMA.
- We are making progress on obtaining ownership of the property right behind Field #4 at Al Woodall Park. We should have an update for you at our October workshop meeting. This is a process that must be worked out in the courts. I will keep you up to date on this process.
- We should have a proposed contract with Liberty Solid Waste to discuss at our October workshop meeting.
- We are continuing to have issues with our current Solid Waste provider GFL. Town Staff has worked hard trying to get complaints solved.
- We are very busy here in Erwin. We have several rezoning cases coming up soon. Some are rather simple and are split zoned parcels.
- There should be some progress being made on the PUD located off of St. Matthews Road soon.
- We are waiting to hear another update on the Avery Road subdivision.

MINUTES CONTINUED FROM OCTOBER 9, 2025

ADJOURNMENT

Commissioner Nelson made a motion to adjourn at 7:57 P.M. and was seconded by Commissioner Byrd. **The Board voted unanimously.**

**MINUTES RECORDED AND TYPED BY
LAUREN EVANS TOWN CLERK**

ATTEST:



Randy Baker

Mayor



Lauren Evans, NCCMC

Town Clerk