



Town of Oak Island

Brunswick County, NC

The Town of Oak Island will preserve, protect, and enhance the quality of the natural and cultural environment of the community. In order to achieve this goal, the Town will improve the quality of its waterways, natural environment, beaches, dunes, water access and residential areas. The Town will maintain a unique scale and character that fosters a sense of community to make the Town a desirable place to live, work and call home, and a family vacation destination. The Town will also develop efficient sidewalks, bikeways, and roadway systems to protect its attractiveness in the future. The Town will also expand its recreational opportunities for residents of all ages and abilities. The Town will balance social and commercial needs and objectives for economic vitality.

Planning Board Meeting Agenda July 20, 2017 • 10:30 AM Town Hall • Council Chambers

I. START-UP

1. **Call to Order:**
2. **Additions or corrections to the agenda**
3. **Approval of the Minutes:** (none)
4. **Public Comment:** Please state your name and address for the record.

II. OLD BUSINESS

1. **Model Flood Zone Ordinance**

III. NEW BUSINESS

1. **Text Amendment**
2. **Conditional Use Permit**

IV. REPORTS/UPDATES

1. **Board Member Reports**
2. **Staff Reports –**
3. **Updates from Council Meeting –** Rezoning, Tree Text Amendment

V. OTHER

Future Meetings: August 17, 2017 (Planning Board)
Adjournment

FLOOD DAMAGE PREVENTION ORDINANCE

Coastal Regular Phase

ARTICLE 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES.

SECTION A. STATUTORY AUTHORIZATION.

Municipal: The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3, 5, and 8 of Article 19 of Chapter 160A; 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.

County: The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3 and 4 of Article 18 of Chapter 153A; and Part 121, Article 6 of Chapter 153A 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.

Therefore, the **Town Council of Oak Island**, North Carolina, does ordain as follows:

SECTION B. FINDINGS OF FACT.

- (1) The flood prone areas within the jurisdiction of **Oak Island** are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- (2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.

SECTION C. STATEMENT OF 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:

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

SECTION D. OBJECTIVES.

The objectives of this ordinance are to:

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

ARTICLE 2. DEFINITIONS.

Unless specifically defined below, 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.

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

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

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

"Appeal" means a request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance.

"Area of Shallow Flooding" means a designated Zone AO on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one (1) to three (3) feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

"Area of Special Flood Hazard" see "Special Flood Hazard Area (SFHA)".

"Area of Future-Conditions Flood Hazard" means the land area that would be inundated by the 1-percent-annual-chance (100-year) flood based on future-conditions hydrology (**OPTIONAL**). (**Need to vote**)

"Base Flood" means the flood having a one (1) percent chance of being equaled or exceeded in any given year.

"Base Flood Elevation (BFE)" means a determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a "Special Flood Hazard Area", it may be obtained from engineering studies available from a Federal, State, or other source using FEMA approved engineering methodologies. This elevation,

when combined with the “Freeboard”, establishes the “Regulatory Flood Protection Elevation”.

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

“Building” see “Structure”.

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

“Coastal Area Management Act (CAMA)” means North Carolina’s Coastal Area Management Act, this act, along with the Dredge and Fill Law and the Federal Coastal Zone Management Act, is managed through North Carolina Department of Environment and Natural Resources’ (NCDENR’s) Division of Coastal Management (DCM).

“Coastal A Zone (CAZ)” means an area within a special flood hazard area, landward of a V zone or landward of an open coast without mapped V zones; in a Coastal A Zone, the principal source of flooding must be astronomical tides, storm surges, seiches, or tsunamis, not riverine flooding. During the base flood conditions, the potential for wave heights shall be greater than or equal to 1.5 feet. Coastal A Zones are not normally designated on FIRMs. (see Limit of Moderate Wave Action (LiMWA))

“Coastal Barrier Resources System (CBRS)” consists of undeveloped portions of coastal and adjoining areas established by the Coastal Barrier Resources Act (CoBRA) of 1982, the Coastal Barrier Improvement Act (CBIA) of 1990, and subsequent revisions, and includes areas owned by Federal or State governments or private conservation organizations identified as Otherwise Protected Areas (OPA).

“Coastal High Hazard Area” means a Special Flood Hazard Area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM, or other adopted flood map as determined in Article 3, Section B of this ordinance, as Zone VE.

“Design Flood”: See “Regulatory Flood Protection Elevation.”

“Design Flood” means the flood associated with the greater of the following two areas:

- (a) — ~~Area with a floodplain subject to a 1 percent or greater chance of flooding in any year; or~~
- (b) — ~~Area designated as a flood hazard area on the community’s flood hazard map, or otherwise legally designated.~~

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

“Development Activity” means any activity defined as Development which will necessitate a Floodplain Development Permit. This includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.

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

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

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

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

“Existing building and existing structure” means any building and/or structure for which the “start of construction” commenced

before March 26, 1971 (old Long Beach section), Feb. 16, 1977 (old Yaupon section) and May 15, 1986 (Brunswick County un-incorporated areas). Note: Oak Island was incorporated on July 1, 1999, which encompassed merged the municipalities of Long Beach, Yaupon Beach and un-incorporated areas of Brunswick County.

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

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

- (a) The overflow of inland or tidal waters; and/or
- (b) The unusual and rapid accumulation or runoff of surface waters from any source.

“Flood Boundary and Floodway Map (FBFM)” means an official map of a community, issued by the FEMA, on which the Special Flood Hazard Areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).

“Flood Hazard Boundary Map (FHBM)” means an official map of a community, issued by the FEMA, where the boundaries of the Special Flood Hazard Areas have been defined as Zone A.

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

“Flood Insurance Rate Map (FIRM)” means an official map of a community, issued by the FEMA, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated. (see also DFIRM)

“Flood Insurance Study (FIS)” means an examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the FEMA. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

“Flood Prone Area” see “Floodplain”

“Flood Zone” means a geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

“Floodplain” means any land area susceptible to being inundated by water from any source.

“Floodplain Administrator” is the individual appointed to administer and enforce the floodplain management regulations.

“Floodplain Development Permit” means any type of permit that is required in conformance with the provisions of this ordinance, prior to the commencement of any development activity.

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

“Floodplain Management Regulations” means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power. This term describes Federal, State or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

“Floodproofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

“Flood-resistant material” means any building product [material, component or system] capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-

grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbers are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Please refer to Technical Bulletin 2, *Flood Damage-Resistant Materials Requirements*, and available from the FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

“Floodway” means the channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

~~“Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.~~

“Floodway encroachment analysis” means an engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and models.

“Freeboard” means the height added to the BFE to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge openings, and the hydrological effect of urbanization of the watershed. The BFE plus the freeboard establishes the “Regulatory Flood Protection Elevation”.

“Functionally Dependent Facility” means a facility which cannot be used for its intended purpose unless it is located in close proximity to water, limited to a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

“Hazardous Waste Management Facility” means, as defined in NCGS 130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

“Highest Adjacent Grade (HAG)” means the highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

“Historic Structure” means any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) Individually listed on a local inventory of historic landmarks in communities with a “Certified Local Government (CLG) Program”; or
- (d) Certified as contributing to the historical significance of a historic district designated by a community with a “Certified Local Government (CLG) Program.”

Certified Local Government (CLG) Programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

“Letter of Map Change (LOMC)” means an official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

- (a) Letter of Map Amendment (LOMA): An official amendment, by letter, to an effective National Flood Insurance Program map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the base flood elevation. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.
- (b) Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones,

flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.

- (c) **Letter of Map Revision Based on Fill (LOMR-F):** A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.
- (d) **Conditional Letter of Map Revision (CLOMR):** A formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

~~“Letter of Map Change (LOMC)” means an official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:~~

- ~~(e) Letter of Map Amendment (LOMA): An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.~~
- ~~(f) Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.~~
- ~~(g) Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.~~
- ~~(h) Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.~~

“Light Duty Truck” means any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 CFR 86.082-2 and is:

- (a) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
- (b) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
- (c) Available with special features enabling off-street or off-highway operation and use.

“Limit of Moderate Wave Action (LiMWA)” means the boundary line given by FEMA on coastal map studies marking the extents of Coastal A Zones (CAZ).

“Lowest Adjacent Grade (LAG)” means the elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

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

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

“Manufactured Home Park or Subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

“Market Value” means the building value, not including the land value and that of any accessory structures or other

improvements on the lot. Market value may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (Actual Cash Value); or adjusted tax assessed values.

“Mean Sea Level” means, for purposes of this ordinance, the North American Vertical Datum (NAVD) as corrected in 1988, to which Base Flood Elevations (BFEs) shown on a DFIRM are referenced. North Carolina uses NAVD 1988.

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

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

“Non-Encroachment Area (NEA)” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.

“Otherwise Protected Area (OPA)” see “Coastal Barrier Resources System (CBRS)”.

“Post-FIRM” means construction or other development for which the “start of construction” occurred on or after the effective date of the initial Flood Insurance Rate Map.

“Pre-FIRM” means construction or other development for which the “start of construction” occurred before **March 27, 1971 (old Long Beach section), June 28, 1974 (old Yaupon Beach Section) and Dec. 9, 1977 (Brunswick County un-incorporated areas (insert date of community’s first FIRM) (OPTIONAL)**, the effective date of the initial Flood Insurance Rate Map.

