

## ARTICLE 18

### Flood Damage Prevention

*[Amended Nov. 4, 2019 per Ord 2019-O-19, ZTA-2019-02]*

*[Amended June 1, 2021 per Ord. 2021-O-10, ZTA-2021-02]*

#### FLOOD DAMAGE PREVENTION

##### 18.1 Introduction

- 18.1-1 PURPOSE. It is the purpose of this Ordinance to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:
- A. Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;
  - B. Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
  - C. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
  - D. Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and
  - E. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.
- 18.1-2 OBJECTIVES. The objectives of this Ordinance are to:
- A. Protect human life, safety, and health;
  - B. Minimize expenditure of public money for costly flood control projects;
  - C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
  - D. Minimize prolonged business losses and interruptions;
  - E. Minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets and bridges) that are located in flood prone areas;
  - F. Minimize damage to private and public property due to flooding;
  - G. Make flood insurance available to the community through the National Flood Insurance Program;
  - H. Maintain the natural and beneficial functions of floodplains;
  - I. Help maintain a stable tax base by providing for the sound use and development of flood prone areas; and
  - J. Ensure that potential buyers are aware that property is in a Special Flood Hazard Area.
- 18.1-3 DEFINITIONS. Definitions can be found in Article 3 "Definitions". Unless specifically defined in Article 3, words or phrases used in this Ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this Ordinance it's most reasonable application.

##### 18.2 Flood Damage Prevention

- 18.2-1 STATUTORY AUTHORIZATION.
- A. The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Article 7, Article 9, and Article 11 of Chapter 160D; and Article 8 of Chapter 160A 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 City Board of Commissioners of the City of Creedmoor, North Carolina, has adopted this Article 18, Flood Damage Prevention, as part of the City's Development Ordinance.
- 18.2-2 LEGAL STATUS PROVISIONS.
- A. Effect on Rights and Liabilities under the Existing Flood Damage Prevention Ordinance: This

Ordinance in part comes forward by re-enactment of some of the provisions of the Flood Damage Prevention Ordinance enacted on September 27, 1988, as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this Ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the Flood Damage Prevention Ordinance of the City of Creedmoor enacted on September 27, 1988, as amended, which are not reenacted herein are repealed.

- B. Effect upon Outstanding Floodplain Development Permits: Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the Floodplain Administrator or his or her authorized agents before the time of passage of this Ordinance; provided, however, that when construction is not begun under such outstanding permit within a period of six (6) months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this Ordinance.
- C. Severability. If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

18.2-3 FINDINGS OF FACT.

- A. The flood prone areas within the jurisdiction of the City of Creedmoor 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 flood prone areas of uses vulnerable to floods or other hazards.

18.2-4 GENERAL PROVISIONS.

- A. Lands to which this Ordinance Applies: This Ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction, including Extra-Territorial Jurisdictions (ETJs) of the City of Creedmoor.
- B. Basis for Establishing the Special Flood Hazard Areas: The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) and its accompanying Flood Insurance Rate Maps (FIRM), for Granville County dated December 6, 2019, and its accompanying Flood Insurance Rate Map panels (0885, 0886, 0887, 0895, 0896, 0897, 1804, and 1806), which are adopted by reference and declared to be a part of this Ordinance per G.S. 160D-105(b), including any digital data developed as part of the Flood Insurance Study (FIS), and all revisions thereto after January 1, 2021. Future revisions to the FIS and DFIRM panels that do not change flood hazard data within the jurisdictional authority of the City of Creedmoor are also adopted by reference and declared part of this Ordinance. Subsequent Letter of Map Revisions (LOMRs) and/or Physical Map Revisions (PMRs) shall be adopted within 3 months. The initial Flood Insurance Rate Maps are as follows for the jurisdictional areas at the initial date: Granville County Unincorporated Area, dated September 28, 1990 (Initial date); and The City of Creedmoor initial FIRM dated June 25, 1976 (initial date, City incorporated in March 1905).

18.2-5 ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT. A Floodplain Development Permit shall be required in conformance with the provisions of this Ordinance prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with Section 18.2-4(B) of this Ordinance.

18.2-6 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 Ordinance and other applicable regulations.

18.2-7 ABROGATION AND GREATER RESTRICTIONS. This Ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

18.2-8 INTERPRETATION. In the interpretation and application of this Ordinance, all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and

### **18.3 Warning and Disclaimer of Liability**

The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Actual flood heights may be increased by man-made or natural causes. This Ordinance does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of Creedmoor or by any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made hereunder.

### **18.4 Flood Plain Development Application, Permit and Certification Requirement**

18.4-1 APPLICATION FOR PERMIT. On a property containing area of Special Flood Hazard, application for a Flood Plain Development Permit shall be made in accordance with 18.4-2 (Floodplain Development Permit).

18.4-2 FLOODPLAIN DEVELOPMENT PERMIT

- 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 18.2-4(B), or a statement that the entire lot is within the Special Flood Hazard Area;
    - c. Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Section 18.2-4(B)
    - d. The boundary of the Floodway(s) or non-encroachment area(s) as determined in Section 18.2-4(B);
    - e. The base flood elevation (BFE) where provided as set forth in Sections 18.2-4(B) or 18.6;
    - f. The old and new location of any watercourse that will be altered or relocated as a result of proposed development; and
    - g. Certification of the plot plan by a registered land surveyor or professional engineer.
  - 2. Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:
    - a. Elevation in relation to NAVD 1988 of the proposed reference level (including basement) of all structures;
    - b. Elevation in relation to NAVD 1988 to which any non-residential structure in Zones A, AE, AH, AO, A99 will be flood-proofed; and
    - c. Elevation in relation to NAVD 1988 to which any proposed utility systems will be

- elevated or floodproofed;
- 3. If floodproofing, a Floodproofing Certificate (FEMA Form 086-0-34) with supporting data, an operational plan, and an inspection and maintenance plan that include, but is 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 Ordinance are met. These details include but are not limited to:
  - a. The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls); and
  - b. Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Section 18.5-1(B)(4)(3), when solid foundation perimeter walls are used in Zones A, AE, AH, AO, A99.
- 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 (Wetlands, Endangered Species, Erosion and Sedimentation Control, Riparian Buffers, Mining, etc.)
- 8. Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of Section 18.5-1(B)(6) and (7) of this Ordinance are met.
- 9. A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.
- B. Permit Requirements. The Floodplain Development Permit shall include, but not be limited to:
  - 1. A complete description of all the development to be permitted under the floodplain development permit (e.g. house, garage, pool, septic, bulkhead, cabana, pier, bridge, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc.).
  - 2. The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in Section 18-2.4(B).
  - 3. The Regulatory Flood Protection Elevation required for the Reference Level and all attendant utilities.
  - 4. The Regulatory Flood Protection Elevation required for the protection of all public utilities.
  - 5. All certification submittal requirements with timelines.
  - 6. A statement that no fill material or other development shall encroach into the Floodway or non-encroachment area of any watercourse, unless the requirements of Section 18.8 have been met.
  - 7. The flood openings requirements, if in Zones A, AE, AH, AO, A99.
  - 8. Limitations of below BFE enclosure uses (if applicable). (i.e., parking, building access and limited storage only).
  - 9. A statement that all materials below BFE/RFPE must be flood resistant materials.