“Primary Frontal Dune (PFD)” means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

“Principally Above Ground” means that at least 51% of the actual cash value of the structure is above ground.

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

“Recreational Vehicle (RV)” means a vehicle, which is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck;
- (d) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use, and
- (e) Is fully licensed and ready for highway use.

(OPTIONAL For the purpose of this ordinance, “Tiny Homes/Houses” and Park Models that do not meet the items listed above are not considered Recreational Vehicles and should meet the standards of and be permitted as Residential Structures.) (Need to vote – Optional)

“Reference Level” is the top of the lowest floor for structures within Special Flood Hazard Areas designated as Zones A, AE, AH, AO, A99. The reference level is the bottom of the lowest horizontal structural member of the lowest floor for structures within Special Flood Hazard Areas designated as Zone VE.

~~(Alternative acceptable language for Reference Level) “Reference Level” is the bottom of the lowest horizontal structural member of the lowest floor for structures within all Special Flood Hazard Areas.~~

“Regulatory Flood Protection Elevation” means the “Base Flood Elevation” plus the “Freeboard”. In “Special Flood Hazard Areas” where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus one (1) feet of freeboard. In “Special Flood Hazard Areas” where no BFE has been established, this elevation shall be at least two (2) feet above the highest adjacent grade. ~~(Two (2) feet is a State recommended minimum, greater than two (2) feet is OPTIONAL.)~~

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

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

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

“Sand Dunes” means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

“Shear Wall” means walls used for structural support but not structurally joined or enclosed at the end (except by breakaway walls). Shear walls are parallel or nearly parallel to the flow of the water.

“Solid Waste Disposal Facility” means any facility involved in the disposal of solid waste, as defined in NCGS 130A-290(a)(35).

“Solid Waste Disposal Site” means, as defined in NCGS 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

“Special Flood Hazard Area (SFHA)” means the land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year, as determined in Article 3, Section B of this ordinance.

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

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

“Substantial Damage” means damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to it's before damaged condition would equal or exceed 50 percent ~~(≤50% = 20 CRS points possible OPTIONAL)~~ of the market value of the structure before the damage occurred. See definition of “substantial improvement”.

[CRS communities are eligible for up to 20 CRS points for adopting OPTIONAL Text for Substantial Damage that could include one or more of the following higher standards:

- 1.) By choosing a timeframe that includes cumulative damages sustained over a period of time exceeding one year period. (5 or 10 year period recommended)*
- 2.) By choosing a percent damaged that is less than 50% of the market value of the structure (CRS recommends 30 %.)*
- 3.) By adding the following text for eligibility for Increased Cost of Compliance (ICC) benefits for repetitive losses: 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.] (Need to vote – Optional) --*

*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. (The last sentence is **OPTIONAL** but required for eligibility for Increased Cost of Compliance (ICC) benefits for repetitive losses.)*

“Substantial Improvement” means any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50 percent ~~(30 percent recommended, <50% = 20 CRS points possible OPTIONAL)~~ of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

- (a) Any correction of existing violations of State or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (b) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure and the alteration is approved by variance issued pursuant to Article 4 Section E of this ordinance.

*[CRS communities are eligible for up to 20 CRS points for adopting **OPTIONAL** Text for Substantial Damage that could include one or more of the following higher standards:*

- 1.) By choosing a timeframe that includes cumulative damages sustained over a period of time exceeding one year period. (5 or 10 year period recommended)*
- 2.) By choosing a percent damaged that is less than 50% of the market value of the structure (CRS recommends 30 %.)*
(Need to vote – Optional)

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

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

“Temperature Controlled” means having the temperature regulated by a heating and/or cooling system, built-in or appliance.

“Variance” is a grant of relief from the requirements of this ordinance.

“Violation” means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Articles 4 and 5 is presumed to be in violation until such time as that documentation is provided.

“Water Surface Elevation (WSE)” means the height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

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

ARTICLE 3. GENERAL PROVISIONS.

SECTION 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),[if applicable]* of **Oak Island**.

SECTION 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 FIS dated **June 2, 2006 for Brunswick County** and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of this ordinance. Future revisions to the FIS and DFIRM panels that do not change flood hazard data within the jurisdictional authority of **Oak Island** are also adopted by reference and declared a part of this ordinance. Subsequent Letter of Map Revisions (LOMRs) and/or Physical Map Revisions (PMRs) shall be adopted within 3 months.

SECTION C. 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 the provisions of Article 3, Section B of this ordinance.

SECTION D. 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.

SECTION E. 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.

SECTION F. 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
- (c) Deemed neither to limit nor repeal any other powers granted under State statutes.

SECTION G. 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 consideration. 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 **Oak Island** 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.

SECTION H. 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 Oak Island from taking such other lawful action as is necessary to prevent or remedy any violation.

ARTICLE 4. ADMINISTRATION.

SECTION A. DESIGNATION OF FLOODPLAIN ADMINISTRATOR.

The Development Services Director or designee, hereinafter referred to as the “Floodplain Administrator”, is hereby appointed to administer and implement the provisions of this ordinance. The Floodplain Administrator may delegate performance of certain duties to other employees.

SECTION B. FLOODPLAIN DEVELOPMENT APPLICATION, PERMIT AND CERTIFICATION REQUIREMENTS.

- (1) **Application Requirements.** Application for a Floodplain Development Permit shall be made to the Floodplain Administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit:
 - (a) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
 - (i) The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
 - (ii) The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Article 3, Section B, or a statement that the entire lot is within the Special Flood Hazard Area;
 - (iii) Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Article 3, Section B;
 - (iv) The boundary of the floodway(s) or non-encroachment area(s) as determined in Article 3, Section B;
 - (v) The Base Flood Elevation (BFE) where provided as set forth in Article 3, Section B; Article 4, Section C; or Article 5, Section D;
 - (vi) The old and new location of any watercourse that will be altered or relocated as a result of proposed development; and
 - (vii) The boundary and designation date of the Coastal Barrier Resource System (CBRS) area or Otherwise Protected Areas (OPA), if applicable; and
 - (viii) *The certification of the plot plan by a registered land surveyor or professional engineer. (OPTIONAL)*

- (b) Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:
 - (i) Elevation in relation to ~~mean-sea-level~~ NAVD 1988 of the proposed reference level (including basement) of all structures;
 - (ii) Elevation in relation to ~~mean-sea-level~~ NAVD 1988 to which any non-residential structure in Zones A, AE, AH, AO, A99 will be floodproofed; and
 - (iii) Elevation in relation to ~~mean-sea-level~~ NAVD 1988 to which any proposed utility systems will be elevated or floodproofed.
- (c) If floodproofing, a Floodproofing Certificate (FEMA Form 086-0-34) with supporting data, an operational plan, and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of floodproofing measures.
- (d) 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:
 - (i) 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
 - (ii) Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Article 5, Section B(4)(d) when solid foundation perimeter walls are used in Zones A, AE, AH, AO, A99.
 - (iii) The following, in Coastal High Hazard Areas, in accordance with the provisions of Article 5, Section B(4)(e) and Article 5, Section G and (Article 5, Section H if applicable):
 - (1) V-Zone Certification with accompanying plans and specifications verifying the engineered structure and any breakaway wall designs; ~~In addition, prior to the Certificate of Compliance/Occupancy issuance, a registered professional engineer or architect shall certify the finished construction is compliant with the design, specifications and plans for VE Zone construction. (OPTIONAL);~~
 - (2) Plans for open wood latticework or insect screening, if applicable; and
 - (3) Plans for non-structural fill, if applicable. If non-structural fill is proposed, it must be demonstrated through coastal engineering analysis that the proposed fill would not result in any increase in the BFE or otherwise cause adverse impacts by wave ramping and deflection on to the subject structure or adjacent properties.
- (e) Usage details of any enclosed areas below the lowest floor.
- (f) 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.
- (g) Certification that all other Local, State and Federal permits required prior to floodplain development permit issuance have been received.
- (h) Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of Article 5, Section B, subsections (6) and (7) of this ordinance are met.
- (i) 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.