18.4-3 CERTIFICATION OF FLOOR ELEVATION/FLOODPROOFING.

- A. Certificate of Floor Elevation/Flood proofing. When a property is located in a flood hazard area or when a structure is flood proofed, a certificate shall be provided in accordance with Section 18.4-3(B) (Certificate of Floor Elevation/Flood proofing).
- B. Elevation Certificates
  - 1. An Elevation Certificate (FEMA Form 086-0-33) is required prior to the actual start of any

new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the Reference Level, in relation to NAVD 1988. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.

2. An Elevation Certificate (FEMA Form 086-0-33) is required after the Reference Level is established. Within seven (7) calendar days of establishment of the Reference Level elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the Reference Level, in relation to NAVD 1988. Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop work order for the project.
3. A final Finished Construction Elevation Certificate (FEMA Form 086-0-33) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the Reference Level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy. The Finished Construction Elevation Certificate certifier shall provide at least two (2) photographs showing the front and rear of the building taken within ninety (90) days from the date of certification. The photographs must be taken with views confirming the building description and diagram number provided in Section A. To the extent possible, these photographs should show the entire building including the foundation. If the building has split-level or multi-level areas, provide at least two (2) additional photographs showing side views of the building. In addition, when applicable, provide a photograph of the foundation showing a representative example of the flood openings or vents. All photographs must be in color and measure at least 3 inches by 3 inches. Digital photographs are acceptable.

C. Floodproofing Certificate.

1. If non-residential Floodproofing is used to meet the Regulatory Flood Protection Elevation requirements, a Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan, 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 Floodproofed design elevation of the Reference Level and all attendant utilities, in relation to NAVD 1988. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.
2. A final Finished Construction Floodproofing Certificate (FEMA Form 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 the 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 issuance of a Certificate of Compliance/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.

- D. If a manufactured home is placed within Zones A, AE, AH, AO, A99 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required per Section 18.5-1(B)(3)(2).
- E. 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.
- F. Certification Exemptions. The following structures, if located within Zones A, AE, AH, AO, A99, are exempt from the elevation/Floodproofing certification requirements specified in items (B) and (C) of this subsection:
  - 1. Recreational Vehicles meeting requirements of Section 18.5-1(B)(6)(a)
  - 2. Temporary Structures meeting requirements of Section 18.5-1(B)(7); and
  - 3. Accessory Structures less than 150 square feet or where the structure cost is less than \$3,000 and meeting requirements of Section 18.5-1(B)(8).

**18.4-4 DETERMINATION FOR EXISTING BUILDINGS AND STRUCTURES.** For applications for zoning and/or 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 Planning, Zoning, and Subdivision Administrator, and/or the Building Permit/Inspections Official, shall:

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

## **18.5 Provisions for Flood Hazard Reduction**

### **18.5-1 PROVISIONS FOR FLOOD HAZARD REDUCTION.**

- A. 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 in accordance with FEMA Technical Bulletin 2, *Flood Damage-Resistant Materials Requirements*.

3. All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.
4. All new electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall be located at or above the RFPE or designed and installed to prevent water from entering or accumulating within the components during the occurrence of the base flood. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, 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 flood waters.
7. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
8. Nothing in this Ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this Ordinance and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the Regulatory Flood Protection Elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this Ordinance.
9. New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in Section 18.11-10. 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 according to Section 18.4-3 of this Ordinance.
10. All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.
11. 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.
12. All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
13. 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 U.S.C. 1334.
14. 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.

15. 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 BFE shall apply.
- B. Specific Standards: In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in Section 18.2-4(B), or Section 18.6, the following provisions, in addition to Section 18.5, 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 3 of this Ordinance.
  2. Non-Residential Construction. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the Reference Level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Article 3 of this Ordinance. Structures located in Zones A, AE, AH, AO, A99 may be floodproofed to the Regulatory Flood Protection Elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the Regulatory Flood Protection Elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. 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 18.4-3, 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 3 (Definitions) of this Ordinance.
    - b. Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineer 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 NCGS 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.
    - c. All enclosures or skirting below the lowest floor shall meet the requirements of 18.5-1(B)(4).
    - d. An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management Coordinator.
  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 not be temperature-controlled or conditioned;
- c. Shall be constructed entirely of flood resistant materials at least to the Regulatory flood Protection Elevation; and
- d. Shall include, in Zones A, AE, AH, AO, A99 flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:
  - i. A minimum of two flood openings on different sides of each enclosed area subject to flooding;
  - ii. The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;
  - iii. If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
  - iv. The bottom of all required flood openings shall be no higher than one (1) foot above the higher of the interior or exterior adjacent grade;
  - v. Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and
  - vi. Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.
- e. Property owners shall be required to execute and record a non-conversion agreement prior to issuance of a building permit declaring that the area below the lowest floor shall not be improved, finished or otherwise converted to habitable space and that the City of Creedmoor will have the right to inspect the enclosed area. This agreement shall be recorded with the Granville County Register of Deeds and shall transfer with the property in perpetuity.
- f. Release of restrictive covenant. If a property which is bound by a non-conversion agreement is modified to remove enclosed areas below BFE, then the owner may request release of restrictive covenant after staff inspection and submittal of confirming documentation.

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:
  - i. 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.
  - ii. A substantial improvement, with modifications/rehabilitations/improvements to the existing structure or the common wall is structurally modified more than installing a doorway, both the existing structure and the addition must comply with the standards for new construction.
- b. Additions to pre-FIRM or post-FIRM structures that are a substantial improvement with no modifications/rehabilitations/improvements to the existing structure other than a standard door in the common wall, shall require only the addition to comply with the standards for new construction.
- c. Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
  - i. Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction consistent with the code and requirements for the original structure.
  - ii. A substantial improvement, both the existing structure and the addition and/or

improvements must comply with the standards for new construction.

- d. Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a one (1) year period, the cumulative cost of which equals or exceeds fifty (50) percent of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the one (1) year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this Ordinance. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. 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:
  - (i.) Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official/inspector and that are the minimum necessary to assume safe living conditions.
  - (ii.) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.
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 Non-Residential Structures. Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval;
  - a. A specified time period for which the temporary use will be permitted. Time specified may not exceed three (3) months, renewable up to one (1) year;
  - b. The name, address, and phone number of the individual responsible for the removal of the temporary structure;
  - c. The time frame prior to the event at which a structure will be removed (i.e., minimum of 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 Section 18.5-1(A)

- f. All service facilities such as electrical shall be installed in accordance with Section 18.5-1(A)(4).
  - g. Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below Regulatory Flood Protection Elevation in conformance with Section 18.5-1(B)(4)(c).
  - h. An accessory structure with a footprint less than 150 square feet, or that is a minimal investment of \$3,000 or less, and that satisfies the criteria outlined above is not required to meet the elevation or floodproofing standards of Section 18.5-1(B)(2). Elevation or Floodproofing certifications are required for all other accessory structures in accordance with Section 18.4-3.
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 elevated to or above the Regulatory Flood Protection Elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;
  - c. Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of Section 18.5-1(B)(2) of this Ordinance shall be permitted in flood hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions.
  - d. Tank inlets and valves. Tank inlets, fill openings, outlets and vents shall be:
    - (i.) At or above the Regulatory Flood Protection Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
    - (ii.) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.
10. Other Development.
- a. Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Section 18.8 of this Ordinance.
  - 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 18.8 of this Ordinance.
  - 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 18.8 of this Ordinance.

18.5-2 RESERVED

## **18.6 Standards for Floodplains Without Base Flood Elevation**

### **18.6-1 STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATION.**

- A. Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Section 18.2-4(B), where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to Section 18.5-1(A), shall apply:

1. No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
2. The BFE used in determining the Regulatory Flood Protection Elevation shall be determined based on the following criteria:
  - (a.) When 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 Ordinance and shall be elevated or floodproofed in accordance with standards in Section 18.5-1(A) and (B).
  - (b.) When floodway or non-encroachment data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of Section 18.5-1(B) and Section 18.8.
  - (c.) All subdivision, manufactured home park, and other development proposals shall provide Base Flood Elevation (BFE) data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such Base Flood Elevation (BFE) data shall be adopted by reference per Section 18.2-4(B) to be utilized in implementing this Ordinance.
  - (d.) When Base Flood Elevation (BFE) data is not available from a Federal, State, or other source as outlined above, the Reference Level shall be elevated or floodproofed (nonresidential) to or above the Regulatory Flood Protection Elevation, as defined in Article 3. All other applicable provisions of 18.5-1(B) shall also apply.

**18.7 Standards for Riverine Floodplains with BFE but Without Established Floodways or Non-Encroachment Areas.**

Along rivers and streams where BFE data is provided by FEMA or is available from another source but neither Floodway nor Non-Encroachment Areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

- A. Standards outlined in Sections 18.5-1(A) and (B); and
- B. Until a regulatory Floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.

**18.8 Floodways and Non-Encroachment Areas**

Areas designated as Floodways or Non-Encroachment Areas are located within the Special Flood Hazard Areas established in Section 18.2-4(B). The Floodways and Non-Encroachment Areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Sections 18.5-1(A) and (B), shall apply to all development within such areas:

- 18.8-1 NO ENCROACHMENT. No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:
- A. It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood discharge, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit, or
  - B. A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained upon completion of the proposed encroachment.

- 18.8-2 COMPLIANCE WITH FLOOD HAZARD REDUCTION PROVISIONS. If Section 18.8-1 is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this Ordinance.
- 18.8-3 REQUIREMENTS FOR MANUFACTURED HOMES. No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met.
  - A. The anchoring and the elevation standards of 18.5-1(B)(3); and
  - B. The encroachment standards of Section 18.8-1.

**18.9 Standards for Areas of Shallow Flooding (Zone AO).**

Located within the Special Flood Hazard Areas established in Section 18.2-4(B), are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Sections 18.5-1(A) and (B), all new construction and substantial improvements shall meet the following requirements:

- 18.9-1 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 (2) feet, above the highest adjacent grade; or at least two (2) feet above the highest adjacent grade if no depth number is specified.
- 18.9-2 Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in Section 18.9-1 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 Section 18.4-3 and 18.5-1(B)(2).
- 18.9-3 Adequate drainage paths shall be provided around structures and on slopes, to guide floodwaters around and away from proposed structures.

**18.10 Standards for Areas of Shallow Flooding (Zone AH).**

Located within the Special Flood Hazard Areas established in Section 18.2-4(B), are areas designated as shallow flooding areas. These areas are subject to inundation by 1-percent-annual-chance shallow flooding (usually areas of ponding) where average depths are one (1) to three (3) feet. Base Flood Elevations are derived from detailed hydraulic analyses are shown in this zone. In addition to Sections 18.5-1(A) and (B), all new construction and substantial improvements shall meet the following requirements:

- 18.10-1 Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

**18.11 Corrective Procedures**

- 18.11-1 VIOLATIONS TO BE CORRECTED. When the Floodplain Administrator finds violations of applicable State and local laws; it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.
- 18.11-2 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:
  - A. That the building or property is in violation of the floodplain management regulations;
  - B. That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and

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

18.11-3 ORDER TO TAKE CORRECTIVE ACTION. If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, they shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than one-hundred-eighty (180) calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, they may order that corrective action be taken in such lesser period as may be feasible.

18.11-4 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 City Clerk within ten (10) 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.

FAILURE TO COMPLY WITH ORDER. If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a Class 1 misdemeanor pursuant to NCGS § 143-215.58 and shall be punished at the discretion of the court.

## **18.12 Variance Procedures**

18.12-1 The Board of Adjustment as established by City of Creedmoor, hereinafter referred to as the “Board of Adjustment”, shall hear and decide requests for variances from the requirements of this Ordinance.

18.12-2 Any person aggrieved by the decision of the Board of Adjustment may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.

18.12-3 Variances may be issued for:

- A. The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure.
- B. Functionally dependent facilities if determined to meet the definition as stated in Article 3 of this Ordinance, provided provisions of 18.11-9(B), 18.11-9(C), and 18.11-9(E) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- C. Any other type of development provided it meets the requirements of this Section.