- (2) **Permit Requirements.** The Floodplain Development Permit shall include, but not be limited to:
- (a) A complete description of all the development to be permitted under the floodplain development permit (i.e. 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 Article 3, Section 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 Article 5, Section F 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). **(OPTIONAL)***
 - (i) *A statement, if in Zone VE, that there shall be no alteration of sand dunes which would increase potential flood damage. **(OPTIONAL)***
 - (j) *A statement, if in Zone VE, that there shall be no fill used for structural support. **(OPTIONAL)***
 - (k) *A statement, that all materials below BFE/RFPE must be flood resistant materials. **(OPTIONAL)***
- (3) **Certification Requirements.**
- (a) Elevation Certificates
 - (i) *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 mean sea level. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. **(STATE RECOMMENDED BUT OPTIONAL)***
 - (ii) *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 mean sea level. 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. **(STATE RECOMMENDED BUT OPTIONAL)***

- (iii) 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 2 photographs showing the front and rear of the building taken within 90 days from the date of certification. The photographs must be taken with views confirming the building description and diagram number provided in Section A. To the extent possible, these photographs should show the entire building including foundation. If the building has split-level or multi-level areas, provide at least 2 additional photographs showing side views of the building. In addition, when applicable, provide a photograph of the foundation showing a representative example of the flood openings or vents. All photographs must be in color and measure at least 3" x 3". Digital photographs are acceptable. (OPTIONAL) (THE FEMA ELEVATION CERTIFICATE IS OPTIONAL FOR FLOODPLAIN MANAGEMENT ELEVATION DATA, BUT RECOMMENDED. THE USE OF THE FEMA ELEVATION CERTIFICATE IS REQUIRED FOR THE PURCHASE OF FLOOD INSURANCE AND MANDATORY FOR CRS PARTICIPATION.)*

(b) Floodproofing Certificate

- (i) 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 are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy. *(OPTIONAL) (THE FEMA FLOODPROOFING CERTIFICATE IS OPTIONAL AT THE TIME OF PERMITTING THE STRUCTURE BUT RECOMMENDED TO ENSURE COMPLIANCE WITH THIS ORDINANCE AND PROPERLY PERMIT THE STRUCTURE.) (Need to vote – Optional)*
- (ii) A final Finished Construction Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the issuance of a Certificate of Compliance/Occupancy. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certificate shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to Certificate of Occupancy. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to deny a Certificate of Compliance/Occupancy. – THIS IS NOT OPTIONAL
- (c) If a manufactured home is placed within Zones A, AE, AH, AO, A99 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of Article 5, Section B(3)(b).
- (d) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the

location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.

- (e) Certification Exemptions. The following structures, if located within Zones A, AE, AH, AO, A99, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) of this subsection:
 - (i) Recreational Vehicles meeting requirements of Article 5, Section B(6)(a);
 - (ii) Temporary Structures meeting requirements of Article 5, Section B(7); and
 - (iii) Accessory Structures that are 150 square feet (150 recommend) or less or \$5000 (\$3000 recommended) or less and meeting requirements of Article 5, Section B(8).
- (f) A V-Zone Certification with accompanying design plans and specifications is required prior to issuance of a Floodplain Development permit within coastal high hazard areas. It shall be the duty of the permit applicant to submit to the Floodplain Administrator said certification to ensure the design standards of this ordinance are met. A registered professional engineer or architect shall develop or review the structural design, plans, and specifications for construction and certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of this ordinance. This certification is not a substitute for an Elevation Certificate. ~~. In addition, prior to the Certificate of Compliance/Occupancy issuance, a registered professional engineer or architect shall certify the finished construction is compliant with the design, specifications and plans for VE Zone construction. (OPTIONAL)~~

(4) **Determinations for existing buildings and structures.**

For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

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

SECTION C. DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.

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

- (1) Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this ordinance have been satisfied.
- (2) Review all proposed development within Special Flood Hazard Areas to assure that all necessary Local, State and Federal permits have been received, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- (3) Notify adjacent communities and the North Carolina Department of 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).

- (4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.
- (5) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Article 5, Section F are met.
- (6) Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with the provisions of Article 4, Section B(3).
- (7) Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of Article 4, Section B(3).
- (8) Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with the provisions of Article 4, Section B(3).
- (9) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of Article 4, Section B(3) and Article 5, Section B(2).
- (10) 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.
- (11) When BFE data has not been provided in accordance with the provisions of Article 3, Section B, obtain, review, and reasonably utilize any BFE data, along with floodway data or non-encroachment area data available from a Federal, State, or other source, including data developed pursuant to Article 5, Section D(2)(c), in order to administer the provisions of this ordinance.
- (12) When BFE data is provided but no floodway or non-encroachment area data has been provided in accordance with the provisions of Article 3, Section 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.
- (13) *When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a Special Flood Hazard Area is above the BFE, advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the LOMA issued by FEMA in the floodplain development permit file.*
(OPTIONAL)
- (14) 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.

- (15) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.
- (16) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this 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.
- (17) Revoke floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.
- (18) Make periodic inspections throughout the Special Flood Hazard Areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
- (19) Follow through with corrective procedures of Article 4, Section D.
- (20) Review, provide input, and make recommendations for variance requests.
- (21) Maintain a current map repository to include, but not limited to, ~~the~~ **historical and effective** FIS Report, **historical and effective** FIRM and other official flood maps and studies adopted in accordance with the provisions of Article 3, Section B of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.
- (22) Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).

SECTION D. CORRECTIVE PROCEDURES.

- (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.
- (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.

- (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, he or she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than 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, he or she may order that corrective action be taken in such lesser period as may be feasible.
- (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 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.
- (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 NC G.S. § 143-215.58 and shall be punished at the discretion of the court.

SECTION E. VARIANCE PROCEDURES.

- (1) The **Board of Adjustment** as established by **Oak Island**, hereinafter referred to as the “appeal board”, shall hear and decide requests for variances from the requirements of this ordinance.
- (2) Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.
- (3) Variances may be issued for:
 - (a) The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;
 - (b) Functionally dependent facilities if determined to meet the definition as stated in Article 2 of this ordinance, provided provisions of Article 4, Section E(9)(b), (c), and (e) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or
 - (c) Any other type of development provided it meets the requirements of this Section.
- (4) In passing upon variances, the appeal board 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 2 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.
- (5) A written report addressing each of the above factors shall be submitted with the application for a variance.
- (6) Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this ordinance.
- (7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the BFE and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE may result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.
- (8) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the FEMA and the State of North Carolina upon request.
- (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:
 - (i) A showing of good and sufficient cause;
 - (ii) A determination that failure to grant the variance would result in exceptional hardship; and
 - (iii) 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.

- (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 **Town of Oak Island** 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.

ARTICLE 5. PROVISIONS FOR FLOOD HAZARD REDUCTION.

SECTION 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 the 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, hot water heaters, and electric outlets/switches. ~~If replaced as part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet these provisions.~~
 - (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) Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the provisions of this~~

~~ordinance, shall meet the requirements of “new construction” as contained in this ordinance.~~

- (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 Article 4, Section E(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 in accordance with the provisions of Article 4, Section B(3).
- (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.
- ~~(16) Fill is prohibited in the SFHA, including construction of buildings on fill. This includes not approving Conditional Letters or Letters of Map Revision Based on Fill (CLOMR F or LOMR F). (maximum 280 CRS points possible) (OPTIONAL) Note: this should be consistent with Article 5, Section G (11)(c).~~

SECTION B. SPECIFIC STANDARDS.

In all Special Flood Hazard Areas where BFE data has been provided, as set forth in Article 3, Section B, or Article 5, Section D, the following provisions, in addition to the provisions of Article 5, Section A, 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 2 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 2 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. For AO Zones, the floodproofing elevation shall be in accordance with Article 5, Section I (2). A registered professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Article 4, Section B(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 2 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 engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to 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 Article 5, Section 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 or below the lowest horizontal structural member in VE zones:

- (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; (*OPTIONAL, strongly encouraged*)
- (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) Shall, in Coastal High Hazard Areas (Zone VE), either be free of obstruction or constructed with breakaway walls, open wood latticework or insect screening, provided they are not part of the structural support of the building and are designed so as to breakaway, under abnormally high tides or wave action without causing damage to the elevated portion of the building or supporting foundation system or otherwise jeopardizing the structural integrity of the building. The following design specifications shall be met:

(i) Material shall consist of open wood or plastic lattice *(having an opening ratio of at least 40 percent)* **(OPTIONAL)**, or insect screening; or

(ii) Breakaway walls shall meet the following design specifications:

~~(1) Breakaway walls shall have flood openings that allow for the automatic entry and exit of floodwaters to minimize damage caused by hydrostatic loads, per Article 5, Section B(4)(d)(i-vi); (OPTIONAL) and~~

(2) Design safe loading resistance shall be not less than 10 nor more than 20 pounds per square foot; or

(3) Breakaway walls that exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by State or local codes) shall be certified by a registered professional engineer or architect that the breakaway wall will collapse from a water load less than that which would occur during the base flood event, and the elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and non-structural). The water loading values used shall be those associated with the base flood. The wind loading values used shall be those required by the North Carolina State Building Code.