18.12-4 In passing upon variances, the Board of Adjustment shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Ordinance, and:

- A. The danger that materials may be swept onto other lands to the injury of others;
- B. The danger to life and property due to flooding or erosion damage;
- C. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- D. The importance of the services provided by the proposed facility to the community;
- E. The necessity to the facility of a waterfront location as defined under Article 3 of this Ordinance as a functionally dependent facility, where applicable;
- F. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- G. The compatibility of the proposed use with existing and anticipated development;
- H. The relationship of the proposed use to the comprehensive plan and floodplain management

- program for that area;
  - I. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - J. 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
  - K. 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.
- 18.12-5 A written report addressing each of the above factors shall be submitted with the application for a variance.
- 18.12-6 Upon consideration of the factors listed above and the purposes of this Ordinance, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this Ordinance.
- 18.12-7 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 Base Flood Elevation increases risks to life and property, and that the issuance of a variance to construct a structure below the Base Flood Elevation may result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.
- 18.12-8 The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.
- 18.12-9 CONDITIONS FOR VARIANCES.
  - A. Variances shall not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.
  - B. Variances shall not be issued within any designated Floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.
  - C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - D. Variances shall only be issued prior to development permit approval.
  - E. Variances shall only be issued upon:
    - 1. A showing of good and sufficient cause;
    - 2. A determination that failure to grant the variance would result in exceptional hardship; and
    - 3. 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.
- 18.12-10 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.
  - A. The use serves a critical need in the community.
  - B. No feasible location exists for the use outside the Special Flood Hazard Area.
  - C. The Reference Level of any structure is elevated or floodproofed to at least the Regulatory Flood Protection Elevation.
  - D. The use complies with all other applicable Federal, State and local laws.
  - E. The City of Creedmoor has notified the Secretary of the North Carolina Department of Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

**18.13 Flood Control Appeals**

- 18.13-1 AUTHORITY. The Board of Adjustment shall hear and decide appeals and requests for variances from the requirements of the flood control provisions of this Ordinance.

- 18.13-2 APPEAL AND VARIANCE CONSIDERATIONS. In passing upon such applications, the Board of Adjustment shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Ordinance, and;
- A. the danger that materials may be swept onto other lands to the injury of others;
  - B. the danger to life and property due to flooding or erosion damage;
  - C. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - D. the importance of the services provided by the proposed facility to the community;
  - E. the necessity to the facility of a waterfront location, where applicable;
  - F. the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
  - G. the comparability of the proposed use with existing and anticipated development;
  - H. the relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
  - I. the safety of access to the property in times of flood for ordinary and emergency vehicles;
  - J. the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
  - K. 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; and
  - L. the effect that granting the appeal or variance would have on the jurisdiction's eligibility for Federal Flood Insurance.

**18.14 Designation of Floodplain Administrator**

The Planning, Zoning and Subdivision Administrator, or his/her designee, hereinafter referred to as the "Floodplain Administrator" is hereby appointed to administer and implement the provisions of this Ordinance. In instances where the Floodplain Administrator receives assistance from others to complete tasks to administer and implement this Ordinance, the Floodplain Administrator shall be responsible for the coordination and the City of Creedmoor's overall compliance with the National Flood Insurance Program and the provisions of this Ordinance.

**18.15 Enforcement Officer**

18.15-1 ESTABLISHMENT OF ENFORCEMENT OFFICER. The Floodplain Administrator shall appoint an Enforcement Officer to enforce the provisions of this Ordinance.

18.15-2 ENFORCEMENT PROCEDURE. When the Enforcement Officer or his agent finds a violation of this Ordinance, it shall be his duty to notify the owner or occupant of the land, building, structure, sign, or use of the violation. The owner or occupant shall immediately remedy the violation.

**18.16 Notice of Violation**

If the owner or occupant of the land, building, sign, structure, or use in violation fails to take prompt corrective action, the Enforcement Officer shall give the owner or occupant written notice, by certified or registered mail to his last known address, or by personal service or by posting notice of the violation conspicuously on the property:

- A. That the land, building, sign, structure, or use is in violation of this Ordinance;
- B. The nature of the violation, and citation of the section of this Ordinance violated; and
- C. The measures necessary to remedy the violation.

18.16-1 APPEAL. Any owner or occupant who has received a Notice of Violation may appeal in writing the



decision of the Enforcement Officer to the Board of Adjustment (unless this Ordinance has specified that another board shall hear the appeal of the violation) within fifteen (15) days following the date of the Notice of Violation. The Board of Adjustment, or other designated board, shall hear an appeal within a reasonable time, and it may affirm, modify, or revoke the Notice of Violation. In the absence of an appeal, the remedies and penalties sought by the Enforcement Officer in the Notice of Violation shall be final.

- 18.16-2 ORDER OF CORRECTIVE ACTION. If upon a hearing held pursuant to an appeal as prescribed above, the Board of Adjustment shall find that the owner or occupant is in violation of this Ordinance, the Board of Adjustment shall make an order in writing to the owner or occupant affirming the violation and ordering compliance.
- 18.16-3 FAILURE TO COMPLY WITH AN ORDER. If the owner or occupant of a property fails to comply with a Notice of Violation from which no appeal has been taken, or an Order of Corrective Action following an appeal, the owner or occupant shall be subject to such remedies and penalties as may be provided for by state law and Section 8-4 (Remedies). If the owner or occupant fails to comply with the remedies and penalties prescribed, enforcement shall be sought through an order of a court of competent jurisdiction.
- 18.16-4 PENALTIES FOR VIOLATION. Violation of the provisions of this Ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a Class 1 misdemeanor pursuant to NCGS § 143-215.58. Any person who violates this Ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$100.00 or imprisoned for not more than thirty (30) days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Creedmoor from taking such other lawful action as is necessary to prevent or remedy any violation.

**18.17 Floodplain Administrator and/or Enforcement Officer Duties**

(A.) A “Floodplain Administrator”, is hereby appointed to administer and implement the provisions of this Ordinance. The Floodplain Administrator shall perform, but not be limited to, the following duties:

- 18.17-2 Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this Ordinance have been satisfied.
- 18.17-3 Review all proposed development within Special Flood Hazard Areas to assure that all necessary local, State, and Federal permits have been received, and advise permittee that additional Federal or State permits (Wetlands, Endangered Species, Erosion and Sedimentation Control, Riparian Buffers, Mining, etc.) may be required, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334, and require that copies of such permits be provided and maintained on file with the floodplain development permit.
- 18.17-4 Notify adjacent communities and the North Carolina Department of Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
- 18.17-5 Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- 18.17-6 Prevent encroachments into Floodways and Non-Encroachment Areas unless the certification and flood hazard reduction provisions of Section 18.8 are met.
- 18.17-7 Obtain actual elevation (in relation to NAVD 1988) of the Reference Level (including basement) and all attendant utilities of all new or substantially improved structures, in accordance with Section 18.4-3.

- 18.17-8 Obtain actual elevation (in relation to NAVD 1988) to which all new and substantially improved structures and utilities have been flood-proofed, in accordance with Section 18.4-3.
- 18.17-9 Obtain actual elevation (in relation to NAVD 1988) of all public utilities in accordance with the provisions of Section 18.4-3.
- 18.17-10 When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of Sections 18.4-3 and 18.5-1(B)(2).
- 18.17-11 Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas, floodways, or non-encroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Article.
- 18.17-12 When Base Flood Elevation (BFE) data has not been provided in accordance with Section 18.2-4(B), obtain, review, and reasonably utilize any Base Flood Elevation (BFE) data, along with Floodway data or non-encroachment area data available from a Federal, State, or other source, including data developed pursuant to Section 18.6-1(B), in order to administer the provisions of this Ordinance.
- 18.17-13 When Base Flood Elevation (BFE) data is provided but no Floodway nor non-encroachment area data has been provided in accordance with Section 18.2-4(B), obtain, review, and reasonably utilize any Floodway data or non-encroachment area data available from a Federal, State, or other source in order to administer the provisions of this Ordinance.
- 18.17-14 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, advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the LOMA issued by FEMA in the floodplain development permit file.
- 18.17-15 Permanently maintain all records that pertain to the administration of this Ordinance and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.
- 18.17-16 Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the City of Creedmoor and its ETJ at any reasonable hour for the purposes of inspection or other enforcement action.
- 18.17-17 Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this Ordinance, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop work order constitutes a misdemeanor.
- 18.17-18 Revoke floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or 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.
- 18.17-19 Make periodic inspections throughout all special flood hazard areas within the jurisdiction of the City of Creedmoor. The Floodplain Administrator and each member of his or her inspections department

shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

- 18.17-20 Follow through with corrective procedures of Section 18.10.
- 18.17-21 Review, provide input, and make recommendations for variance requests.
- 18.17-22 Maintain a current map repository to include, but not limited to, historical and effective FIS Report, historical and effective FIRM and other official flood maps and studies adopted in accordance with Section 18.2-4(B) of this Ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.
- 18.17-23 Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-F) and Letters of Map Revision (LOMR).

#### **18.18 Flood Plain Development Application, Permit and Certification Requirement**

18.18-1 Application for Permit. On a property containing area of Special Flood Hazard, application for a Flood Plain Development Permit shall be made in accordance with 18.4-2 (Floodplain Development Permit).

18.18-2 Floodplain Development Permit

- 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:
- B. A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
  - 1. 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;
  - 2. The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Section 18.2-4(B), or a statement that the entire lot is within the Special Flood Hazard Area;
  - 3. Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Section 18.2-4(B)
  - 4. The boundary of the Floodway(s) or non-encroachment area(s) as determined in Section 18.2-4(B);
  - 5. The base flood elevation (BFE) where provided as set forth in Sections 18.2-4(B) or 18.6;
  - 6. The old and new location of any watercourse that will be altered or relocated as a result of proposed development; and
  - 7. Certification of the plot plan by a registered land surveyor or professional engineer.

18.18-3 Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:

- A. Elevation in relation to NAVD 1988 of the proposed reference level (including basement) of all structures;
- B. Elevation in relation to NAVD 1988 to which any non-residential structure in Zones A, AE, AH, AO, A99 will be flood-proofed; and
- C. Elevation in relation to NAVD 1988 to which any proposed utility systems will be elevated or floodproofed;

18.18-4 If floodproofing, a Floodproofing Certificate (FEMA Form 086-0-34) with supporting data, an operational plan, and an inspection and maintenance plan that include, but is not limited to, installation, exercise, and maintenance of floodproofing measures.

- A. A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this Ordinance are met. These details include but are not limited to:
- B. 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
- C. Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Section 18.5-1(B)(4)(3), when solid foundation perimeter walls are used in Zones A, AE, AH, AO, A99.
- D. Usage details of any enclosed areas below the lowest floor.
- E. 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.
- F. Certification that all other Local, State and Federal permits required prior to floodplain development permit issuance have been received (Wetlands, Endangered Species, Erosion and Sedimentation Control, Riparian Buffers, Mining, etc.)
- G. Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of Section 18.5-1(B)(6) and (7) of this Ordinance are met.
- H. 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.

18.18-5 Permit Requirements. The Floodplain Development Permit shall include, but not be limited to:

- A. A complete description of all the development to be permitted under the floodplain development permit (e.g. house, garage, pool, septic, bulkhead, cabana, pier, bridge, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc.).
- B. The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in Section 18-2.4(B).
- C. The Regulatory Flood Protection Elevation required for the Reference Level and all attendant utilities.
- D. The Regulatory Flood Protection Elevation required for the protection of all public utilities.
- E. All certification submittal requirements with timelines.
- F. A statement that no fill material or other development shall encroach into the Floodway or non-encroachment area of any watercourse, unless the requirements of Section 18.8 have been met.
- G. The flood openings requirements, if in Zones A, AE, AH, AO, A99.
- H. Limitations of below BFE enclosure uses (if applicable). (i.e., parking, building access and limited storage only).
- I. A statement that all materials below BFE/RFPE must be flood resistant materials.
- J. Certification of Floor Elevation/Floodproofing.

18.18-6 Certificate of Floor Elevation/Flood proofing. When a property is located in a flood hazard area or when a structure is flood proofed, a certificate shall be provided in accordance with Section 18.4-3(B) (Certificate of Floor Elevation/Flood proofing).

18.18-7 Elevation Certificates

- A. An Elevation Certificate (FEMA Form 086-0-33) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the Reference Level, in relation to NAVD 1988. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit

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

- B. An Elevation Certificate (FEMA Form 086-0-33) is required after the Reference Level is established. Within seven (7) calendar days of establishment of the Reference Level elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the Reference Level, in relation to NAVD 1988. Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further 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 Finished Construction Elevation Certificate (FEMA Form 086-0-33) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the Reference Level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy. The Finished Construction Elevation Certificate certifier shall provide at least two (2) photographs showing the front and rear of the building taken within ninety (90) days from the date of certification. The photographs must be taken with views confirming the building description and diagram number provided in Section A. To the extent possible, these photographs should show the entire building including the foundation. If the building has split-level or multi-level areas, provide at least two (2) additional photographs showing side views of the building. In addition, when applicable, provide a photograph of the foundation showing a representative example of the flood openings or vents. All photographs must be in color and measure at least 3 inches by 3 inches. Digital photographs are acceptable.

18.18-8 Floodproofing Certificate.

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

direct supervision of a professional engineer or architect and certified by the 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 issuance of a Certificate of Compliance/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.

18.18-9 If a manufactured home is placed within Zones A, AE, AH, AO, A99 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required per Section 18.5-1(B)(3)(2).

18.18-10 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.