~~(iii) Concrete pads, including patios, decks, parking pads, walkways, driveways, pool decks, etc. the following is required: (OPTIONAL)~~

~~(1) Shall be structurally independent of the primary structural foundation system of the structure and shall not adversely affect structures through redirection of floodwaters or debris; and~~

~~(2) Shall be constructed to breakaway cleanly during design flood conditions, shall be frangible, and shall not produce debris capable of causing damage to any structure. (The installation of concrete in small segments (approximately 4 feet x 4 feet) that will easily break up during the base flood event, or score concrete in 4 feet x 4 feet maximum segments is acceptable to meet this standard); and~~

~~(3) Reinforcing, including welded wire fabric, shall not be used in order to minimize the potential for concreted pads being a source of debris; and~~

~~(4) Pad thickness shall not exceed 4 inches; or~~

~~(5) Provide a Design Professional's certification stating the design and method of construction to be used meet the applicable criteria of this section.~~

~~(f) Fill/Grading (OPTIONAL)~~

~~(i) Minor grading and the placement of minor quantities of nonstructural fill may be permitted for landscaping and for drainage purposes under and around buildings and for support of parking slabs, pool decks, patios and walkways.~~

~~(ii) The fill material must be similar and consistent with the natural soils in the area.~~

~~(iii) The placement of site compatible, non structural fill under or around an elevated building is limited to two (2) feet. Fill greater than two (2) feet must include an analysis prepared by a qualified registered design professional demonstrating no harmful diversion of floodwaters or wave runoff and wave reflection that would increase damage to adjacent elevated buildings and structures.~~

~~(iv) Nonstructural fill with finished slopes that are steeper than five (5) units horizontal to one (1) unit vertical shall be permitted only if an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent elevated buildings and structures.~~

~~(v) Fill is prohibited in the SFHA (**maximum 280 CRS points possible**) (**OPTIONAL**) Note: this should be consistent with Article 5, Section A(17).~~

- (g) 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 (30 CRS points); **Oak Island** will have the right to inspect the enclosed area (30 CRS points). **Oak Island** will conduct annual inspections (30 CRS points). This agreement shall be recorded with the Brunswick County Register of Deeds and shall transfer with the property in perpetuity. (OPTIONAL for a maximum total of 90 CRS points)
- (h) 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. (OPTIONAL)
- (i) ~~All building enclosures, of any size, are prohibited below BFE, including those with breakaway walls. Screening and open lattice work are not considered enclosures. (**maximum 240 CRS points**) (**OPTIONAL**)~~

(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 non-conforming than the existing structure.* (non-conforming language is OPTIONAL).
 - (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 (minimum of one), the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the **one (1)** year period (minimum of one) 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. *(The repetitive loss portion is OPTIONAL, but will be required for flood insurance policy holders to be eligible for Increased Cost of Compliance (ICC) benefits for repetitive losses.) (Need to vote – optional)* 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 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

- (i) Be on site for fewer than 180 consecutive days; or
- (ii) 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 the provisions of Article 5, Section A(1);
- (f) All service facilities such as electrical shall be installed in accordance with the provisions of Article 5, Section A(4); and
- (g) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below Regulatory Flood Protection Elevation in conformance with the provisions of Article 5, Section B(4)(d).

An accessory structure with a footprint less than 150 square feet (*recommend 150 square feet*) or that is a minimal investment of \$5000 (*recommend \$3,000*) or less and satisfies the criteria outlined above is not required to meet the elevation or floodproofing standards of Article 5, Section B (2). Elevation or floodproofing certifications are required for all other accessory structures in accordance with Article 4, Section B(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 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 vents. 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 Article 5, Section F 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 Article 5, Section F 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 Article 5, Section F of this ordinance.

SECTION C. RESERVED.

SECTION D. STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS.

Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Article 3, Section B, where no BFE data has been provided by FEMA, the following provisions, in addition to the provisions of Article 5, Section 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 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 Article 5, Sections 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 Article 5, Sections B and F.
 - (c) All subdivision, manufactured home park and other development proposals shall provide BFE data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such BFE data shall be adopted by reference in accordance with Article 3, Section B and utilized in implementing this ordinance.
 - (d) When BFE data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the Regulatory Flood Protection Elevation, as defined in Article 2. All other applicable provisions of Article 5, Section B shall also apply.

SECTION E. STANDARDS FOR RIVERINE FLOODPLAINS WITH BASE FLOOD ELEVATIONS 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:

- (1) Standards of Article 5, Sections A and B; and
- (2) 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.

SECTION F. FLOODWAYS AND NON-ENCROACHMENT AREAS.

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Article 3, Section 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 Article 5, Sections A and B, shall apply to all development within such areas:

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

unless:

- (a) It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood 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 within six months of completion of the proposed encroachment.
- (2) If Article 5, Section F(1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.
- (3) Manufactured homes may be permitted provided the following provisions are met:
- (a) The anchoring and the elevation standards of Article 5, Section B(3); and
 - (b) The encroachment standards of Article 5, Section F(1).

SECTION G. COASTAL HIGH HAZARD AREA (ZONE VE).

Coastal High Hazard Areas are Special Flood Hazard Areas established in Article 3, Section B, and designated as Zones VE. These areas have special flood hazards associated with high velocity waters from storm surges or seismic activity and, therefore, all new construction and substantial improvements shall meet the following provisions in addition to the provisions of Article 5, Sections A and B:

- (1) All new construction and substantial improvements shall:
 - (a) Be located landward of the reach of mean high tide;
 - (b) Comply with all applicable CAMA setback requirements.
- (2) All new construction and substantial improvements shall be elevated so that the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings or columns) is no lower than the regulatory flood protection elevation. Floodproofing shall not be utilized on any structures in Coastal High Hazard Areas to satisfy the regulatory flood protection elevation requirements.
- (3) All new construction and substantial improvements shall have the space below the bottom of the lowest horizontal structural member of the lowest floor free of obstruction so as not to impede the flow of flood waters, with the following exceptions:
 - (a) Open wood or plastic latticework or insect screening may be permitted below the lowest floor for aesthetic purposes only and must be designed to wash away in the event of wave impact and in accordance with the provisions of Article 5, Section B(4)(e)(i). Design plans shall be submitted in accordance with the provisions of Article 4, Section B(1)(d)(iii)(2); or
 - (b) Breakaway walls may be permitted provided they meet the criteria set forth in Article 5, Section B(4)(a),(b),(c)&(e)(ii). Design plans shall be submitted in accordance with the provisions of Article 4, Section B(1)(d)(iii)(1).
- (4) All new construction and substantial improvements shall be securely anchored to pile or column foundations. All pilings and columns and the structure attached thereto shall be anchored to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.
 - (a) Water loading values used shall be those associated with the base flood.
 - (b) Wind loading values used shall be those required by the current edition of the North Carolina State Building Code.

- (5) For concrete pads, including patios, decks, parking pads, walkways, driveways, pool decks, etc. the following is required: **(OPTIONAL)**
- (a) Shall be structurally independent of the primary structural foundation system of the structure and shall not adversely affect structures through redirection of floodwaters or debris; and
 - (b) Shall be constructed to breakaway cleanly during design flood conditions, shall be frangible, and shall not produce debris capable of causing damage to any structure. (The installation of concrete in small segments (approximately 4 feet x 4 feet) that will easily break up during the base flood event, or score concrete in 4 feet x 4 feet maximum segments is acceptable to meet this standard); and
 - (c) Reinforcing, including welded wire fabric, shall not be used in order to minimize the potential for concreted pads being a source of debris; and
 - (d) Pad thickness shall not exceed 4 inches; or
 - (e) Provide a Design Professional's certification stating the design and method of construction to be used meet the applicable criteria of this section.
- (6) For swimming pools and spas, the following is required: **(OPTIONAL)**
- (a) Be designed to withstand all flood-related loads and load combinations.
 - (b) Be elevated so that the lowest horizontal structural member is elevated above the RFPE; or
 - (c) Be designed and constructed to break away during design flood conditions without producing debris capable of causing damage to any structure; or
 - (d) Be sited to remain in the ground during design flood conditions without obstructing flow that results in damage to any structure.
 - (e) Registered design professionals must certify to local officials that a pool or spa beneath or near a VE Zone building will not be subject to flotation or displacement that will damage building foundations or elevated portions of the building or any nearby buildings during a coastal flood.
 - (f) Pool equipment shall be located above the RFPE whenever practicable. Pool equipment shall not be located beneath an elevated structure.
- (7) All elevators, vertical platform lifts, chair lifts, etc., the following is required: **(OPTIONAL)**
- (a) Elevator enclosures must be designed to resist hydrodynamic and hydrostatic forces as well as erosion, scour, and waves.
 - (b) Utility equipment in Coastal High Hazard Areas (VE Zones) must not be mounted on, pass through, or be located along breakaway walls.
 - (c) The cab, machine/equipment room, hydraulic pump, hydraulic reservoir, counter weight and roller guides, hoist cable, limit switches, electric hoist motor, electrical junction box, circuit panel, and electrical control panel are all required to be above RFPE. When this equipment cannot be located above the RFPE, it must be constructed using flood damage resistant components.
 - (d) Elevator shafts/enclosures that extend below the RFPE shall be constructed of reinforced masonry block or reinforced concrete walls and located on the landward side of the building to provide increased protection from flood damage. Drainage must be provided for the elevator pit.
 - (e) Flood damage resistant materials can also be used inside and outside the elevator cab to reduce flood damage. Use only stainless steel doors and door frames below the BFE. Grouting in of door frames and sills is recommended.