18.18-11 Certification Exemptions. The following structures, if located within Zones A, AE, AH, AO, A99, are exempt from the elevation/Floodproofing certification requirements specified in items (B) and (C) of this subsection:

- A. Recreational Vehicles meeting requirements of Section 18.5-1(B)(6)(a)
- B. Temporary Structures meeting requirements of Section 18.5-1(B)(7); and
- C. Accessory Structures less than 150 square feet or where the structure cost is less than \$3,000 and meeting requirements of Section 18.5-1(B)

18.18-12 DETERMINATION FOR EXISTING BUILDINGS AND STRUCTURES. For applications for zoning and/or 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 Planning, Zoning, and Subdivision Administrator, and/or the Building Permit/Inspections Official, shall:

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

## **18.19 Provisions for Flood Hazard Reduction**

18.19-1 PROVISIONS FOR FLOOD HAZARD REDUCTION.

18.19-2 General Standards: In all Special Flood Hazard Areas the following provisions are required:

- A. All new construction and substantial improvements shall be designed (or modified) and

adequately anchored to prevent flotation, collapse, and lateral movement of the structure.

- B. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage in accordance with FEMA Technical Bulletin 2, *Flood Damage-Resistant Materials Requirements*.
  - C. All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.
  - D. All new electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall be located at or above the RFPE or designed and installed to prevent water from entering or accumulating within the components during the occurrence of the base flood. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, water heaters, and electric outlets/switches.
    - 1. Replacements part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.
    - 2. Replacements that are for maintenance and not part of a substantial improvement, may be installed at the original location provided the addition and/or improvements only comply with the standards for new construction consistent with the code and requirements for the original structure.
  - E. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
  - F. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.
  - G. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- 18.19-3 Nothing in this Ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this Ordinance and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the Regulatory Flood Protection Elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this Ordinance.
- 18.19-4 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 Section 18.11-10. 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 according to Section 18.4-3 of this Ordinance.
- 18.19-5 All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.
- 18.19-6 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.
- 18.19-7 All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- 18.19-8 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 U.S.C. 1334.

- 18.19-9 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.
- 18.19-10 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 BFE shall apply.
- 18.19-11 Specific Standards: In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in Section 18.2-4(B), or Section 18.6, the following provisions, in addition to Section 18.5, are required:
- A. Residential Construction. New construction and substantial improvement of any residential structure (including manufactured homes) shall have the Reference Level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Article 3 of this Ordinance.
  - B. Non-Residential Construction. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the Reference Level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Article 3 of this Ordinance. Structures located in Zones A, AE, AH, AO, A99 may be floodproofed to the Regulatory Flood Protection Elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the Regulatory Flood Protection Elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. 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 18.4-3, along with the operational plan and the inspection and maintenance plan.
  - C. Manufactured Homes.
    - 1. New and replacement manufactured homes shall be elevated so that the Reference Level of the manufactured home is no lower than the Regulatory Flood Protection Elevation, as defined in Article 3 (Definitions) of this Ordinance.
    - 2. Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineer 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 NCGS 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.
    - 3. All enclosures or skirting below the lowest floor shall meet the requirements of 18.5-1(B)(4).
    - 4. An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management Coordinator.
  - D. Elevated Buildings. Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:
    - 1. Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum



necessary to allow for parking of vehicles (garage door) 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;

2. Shall not be temperature-controlled or conditioned;
3. Shall be constructed entirely of flood resistant materials at least to the Regulatory flood Protection Elevation; and
4. Shall include, in Zones A, AE, AH, AO, A99 flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:
5. A minimum of two flood openings on different sides of each enclosed area subject to flooding;
  - i. The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;
  - ii. If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
  - iii. The bottom of all required flood openings shall be no higher than one (1) foot above the higher of the interior or exterior adjacent grade;
  - iv. 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
  - v. 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.

18.19-12 Property owners shall be required to execute and record a non-conversion agreement prior to issuance of a building permit declaring that the area below the lowest floor shall not be improved, finished or otherwise converted to habitable space and that the City of Creedmoor will have the right to inspect the enclosed area. This agreement shall be recorded with the Granville County Register of Deeds and shall transfer with the property in perpetuity.

18.19-13 Release of restrictive covenant. If a property which is bound by a non-conversion agreement is modified to remove enclosed areas below BFE, then the owner may request release of restrictive covenant after staff inspection and submittal of confirming documentation.

18.19-14 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:
- B. 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.
- C. A substantial improvement, with modifications/rehabilitations/improvements to the existing structure or the common wall is structurally modified more than installing a doorway, both the existing structure and the addition must comply with the standards for new construction.
- D. Additions to pre-FIRM or post-FIRM structures that are a substantial improvement with no modifications/rehabilitations/improvements to the existing structure other than a standard door in the common wall, shall require only the addition to comply with the standards for new construction.

- E. 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:
- F. Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction consistent with the code and requirements for the original structure.
- G. A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
- H. Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a one (1) year period, the cumulative cost of which equals or exceeds fifty (50) percent of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the one (1) year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this Ordinance. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. 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/inspector and that are the minimum necessary to assume 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.

18.19-15 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.

18.19-16 Temporary Non-Residential Structures. Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval;

- A. A specified time period for which the temporary use will be permitted. Time specified may not exceed three (3) months, renewable up to one (1) year;
- B. The name, address, and phone number of the individual responsible for the removal of the temporary structure;
- C. The time frame prior to the event at which a structure will be removed (i.e., minimum of 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.

18.19-17 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 Section 18.5-1(A)
- F. All service facilities such as electrical shall be installed in accordance with Section 18.5-1(A)(4).
- G. Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below Regulatory Flood Protection Elevation in conformance with Section 18.5-1(B)(4)(c).
- H. An accessory structure with a footprint less than 150 square feet, or that is a minimal investment of \$3,000 or less, and that satisfies the criteria outlined above is not required to meet the elevation or floodproofing standards of Section 18.5-1(B)(2). Elevation or Floodproofing certifications are required for all other accessory structures in accordance with Section 18.4-3.

18.19-18 Tanks. When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

- A. Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;
- B. Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be elevated to or above the Regulatory Flood Protection Elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;
- C. Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of Section 18.5-1(B)(2) of this Ordinance shall be permitted in flood hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions.
- D. Tank inlets and valves. Tank inlets, fill openings, outlets and vents shall be:
  - 1. At or above the Regulatory Flood Protection Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
  - 2. Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

18.19-19 Other Development.

- A. Fences in regulated floodways and NEAs that have the potential to block the

passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Section 18.8 of this Ordinance.

- 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 18.8 of this Ordinance.
- 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 18.8 of this Ordinance.

## **18.20 Standards for Floodplains Without Base Flood Elevation**

### **18.20-1 STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATION.**

- A. Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Section 18.2-4(B), where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to Section 18.5-1(A), shall apply:
  - 1. No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- B. The BFE used in determining the Regulatory Flood Protection Elevation shall be determined based on the following criteria:
  - 1. 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 Ordinance and shall be elevated or floodproofed in accordance with standards in Section 18.5-1(A) and (B).
- C. When floodway or non-encroachment data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of Section 18.5-1(B) and Section 18.8.
- D. All subdivision, manufactured home park, and other development proposals shall provide Base Flood Elevation (BFE) data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such Base Flood Elevation (BFE) data shall be adopted by reference per Section 18.2-4(B) to be utilized in implementing this Ordinance.
- E. When Base Flood Elevation (BFE) data is not available from a Federal, State, or other source as outlined above, the Reference Level shall be elevated or floodproofed (nonresidential) to or above the Regulatory Flood Protection Elevation, as defined in Article 3. All other applicable provisions of 18.5-1(B) shall also apply.

## **18.21 Standards for Riverine Floodplains with BFE but Without Established Floodways or Non-Encroachment Areas.**

- 18.21-1 Along rivers and streams where BFE data is provided by FEMA or is available from another source but neither Floodway nor Non-Encroachment Areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:
  - A. Standards outlined in Sections 18.5-1(A) and (B); and
  - B. Until a regulatory Floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional

engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.

### **18.22 Floodways and Non-Encroachment Areas**

18.22-1 Areas designated as Floodways or Non-Encroachment Areas are located within the Special Flood Hazard Areas established in Section 18.2-4(B). The Floodways and Non-Encroachment Areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Sections 18.5-1(A) and (B), shall apply to all development within such areas:

18.22-2 NO ENCROACHMENT. No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:

- A. It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood discharge, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit, or
- B. Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained upon completion of the proposed encroachment.

18.22-3 COMPLIANCE WITH FLOOD HAZARD REDUCTION PROVISIONS. If Section 18.8-1 is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this Ordinance.

18.22-4 REQUIREMENTS FOR MANUFACTURED HOMES. No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met.

- A. The anchoring and the elevation standards of 18.5-1(B)(3); and
- B. The encroachment standards of Section 18.8-1.

### **18.23 Standards for Areas of Shallow Flooding (Zone AO).**

18.23-1 Located within the Special Flood Hazard Areas established in Section 18.2-4(B), are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Sections 18.5-1(A) and (B), all new construction and substantial improvements shall meet the following requirements:

- A. The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of two (2) feet, above the highest adjacent grade; or at least two (2) feet above the highest adjacent grade if no depth number is specified.

18.23-2 Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in Section 18.9-1 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 Section 18.4-3 and 18.5-1(B)(2).

18.23-3 Adequate drainage paths shall be provided around structures and on slopes, to guide floodwaters around and away from proposed structures.

### **18.24 Standards for Areas of Shallow Flooding (Zone AH).**

18.24-1 Located within the Special Flood Hazard Areas established in Section 18.2-4(B), are areas designated as shallow flooding areas. These areas are subject to inundation by 1-percent-annual-chance shallow flooding (usually areas of ponding) where average depths are one (1) to three (3) feet. Base Flood Elevations are derived from detailed hydraulic analyses are shown in this zone. In addition to Sections 18.5-1(A) and (B), all new construction and substantial improvements shall meet the following requirements:

18.24-2 Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

### **18.25 Corrective Procedures**

18.25-1 VIOLATIONS TO BE CORRECTED. When the Floodplain Administrator finds violations of applicable State and

local laws; it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.

18.25-2 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:

- A. That the building or property is in violation of the floodplain management regulations;
- B. That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
- C. That following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.

18.25-3 ORDER TO TAKE CORRECTIVE ACTION. If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, they shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than one-hundred-eighty (180) calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, they may order that corrective action be taken in such lesser period as may be feasible.

18.25-4 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 City Clerk within ten (10) 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.

18.25-5 FAILURE TO COMPLY WITH ORDER. If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a Class 1 misdemeanor pursuant to NCGS § 143-215.58 and shall be punished at the discretion of the court.

## **18.26 Variance Procedures**

18.26-1 The Board of Adjustment as established by City of Creedmoor, hereinafter referred to as the "Board of Adjustment", shall hear and decide requests for variances from the requirements of this Ordinance.

18.26-2 Any person aggrieved by the decision of the Board of Adjustment may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.

18.26-3 Variances may be issued for:

- A. The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure.
- B. Functionally dependent facilities if determined to meet the definition as stated in Article 3 of this Ordinance, provided provisions of 18.11-9(B), 18.11-9(C), and 18.11-9(E) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- C. Any other type of development provided it meets the requirements of this Section.

18.26-4 In passing upon variances, the Board of Adjustment shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Ordinance, and:

- A. The danger that materials may be swept onto other lands to the injury of others;
- B. The danger to life and property due to flooding or erosion damage;
- C. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- D. The importance of the services provided by the proposed facility to the community;
- E. The necessity to the facility of a waterfront location as defined under Article 3 of this Ordinance as a functionally dependent facility, where applicable;
- F. The availability of alternative locations, not subject to flooding or erosion damage, for the

- proposed use;
  - G. The compatibility of the proposed use with existing and anticipated development;
  - H. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - I. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - J. 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
  - K. 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.
- 18.26-5 A written report addressing each of the above factors shall be submitted with the application for a variance.
- 18.26-6 Upon consideration of the factors listed above and the purposes of this Ordinance, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this Ordinance.
- 18.26-7 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 Base Flood Elevation increases risks to life and property, and that the issuance of a variance to construct a structure below the Base Flood Elevation may result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.
- 18.26-8 The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.
- 18.26-9 CONDITIONS FOR VARIANCES.
- A. Variances shall not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.
  - B. Variances shall not be issued within any designated Floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.
  - C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - D. Variances shall only be issued prior to development permit approval.
  - E. Variances shall only be issued upon:
    1. A showing of good and sufficient cause;
    2. A determination that failure to grant the variance would result in exceptional hardship; and
    3. 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.
- 18.26-10A 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.
- A. The use serves a critical need in the community.
  - B. No feasible location exists for the use outside the Special Flood Hazard Area.
  - C. The Reference Level of any structure is elevated or floodproofed to at least the Regulatory Flood Protection Elevation.
  - D. The use complies with all other applicable Federal, State and local laws.
  - E. The City of Creedmoor has notified the Secretary of the North Carolina Department of Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

## **18.27 Flood Control Appeals**

- 18.27-1 AUTHORITY. The Board of Adjustment shall hear and decide appeals and requests for variances from the requirements of the flood control provisions of this Ordinance.
- 18.27-2 APPEAL AND VARIANCE CONSIDERATIONS. In passing upon such applications, the Board of Adjustment shall consider all technical evaluations, all relevant factors, all standards

specified in other sections of this Ordinance, and;

- A. the danger that materials may be swept onto other lands to the injury of others;
- B. the danger to life and property due to flooding or erosion damage;
- C. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- D. the importance of the services provided by the proposed facility to the community;
- E. the necessity to the facility of a waterfront location, where applicable;
- F. the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- G. the comparability of the proposed use with existing and anticipated development;
- H. the relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
- I. the safety of access to the property in times of flood for ordinary and emergency vehicles;
- J. the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
- K. 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; and
- L. the effect that granting the appeal or variance would have on the jurisdiction's eligibility for Federal Flood Insurance.