~~(f) If an elevator is designed to provide access to areas below the BFE, it shall be equipped with a float switch system that will activate during a flood and send the elevator cab to a floor above the RFPE.~~

- (8) 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, or the detached accessory building shall not be improved, or otherwise converted; Oak Island will have the right to inspect the enclosed area. This agreement shall be recorded with the Brunswick County Register of Deeds and shall transfer with the property in perpetuity. **(OPTIONAL)**
- (9) 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. **(OPTIONAL)**
- (10) A registered professional engineer or architect shall certify that the design, specifications and plans for construction are in compliance with the provisions of Article 4, Section B and Article 5, Section G(3) and (4), on the current version of the North Carolina V-Zone Certification form or equivalent local version. ~~In addition, prior to the Certificate of Compliance/Occupancy issuance, a registered professional engineer or architect shall certify the finished construction is compliant with the design, specifications and plans for VE Zone construction.~~ **(OPTIONAL)**
- (11) Fill/Grading
- (a) Minor grading and the placement of minor quantities of nonstructural fill may be permitted for landscaping and for drainage purposes under and around buildings and for support of parking slabs, pool decks, patios and walkways.
 - (b) The fill material must be similar and consistent with the natural soils in the area.
 - (c) The placement of site-compatible, non-structural fill under or around an elevated building is limited to two (2) feet. Fill greater than two (2) feet must include an analysis prepared by a qualified registered design professional demonstrating no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent elevated buildings and structures.
 - (d) Nonstructural fill with finished slopes that are steeper than five (5) units horizontal to one (1) unit vertical shall be permitted only if an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent elevated buildings and structures.
- ~~(e) Fill is prohibited in the SFHA (maximum 280 CRS points possible) (OPTIONAL) Note: this should be consistent with Article 5, Section A(17)~~
- (12) There shall be no alteration of sand dunes or mangrove stands which would increase potential flood damage.
- (13) No manufactured homes shall be permitted except in an existing manufactured home park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring and elevation standards of this Section have been satisfied.
- (14) Recreational vehicles may be permitted in Coastal High Hazard Areas provided that they meet the Recreational Vehicle criteria of Article 5, Section B(6)(a).
- (15) A deck that is structurally attached to a building or structure shall have the bottom of the lowest horizontal structural member at or above the Regulatory Flood Protection Elevation and any supporting members that extend below the Regulatory Flood Protection Elevation shall comply with the foundation requirements that apply to the building or structure, which shall be designed to accommodate any increased loads resulting from the attached deck. The increased loads must be considered in the design of the primary structure and included in the V-Zone Certification required under Article 4, Section B, (3)(f).
- (16) A deck or patio that is located below the Regulatory Flood Protection Elevation shall be structurally independent from

buildings or structures and their foundation systems, and shall be designed and constructed either to remain intact and in place during design flood conditions or to break apart into small pieces to minimize debris during flooding that is capable of causing structural damage to the building or structure or to adjacent buildings and structures.

- (17) In coastal high hazard areas, development activities other than buildings and structures shall be permitted only if also authorized by the appropriate state or local authority; if located outside the footprint of, and not structurally attached to, buildings and structures; and if analyses prepared by qualified registered design professionals demonstrate no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent buildings and structures. Such other development activities include but are not limited to:
 - (a) Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures;
 - (b) Solid fences and privacy walls, and fences prone to trapping debris, unless designed and constructed to fail under flood conditions less than the design flood or otherwise function to avoid obstruction of floodwaters.
- (18) No more than four (4) electrical outlets and no more than four (4) electrical switches may be permitted below RFPE unless required by building code. **(OPTIONAL)**

SECTION H. STANDARDS FOR COASTAL A ZONES (ZONE CAZ) LiMWA (maximum 650 CRS points)

Structures in CAZs shall be designed and constructed to meet V Zone requirements, including requirements for breakaway walls. However, the NFIP regulations also require flood openings in walls surrounding enclosures below elevated buildings in CAZs (see Technical Bulletin 1, *Openings in Foundation Walls and Walls of Enclosures*). Breakaway walls used in CAZs must have flood openings that allow for the automatic entry and exit of floodwaters to minimize damage caused by hydrostatic loads. Openings also function during smaller storms or if anticipated wave loading does not occur with the base flood.

- (1) All new construction and substantial improvements shall be elevated so that the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings or columns) is no lower than the regulatory flood protection elevation. Floodproofing shall not be utilized on any structures in Coastal A Zones to satisfy the regulatory flood protection elevation requirements.
- (2) All new construction and substantial improvements shall have the space below the lowest horizontal structural member free of obstruction so as not to impede the flow of flood waters, with the following exceptions:
 - (a) Open wood latticework or insect screening may be permitted below the lowest floor for aesthetic purposes only and must be designed to wash away in the event of wave impact and in accordance with the provisions of Article 5, Section B(4)(e)(i). Design plans shall be submitted in accordance with the provisions of Article 4, Section B(1)(d)(iii)(2); or
 - (b) Breakaway walls may be permitted provided they meet the criteria set forth in Article 5, Section B(4)(e)(ii). Design plans shall be submitted in accordance with the provisions of Article 4, Section B(1)(d)(iii)(1).
- (3) All new construction and substantial improvements shall include, in Zones CAZ, 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 design criteria in Article 5, Section B(4)(d).
- ~~(4) Concrete pads, including patios, decks, parking pads, walkways, driveways, etc. must meet the provisions of Article 5, Section G(5). **(OPTIONAL)**~~
- (5) All new construction and substantial improvements shall meet the provisions of Article 5, Section G(3)
- (6) A registered professional engineer or architect shall certify that the design, specifications and plans for construction are in compliance with the provisions of Article 4, Section B and Article 5, Section G(3) and (4), on the current version of the North Carolina V-Zone Certification form or a locally developed V-Zone Certification form.
- (7) Recreational vehicles may be permitted in Coastal A Zones provided that they meet the Recreational Vehicle criteria of Article 5, Section B(6)(a).

- (8) Fill/Grading must meet the provisions of Article 5, Section G(11)
- ~~(9) Fill is prohibited in the SFHA (*maximum 280 CRS points possible*) (OPTIONAL)~~
- (10) Decks and patios must meet the provisions of Article 5 Section G(15) and (16).
- (11) In coastal high hazard areas, development activities other than buildings and structures must meet the provisions of Article 5, Section G(17)

SECTION I. STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AO).

Located within the Special Flood Hazard Areas established in Article 3, Section 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 Article 5, Sections A and B, all new construction and substantial improvements shall meet the following requirements:

- (1) The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of **one (1)** feet, above the highest adjacent grade; or at least **two (2)** feet above the highest adjacent grade if no depth number is specified. **A minimum of two (2) feet is required and four (4) feet is recommended where a depth is not provided.**
- (2) Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in Article 5, Section I(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 Article 4, Section B(3) and Article 5, Section B(2).
- (3) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

Located within the Special Flood Hazard Areas established in Article 3, Section 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 Article 5, Sections A and B, all new construction and substantial improvements shall meet the following requirements:

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

ARTICLE 6. LEGAL STATUS PROVISIONS.

SECTION 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 **July 1, 1999** (*adoption date of the community's initial Flood Damage Prevention Ordinance*) 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 **Oak Island** enacted on **July 1, 1999** (*adoption date of the community's initial Flood Damage Prevention Ordinance*), as amended, which are not reenacted herein are repealed.

Municipal: The date of the initial Flood Damage Prevention Ordinance for Brunswick County is **May 15, 1986**.

County: The date of the initial Flood Damage Prevention Ordinance for each municipal jurisdiction within _____
County is as follows:

List each municipality within the County with its initial ordinance date.

SECTION 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.

SECTION 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.

SECTION D. EFFECTIVE DATE.

This ordinance shall become effective _____ (*upon adoption or specific date*).

SECTION E. ADOPTION CERTIFICATION.

I hereby certify that this is a true and correct copy of the Flood Damage Prevention Ordinance as adopted by the _____ (*governing body*) of _____ (*community name*), North Carolina, on the _____ day of _____, 20__.

WITNESS my hand and the official seal of _____, this the _____ day of _____, 20__.

(signature)

**TOWN OF OAK ISLAND
PLANNING BOARD
AGENDA ITEM MEMO**

Agenda Item: New Business Number 1

Date: June 26, 2017



Issue: Towers

Department/Title: Planning & Zoning Administrator

Presented by: Jake Vares

Presentation: None

Estimated Time for Discussion: 35 Minutes

Subject Summary:

This text amendment is initiated by a member of the public; the applicant represents AT&T and is applying on their behalf. The Table of Uses in Section 18-116 allows this type of land use in the zoning district where the intended tower location is planned. Specific standards in the ordinance coincide with the Conditional Use Permit (CUP) and are attached below. The applicant is requesting that letter *d* among the standard of the ordinance be removed from the zoning ordinance.

Uses	R-20	R-9	R-7.5	R-7	R-6A	R-6B	R-6MF	R-6MH	O & I	CB	CR	C-LD	OS	AD	Club Overlay Dist.	CUCB
Places of worship	C	C	C	C	C	C	C	C	P	P	P	P				C
<u>Public or private utility uses and structures other than municipal</u> ⁴	C	C	P	C	<u>C</u>	C	C	C	C	P	P	P		P		C
Publicly owned or supported community centers		P	P	P	P	P	P	P	P	P	P	P		P		C

⁴ Refer to article II, division 8, § 18-226(32).

The zoning ordinance table of uses also lists *Commercial uses of towers and poles with antennas* as an optional land use and this was is what was originally reviewed. However that row in the tables of uses is intended more for existing commercial structures that wish to add antennas, poles and towers to the building for commercial purposes. Section 18.32-Definitions; defines public utility as “a public service corporation performing some public service and subject to special governmental regulations. Such services shall include, but are not limited to, water supply, electric power and gas distribution.”

The draft UDO (Unified Development Ordinance) on page 6-22 does regulate this sort of thing. The UDO table of uses breaks down this type of land use into 2 categories: *Wireless communication facilities; 60' tall or less* and *Wireless communication facilities; more than 60' tall*. The more than 60 foot tall classification is listed as only permissible in the Industrial (ID) zoning district, and the less than 60 foot tall row is permitted by SS in nearly all the zoning districts. The UDO definition of wireless communication facility can be found in the UDO on page A-51 and the supplemental regulations for wireless communication facilities can be found on page 7-40 (Section 7.56). Of-course the UDO is not yet adopted or finished, this information is included for informative purposes.

The applicant has paid the text amendment fee, filled out the paperwork, which is attached, and submitted the appended justification narrative summaries for your review. Some of the below CUP standards, such as the water facility paragraph in letter *f*, are not applicable to the applicants project. The applicant is to be present at the hearing to answer questions.

Attachments: Proposed Ordinance Language, Applicant paperwork and justification narrative.

Recommendation/Action Needed: Recommendation to Town Council to approve or deny with the associated consistency statement

Funds Needed: Public Advertisement Cost

Planning Board Recommendation: _____ TBD _____

Follow up Action Needed: Forward recommendation to Town Council, update staff report

Attachments:

Sec. 18-226. - Special provisions for conditional uses.

(32) *Public or private utility use or structure.* The requirement for conditional use approval shall not apply to municipal utility uses or structures unless otherwise referenced under [section 18-116](#) nor shall public or private utility uses or structures that are approved as part of the major subdivision review and approval process provided for in article III of this chapter be subject to the conditional use permitting process. Where subject to the conditional use approval process, such uses or structures may be established when the town council finds that:

a. *Necessity.* The proposed use at the location selected is deemed necessary for public convenience and service but cannot be supplied with equal effectiveness if located in a district where the use is permitted by right.

b. *Community protection.* The proposed location will not endanger the health and safety of workers or residents in the community and will not impair or prove detrimental to neighboring properties. All buildings shall be in character with the surrounding residences.

c. *Aesthetics.* Landscaping and/or fencing shall be provided where deemed necessary.

~~d. *Transmission stations.* Utility transmitting or relay stations and/or towers may be permitted, provided that no such station or tower shall be permitted on a site less than one acre in area and that no site shall have a horizontal dimension less than the height of the tower. The tower must be located a distance of 50 feet, plus its height, from all bounding lot lines or street right-of-way.~~

~~e.~~ (d) *Minor structures.* Minor structures, such as hydrants, relay stations, vaults, water pump stations, wastewater lift stations, telephone or lightpoles, pole transmitters or transformers, or similar equipment, shall not be subject to the regulations of subsection (32) of this section.

f. (e) *Transmission lines.* Public utility transmission lines shall be permitted only if a right-of-way of sufficient width shall permit the safe construction and maintenance of the line and prevent any hazard to surrounding property. On a one-circuit or two-circuit transmission line, the distance from the tower base to the nearest boundary of the transmissions line right-of-way shall be no less than 25 feet. On a three-circuit or four-circuit transmission line, the distance shall be no less than 50 feet. The town council may require suitable fencing or landscaping of a tower base when, in the opinion of the council, it is necessary to protect the public or conserve the values of the surrounding property. Standard distribution lines, such as telephone, electric light and power lines carrying less than 33,000 volts and usually located along public rights-of-way are not subject to these conditions provided all new such lines are placed underground with their customary above ground appurtenances being considered minor structures in accordance with subsection e. above.

~~g.~~ (f) *Major water/wastewater facilities.* Major water or wastewater treatment facilities and elevated water tanks may be permitted as referenced under [section 18-116](#). Where such facilities are proposed for location in a district where conditional use approval is required, the primary considerations shall be (1) the technical necessity to locate the facility at the location proposed; (2) the anticipated benefit to the public, health, safety and welfare; (3) suitability of the site for the use proposed to include soil characteristic suitability and the capability to provide adequate perimeter screening and buffering from adjacent properties; and (4) the anticipated ability to be able to acquire the necessary state permits for the proposed facilities.



May 26th 2017

Via email Planner@ci.oak-island.nc.us

Jake Vares Planning & Zoning Administrator
Town of Oak Island 4601 E. Oak Island Drive
Oak Island North Carolina
28465

Last month I visited your town and met with members of the Oak Island municipal staff and police department to review the current condition of the monopole which is at the end of its useful life and review possible options to replace the tower keeping it in its current location or relocate it elsewhere on the grounds of the municipal complex.

The first option was to replace the monopole keeping it in the existing compound and after reviewing the current conditions around the site we came to the conclusion that due to the close proximity of underground storm water lines, power, telco & fiber and the additional storm water treatment project currently being staged in that area the existing site seems less practical.

The second option was alternate locations on the municipal compound and after discussions with Town Management the preference is that the tower not be relocated to any of the alternate locations.

So we're now considering the AT&T/Bell South Central Office located across the street at 104 NE 46th street. So the addition of a monopole at that site would be an addition to the current telco operations at that site.

We feel that as the site at 104 46th NE is very well suited to what we're proposing as its primary use is a Telecommunications Central office and that the monopole could be designed and placed on the site in a taste full and unobtrusive way with minimal visual impact to the Neighborhood.

The police repeater antennas currently utilize the monopole at the municipal building and would be relocated to the new one.



June 21, 2017

Via email Planner@ci.oak-island.nc.us

Jake Vares Planning & Zoning Administrator
Town of Oak Island 4601 E. Oak Island Drive
Oak Island North Carolina
28465

In April I visited your town and met with members of the Oak Island municipal staff and police department to review the current condition of the monopole which is at the end of its useful life and review possible options to replace the tower keeping it in its current location or relocate it elsewhere on the grounds of the municipal complex.

The first option was to replace the monopole keeping it in the existing compound and after reviewing the current conditions around the site we came to the conclusion that due to the close proximity of underground storm water lines, power, telco & fiber and the additional storm water treatment project currently being staged in that area the existing site seems less practical.

The second option was alternate locations on the municipal compound and after discussions with Town Management the preference is that the tower not be relocated to any of the alternate locations.

So we're now considering the AT&T/Bell South Central Office located across the street at 104 NE 46th street. So the addition of a monopole at that site would be an addition to the current telco operations at that site.

We feel that as the site at 104 46th NE is very well suited to what we're proposing as its primary use is a Telecommunications Central office and that the monopole could be designed and placed on the site in a tasteful and unobtrusive way with minimal visual impact to the Neighborhood.

The police repeater antennas currently utilize the monopole at the municipal building and would be relocated to the new one.

In addition the use will not materially endanger the public health or safety.

AT&T's position on this is that replacing this monopole is not something we want to do. But our impetus for this is due to public safety and health; in addition the existing monopole fails at over 300% and is also failed at the anchor bolts and foundation. This is a dire situation in a known hurricane zone and means that there is an existing public safety issue that we want to correct.

This microwave path offers critical diversity for Bald Head Island's E911 and all services include cellular. Having a reliable network for our users is also a well-established public safety concern and something we strive for.

The proposed use will not substantially injure the value of adjoining or abutting property. AT&T's position is that we will solely be impacting our own land parcel and since the existing, near identical monopole is only 400' away it creates a negligible view shed issue. We will not be impacting colors or heights. For all intents and purposes we will be moving the monopole 400' to our property.

That the use will be in harmony with the area in which it is to be located.

AT&T's Position on this is that it will look no different than the skyline does today.

That the use will be in general conformity with the Land Use Plan, Thoroughfare Plan, or other plans officially adopted by the Board of Aldermen.

AT&T's Position on this is that it will look no different than we will do what the city tells us to do but it is in neither the city's or AT&T's best interest to do nothing. Since this remains as a critical part of our E911 network, removing it is not an option.

That the use will not impair the integrity or character of the surrounding or adjoining districts, nor adversely affect the safety, health, morals, or welfare of the community or of the immediate neighbors of the property.

The RF Safety is a great concern of ours and this application will meet the FCC requirements and falls far below exposure limits. No one in the region, even in prolonged exposure of days, months, and years, will be affected by this facility since it is extremely directional and low power.

To summarize

That the use is essential and desirable to the public convenience or welfare.

The use will have adequate utilities, access roads, drainage, sanitation, or other necessary facilities. And will be integrated into our existing central office that meets all of these criteria.

That the use will have adequate facilities to provide ingress and egress so designed as to minimize the traffic congestion in the public streets.

This will be integrated into our existing central office that meets all of these criteria

TOWN OF OAK ISLAND
TOWN COUNCIL
AGENDA ITEM MEMO

Agenda Item: New Business Number 2

Date: June 27, 2017



Issue: Conditional Use Permit Application

Department: Planning & Zoning Administrator

Presented by: Jake Vares

Presentation: None

Estimated Time for Discussion: 45 Minutes

Subject Summary:

The applicant is applying for a Conditional Use Permit (CUP) in order to have a utility structure (i.e. a cell tower) located at 104 NE 46th Street; tax parcel number 235MJ015. The CUP is being applied for by a representative of the property owner. The proposed land use would best fits the land use row underlined below in the Town of Oak Island's table of uses.