#### **18.28 Designation of Floodplain Administrator**

18.28-1 The Planning, Zoning and Subdivision Administrator, or his/her designee, hereinafter referred to as the "Floodplain Administrator" is hereby appointed to administer and implement the provisions of this Ordinance. In instances where the Floodplain Administrator receives assistance from others to complete tasks to administer and implement this Ordinance, the Floodplain Administrator shall be responsible for the coordination and the City of Creedmoor's overall compliance with the National Flood Insurance Program and the provisions of this Ordinance.

#### **18.29 Enforcement Officer**

- 18.29-1 ESTABLISHMENT OF ENFORCEMENT OFFICER. The Floodplain Administrator shall appoint an Enforcement Officer to enforce the provisions of this Ordinance.
- 18.29-2 ENFORCEMENT PROCEDURE. When the Enforcement Officer or his agent finds a violation of this Ordinance, it shall be his duty to notify the owner or occupant of the land, building, structure, sign, or use of the violation. The owner or occupant shall immediately remedy the violation.

#### **18.30 Notice of Violation**

- 18.30-1 If the owner or occupant of the land, building, sign, structure, or use in violation fails to take prompt corrective action, the Enforcement Officer shall give the owner or occupant written notice, by certified or registered mail to his last known address, or by personal service or by posting notice of the violation conspicuously on the property:
- A. That the land, building, sign, structure, or use is in violation of this Ordinance;
  - B. The nature of the violation, and citation of the section of this Ordinance violated; and
  - C. The measures necessary to remedy the violation.
- 18.30-2 APPEAL. Any owner or occupant who has received a Notice of Violation may appeal in writing the decision of the Enforcement Officer to the Board of Adjustment (unless this Ordinance has specified that another board shall hear the appeal of the violation) within fifteen (15) days following the date of the Notice of Violation. The Board of Adjustment, or other designated board, shall hear an appeal within a reasonable time, and it may affirm, modify, or revoke the Notice of Violation. In the absence of an appeal, the remedies and penalties sought by the Enforcement Officer in the Notice of Violation shall be final.
- 18.30-3 ORDER OF CORRECTIVE ACTION. If upon a hearing held pursuant to an appeal as prescribed above, the Board of Adjustment shall find that the owner or occupant is in violation of this Ordinance, the Board of Adjustment shall make an order in writing to the



- owner or occupant affirming the violation and ordering compliance.
- 18.30-4 FAILURE TO COMPLY WITH AN ORDER. If the owner or occupant of a property fails to comply with a Notice of Violation from which no appeal has been taken, or an Order of Corrective Action following an appeal, the owner or occupant shall be subject to such remedies and penalties as may be provided for by state law and Section 8-4 (Remedies). If the owner or occupant fails to comply with the remedies and penalties prescribed, enforcement shall be sought through an order of a court of competent jurisdiction.
- 18.30-5 PENALTIES FOR VIOLATION. Violation of the provisions of this Ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a Class 1 misdemeanor pursuant to NC G.S. § 143-215.58. Any person who violates this Ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$100.00 or imprisoned for not more than thirty (30) days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Creedmoor from taking such other lawful action as is necessary to prevent or remedy any violation.

### **18.31 Floodplain Administrator and/or Enforcement Officer Duties**

- 18.31-1 A "Floodplain Administrator", is hereby appointed to administer and implement the provisions of this Ordinance. The Floodplain Administrator shall perform, but not be limited to, the following duties:
- A. Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this Ordinance have been satisfied.
  - B. Review all proposed development within Special Flood Hazard Areas to assure that all necessary local, State, and Federal permits have been received, and advise permittee that additional Federal or State permits (Wetlands, Endangered Species, Erosion and Sedimentation Control, Riparian Buffers, Mining, etc.) may be required, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334, and require that copies of such permits be provided and maintained on file with the floodplain development permit.
  - C. Notify adjacent communities and the North Carolina Department of Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
  - D. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
  - E. Prevent encroachments into Floodways and Non-Encroachment Areas unless the certification and flood hazard reduction provisions of Section 18.8 are met.
  - F. Obtain actual elevation (in relation to NAVD 1988) of the Reference Level (including basement) and all attendant utilities of all new or substantially improved structures, in accordance with Section 18.4-3.
  - G. Obtain actual elevation (in relation to NAVD 1988) to which all new and substantially improved structures and utilities have been flood-proofed, in accordance with Section 18.4-3.
  - H. Obtain actual elevation (in relation to NAVD 1988) of all public utilities in accordance with the provisions of Section 18.4-3.
  - I. When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of Sections 18.4-3 and 18.5-1(B)(2).
  - J. Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas, floodways, or non-encroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Article.
  - K. When Base Flood Elevation (BFE) data has not been provided in accordance with

- Section 18.2-4(B), obtain, review, and reasonably utilize any Base Flood Elevation (BFE) data, along with Floodway data or non-encroachment area data available from a Federal, State, or other source, including data developed pursuant to Section 18.6-1(B), in order to administer the provisions of this Ordinance.
- L. When Base Flood Elevation (BFE) data is provided but no Floodway nor non-encroachment area data has been provided in accordance with Section 18.2-4(B), obtain, review, and reasonably utilize any Floodway data or non-encroachment area data available from a Federal, State, or other source in order to administer the provisions of this Ordinance.
  - M. 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, advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the LOMA issued by FEMA in the floodplain development permit file.
  - N. Permanently maintain all records that pertain to the administration of this Ordinance and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.
  - O. Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the City of Creedmoor and its ETJ at any reasonable hour for the purposes of inspection or other enforcement action.
  - P. Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this Ordinance, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop work order constitutes a misdemeanor.
  - Q. Revoke floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or 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.
  - R. Make periodic inspections throughout all special flood hazard areas within the jurisdiction of the City of Creedmoor. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
  - S. Follow through with corrective procedures of Section 18.10.
  - T. Review, provide input, and make recommendations for variance requests.
  - U. Maintain a current map repository to include, but not limited to, historical and effective FIS Report, historical and effective FIRM and other official flood maps and studies adopted in accordance with Section 18.2-4(B) of this Ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.
  - V. Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-F) and Letters of Map Revision (LOMR).