The table of uses (Sec.18-116) codifies a *public or private utility uses and structures other than municipal* as permissible with a Conditional Use Permit from the town if it is located within the R-6A (Residential) zoning district.

Uses	R-20	R-9	R-7.5	R-7	R-6A	R-6B	R-6MF	R-6MH	O & I	CB	CR	C-LD	OS	AD	Club Overlay Dist.	CUCB
Places of worship	C	C	C	C	C	C	C	C	P	P	P	P				C
<u>Public or private utility uses and structures other than municipal⁴</u>	C	C	P	C	<u>C</u>	C	C	C	C	P	P	P		P		C
Publicly owned or supported community centers		P	P	P	P	P	P	P	P	P	P	P		P		C

Furthermore, additional standards specific to this land use are listed in Sec.18-226.(32) of the zoning ordinance (see below excerpt).

(32) *Public or private utility use or structure. The requirement for conditional use approval shall not apply to municipal utility uses or structures unless otherwise referenced under [section 18-116](#) nor shall public or private utility uses or structures that are approved as part of the major subdivision review and approval process provided for in article III of this chapter be subject to the conditional use permitting process. Where subject to the conditional use approval process, such uses or structures may be established when the town council finds that:*

- a. Necessity. The proposed use at the location selected is deemed necessary for public convenience and service but cannot be supplied with equal effectiveness if located in a district where the use is permitted by right.*
- b. Community protection. The proposed location will not endanger the health and safety of workers or residents in the community and will not impair or prove detrimental to neighboring properties. All buildings shall be in character with the surrounding residences.*
- c. Aesthetics. Landscaping and/or fencing shall be provided where deemed necessary.*

- d. Transmission stations. Utility transmitting or relay stations and/or towers may be permitted, provided that no such station or tower shall be permitted on a site less than one acre in area and that no site shall have a horizontal dimension less than the height of the tower. The tower must be located a distance of 50 feet, plus its height, from all bounding lot lines or street right-of-way.*
- e. Minor structures. Minor structures, such as hydrants, relay stations, vaults, water pump stations, wastewater lift stations, telephone or lightpoles, pole transmitters or transformers, or similar equipment, shall not be subject to the regulations of subsection (32) of this section.*
- f. Transmission lines. Public utility transmission lines shall be permitted only if a right-of-way of sufficient width shall permit the safe construction and maintenance of the line and prevent any hazard to surrounding property. On a one-circuit or two-circuit transmission line, the distance from the tower base to the nearest boundary of the transmissions line right-of-way shall be no less than 25 feet. On a three-circuit or four-circuit transmission line, the distance shall be no less than 50 feet. The town council may require suitable fencing or landscaping of a tower base when, in the opinion of the council, it is necessary to protect the public or conserve the values of the surrounding property. Standard distribution lines, such as telephone, electric light and power lines carrying less than 33,000 volts and usually located along public rights-of-way are not subject to these conditions provided all new such lines are placed underground with their customary above ground appurtenances being considered minor structures in accordance with subsection e. above.*
- g. Major water/wastewater facilities. Major water or wastewater treatment facilities and elevated water tanks may be permitted as referenced under [section 18-116](#). Where such facilities are proposed for location in a district where conditional use approval is required, the primary considerations shall be (1) the technical necessity to locate the facility at the location proposed; (2) the anticipated benefit to the public, health, safety and welfare; (3) suitability of the site for the use proposed to include soil characteristic suitability and the capability to provide adequate perimeter screening and buffering from adjacent properties; and (4) the anticipated ability to be able to acquire the necessary state permits for the proposed facilities.*

Some of the standards listed are not applicable. The proposed project is not a water/wastewater facility so that regulation is a moot point. The applicant will need to inform the town regarding the transmission lines but that is likely not an issue either. The Conditional Use Permit should be reviewed assuming all the above ordinances are in place and not modified because there is not guarantee the text amendment will be adopted by Council. Additionally the Conditional Use Permit tower standards detailed in the UDO cannot be reviewed and used in the decision making progress to approve or deny until the UDO is officially adopted by the town. Standard “a” should be discussed, in the R.75, CB, CR, CLD and AD zoning districts this type of structure is permitted by right so the applicant will need to provide documentation as to why the tower cannot be located in those areas. The burden of proof to establish that the structure will not be a detriment to the adjacent property values is on the applicant. The property in question is 0.45 acres and does not meet standard “d” because the site is less than one acre. The dimension of the parcel are 165’ by 120’ and the total height shown in the drawing is 104 feet. The ordinance states “The tower must be located a distance of 50 feet, plus its height, from all bounding lot lines or street right-of-way.” Meaning it does not meet the distance requirements either.

Given that this is for a Conditional Use Permit, even though it is an informal review it is a best practice to not discuss this hearing item outside of the meeting, either with the applicant, with one-another, or the public. This is a way to ensure fairness by having all the discussion take place in the open at the hearing. The Town Council is required to follow those same restrictions as well. If anyone has a direct or potential financial interest in this proposed project then they can recuse themselves.

The Court of Appeals approved the use of four fairly general standards for considering and approving Conditional Use Permits: (1) does not materially endanger the public health or safety, (2) does not meet all required conditions and specifications, (3) will not substantially injure the value of adjoining property, and (4) will be in harmony with the area in which it is located and be in general conformity with the comprehensive plan. This is also the criteria codified in the Town of Oak Island zoning ordinance that is to be reviewed when deciding to approve a CUP. With Conditional Use Permits the applicant has the burden of presenting sufficient evidence that an application meets the standards of the ordinance. Furthermore, the burden of proof that the Conditional Use Permit application meets the four standards outlined above rests with the applicant. Only the standards actually listed in the ordinance may be used as a basis for denial if such denial is predicated on the fact that all the required standards could not be met. The Planning Board will need a quorum to vote and a simple majority is all that is needed to pass a vote. Only expert testimony is supposed to be considered.

Official certified letters have been sent to the adjacent property owners and a sign, required by the Town zoning ordinance before Council hearings, has been placed at the site detailing the hearing date, time and location, per the zoning ordinance requirements. Traditionally, this is a quasi-judicial decision and carries with it a separate, more officious operating procedure. After the Planning Board meeting the CUP still must be approved by the Town Council as a quasi-judicial hearing. Some considerations to take into account are the health & safety of the public, potential injury to adjacent property values, undue concern to the neighbors, and the use will be in harmony with area. If it is approved by Council the application will then have vested rights to the private utility cell tower land use. The Conditional Use Permit recommendation can be for denial, approval, or approval with recommended conditions.

Attachments: CUP application, owner permission document, applicant justification narratives, design drawing, site area map

Recommendation/Action Needed: Recommendation to Town Council to approve, deny, or approve with conditions

Funds Needed: \$0.00

Planning Board Recommendation/Conditions: TBD

Follow Up Action Needed: Inform applicant, forward recommendation to Town Council

Attachments:



APPLICATION FOR SPECIAL USE

Office Use Only

Date Rec'd: _____

Rec'd by: _____

Amount Paid: \$ _____

Town of Oak Island • 4601 E. Oak Island Drive, Oak Island, NC 28465 • Phone: (910) 201-8001 • Fax: (910) 278-1811

All applications for conditional use must be complete and accompanied by the permit fee of \$500 payable in cash or by check made to the Town of Oak Island. Applicants will not be responsible for any additional cost of public notices. All fees must be paid in full before a Certificate of Zoning Compliance (Zoning Permit) will be issued and before an application will be submitted for review by the Planning Board or Town Council. Applicants are responsible attending all Planning Board and Board of Aldermen meetings where this application will be considered.

In accordance with the Town of Oak Island Code of Ordinances, Chapter 18, Article 2 Section 18-221 the purpose of this division is to allow for those uses that have a potential of being incompatible with adjacent land uses. For this reason special consideration shall be given to those uses listed as conditional uses in the zoning districts as listed in Division 4 of the code of ordinances.

The reasons for requiring such special considerations involve, among other things, the size of the area required for the development of a use, the effect such uses have on any adjoining land uses and on the health, safety, and general welfare and development of the community as a whole. Approval of a conditional use does not provide a binding precedent to grant other conditional uses. A conditional use is not transferable from one parcel of land to another. Conditional uses must be approved by the Town Council. All conditional uses must satisfy all standards in Chapter 18, Article 2 Section 18-221.

The application must be reviewed by town staff before the application can be placed on the Planning Board Agenda. Please consider that review time before submitting your application. Applications will not be considered as accepted for review unless all required information is provided. Prior to the date of the review the board shall hold an evidentiary hearing on the special use permit request.

Parcel Identifier Number (PIN): 235MJ015 Date: June 8th 2017

Section A: Property Information

Applicant Name: AT&T/ CIC

Project Name: AT&T Central Office Monopole

Property Address: 104 NE 46th Street OI State: NC Zip Code: 28465

Phone: 908-295-1050 Fax: 805-965-4821 Email: mholmgren@cicusa.com

Existing Zoning District: R6-A



Parcel ID #(s): 235MJ015

Total Site Acres or Square Feet: 19800

Current Zoning District(s): R6A

Use Classification (from Table of Uses): C

Project Description:

We propose to install a 100 foot monopole in the north east corner of the property.

(attach a separate page is needed)

The undersigned applicant hereby certifies that, to the best of his knowledge and belief, all information supplied with this application is true and accurate:

Signature: Mitchell Holmgren CIC on behalf of AT&T

Date: June 21st 2017

Section B: Project Owner Information (if different from above)

Applicant Name: AT&T/CIC

Project Name: AT&T Central Office Monopole

Property Address: 104 NE 46th St. OI State: NC Zip Code: 24865

Phone: 908-295-1050 Fax: 805-965-4821 Email: mholmgren@cicusa.com

Section C: Conditional Use Standards

In order to approve a conditional use, the Town Council must hold a hearing and find, based on the evidence presented, that the application adequately satisfies the conditional use standards identified in Section 18 – Division 8 of the Unified Development Ordinance. You are encouraged to attach any documentation supporting how the proposed project satisfies the following standards, including a statement describing separately for each standard in significant detail the facts and arguments you intend to present to the Board during the hearing:

- (1) That the use will not materially endanger the public health or safety.

For answers to #1 through #8 see page 5 and word document

- (2) That the use will not substantially injure the value of adjoining or abutting property.

- (3) That the use will be in harmony with the area in which it is to be located.

- (3) That the use will be in general conformity with the Land Use Plan, Thoroughfare Plan, or other plans officially adopted by the Board of Aldermen.

- (5) That the use will not impair the integrity or character of the surrounding or adjoining districts, nor adversely affect the safety, health, morals, or welfare of the community or of the immediate neighbors of the property.

- (4) That the use is essential or desirable to the public convenience or welfare.

- (7) That the use will have adequate utilities, access roads, drainage, sanitation, or other necessary facilities.

- (8) That the use will have adequate facilities to provide ingress and egress so designed as to minimize the traffic congestion in the public streets.

Section D: Conditional Use Standards and Requirements

Each application for a special use must include:

- ☐ An application fee of \$500.00 plus in cash or check made payable to the Town of Oak Island.
- ☐ A Site/Landscaping Plan Application with required plans containing all required information from the Unified Development Ordinance.
- ☐ A notarized letter of authorization if acting as the agent for the property owner(s).
- ☐ copies of an accurate map, site-plan, survey or plat of property showing:
 - Title Box including the project name, applicant name, and address of the property
 - Names of the owners of record for adjacent properties
 - Property lines and dimensions
 - The location and names of all adjacent street rights of way
 - Location, size, zoning designation, and total area of the property
- ☐ Directional feature of all parking spaces, driveways, and curb cuts (if applicable)
- ☐ Accurate depiction of the project to scale with layout of proposed buildings including the length, width, height, placement, and building envelope with required setbacks
- ☐ A Site/Landscaping Plan Application with required plans containing all required information
 - General location and type of stormwater facilities including preliminary stormwater report indicating pre and post retention (if applicable)
- ☐ Proposed or required buffering and landscaping
- ☐ If applicable the proposed phasing of the project
- ☐ Location of Service facilities such as dumpsters and any planned screening or treatment to those areas (if applicable)
- ☐ General location of on-site utilities and proposed tie into facilities
- ☐ All existing easements, reservations, or restrictive covenants (if applicable)
- ☐ Copies of a detailed project narrative describing the proposed use, site, and nature of the request
- ☐ Any other information deemed necessary by Development Services

Office Use Only

Planning Board Hearing Date: _____ Recommendation: _____ Staff: _____

Town Council Hearing Date: _____ Action: _____ Staff: _____

(1) That the use will not materially endanger the public health or safety.

a. AT&T's Position on this is that replacing this monopole is not something we want to do. But our impetus for this is due to public safety and health.

i The existing monopole fails at over 300% and is also failed at the anchor bolts and foundation.

This is a dire situation in a known hurricane zone and means that there is an existing public safety issue that we want to correct.

ii This path offers critical diversity for Bald Head island's E911 and all services include cellular.

Having a reliable network for our users is also a well-established public safety concern and something we strive for.

(2) That the use will not substantially injure the value of adjoining or abutting property

AT&T's Position on this is that we will solely be impacting our own land parcel and since the existing, near identical monopole is only 400' away it creates a negligible view shed issue.

We will not be impacting colors or heights. For all intents and purposes we will be moving the monopole 400' to our property

(3) That the use will be in harmony with the area in which it is to be located.

a. AT&T's Position on this is that it will look no different that the skyline does today.

(4) That the use will be in general conformity with the Land Use Plan, Thoroughfare Plan, or other plans officially adopted by the Board of Aldermen

a. AT&T's Position on this is that it will look no different that we will do what the city tells us to do but it is in neither the city's or AT&T's best interest to do nothing. Since this remains as a critical part of our E911 network, removing it is not an option.

(5) That the use will not impair the integrity or character of the surrounding or adjoining districts, nor adversely affect the safety, health, morals, or welfare of the community or of the immediate neighbors of the property.

a. See points 1 and 3

b. Also know that RF Safety is a great concern of ours and this application will meet the FCC requirements and falls far below exposure limits. No one in the region, even in prolonged exposure of days, months, and years, will be affected by this facility since it is extremely directional and low power.

(6) That the use is essential or desirable to the public convenience or welfare.

a. See 5b

(7) That the use will have adequate utilities, access roads, drainage, sanitation, or other necessary facilities.

a. This will be integrated into our existing central office that meets all of these criteria.

(8) That the use will have adequate facilities to provide ingress and egress so designed as to minimize the traffic congestion in the public streets.

a. This will be integrated into our existing central office that meets all of these criteria.

Each application for conditional use must include:

An application fee of \$300.00 plus in cash or check made payable to the Town of Oak Island.

A Site/Landscaping Plan Application with required plans containing all required information from the Unified Development Ordinance.

A notarized letter of authorization if acting as the agent for the property owner(s).

Each application for conditional use must include:

copies of an accurate map, site-plan, survey or plat of property showing:

Title Box including the project name, applicant name, and address of the property

Names of the owners of record for adjacent properties

Property lines and dimensions

The location and names of all adjacent street rights of way

Location, size, zoning designation, and total area of the property

Directional feature of all parking spaces, driveways, and curb cuts (if applicable)

Accurate depiction of the project to scale with layout of proposed buildings including the length, width, height, placement, and building envelope with required setbacks

A Site/Landscaping Plan Application with required plans containing all required information

General location and type of stormwater facilities including preliminary stormwater report indicating pre and post retention (if applicable)

Proposed or required buffering and landscaping

If applicable the proposed phasing of the project

Location of Service facilities such as dumpsters and any planned screening or treatment to those areas (if applicable)

General location of on-site utilities and proposed tie into facilities

All existing easements, reservations, or restrictive covenants (if applicable)

from the Unified Development Ordinance.

A notarized letter of authorization if acting as the agent for the property owner(s).

copies of a detailed project narrative describing the proposed use, site, and nature of the request



June 8th 2017

Via email Planner@ci.oak-island.nc.us

Jake Vares Planning & Zoning Administrator
Town of Oak Island 4601 E. Oak Island Drive
Oak Island North Carolina
28465

- (1) That the use will not materially endanger the public health or safety.
 - a. AT&T's Position on this is that replacing this monopole is not something we want to do. But our impetus for this is due to public safety and health.
 - i. The existing monopole fails at over 300% and is also failed at the anchor bolts and foundation. This is a dire situation in a known hurricane zone and means that there is an existing public safety issue that we want to correct
 - ii. This path offers critical diversity for Bald Head island's E911 and all services include cellular. Having a reliable network for our users is also a well-established public safety concern and something we strive for.
- (2) That the use will not substantially injure the value of adjoining or abutting property
 - a. AT&T's Position on this is that we will solely be impacting our own land parcel and since the existing, near identical monopole is only 400' away it creates a negligible view shed issue. We will not be impacting colors or heights. For all intents and purposes we will be moving the monopole 400' to our property.
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- (5) That the use will not impair the integrity or character of the surrounding or adjoining districts, nor adversely affect the safety, health, morals, or welfare of the community or of the immediate neighbors of the property.
 - a. See points 1 and 3
 - b. Also know that RF Safety is a great concern of ours and this application will meet the FCC requirements and falls far below exposure limits. No one in the region, even in

prolonged exposure of days, months, and years, will be affected by this facility since it is extremely directional and low power.

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a. This will be integrated into our existing central office that meets all of these criteria.



Date: June 22, 2017

RE: AT&T (Formerly Bell South) Central Office 104 NE 46th Street
Authorized Agent

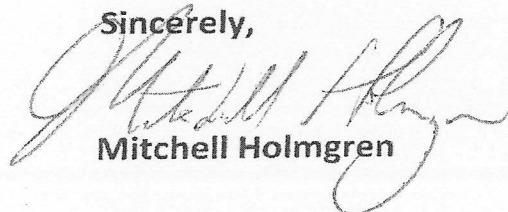
Dear Mr. Vares:

The undersigned Owner does hereby appoint an authorized agent;
*Mitchell Holmgren/ Communication Infrastructure Corp. 3903 S.
Congress Avenue. Austin TX. 78704*

For the purpose of petitioning the Town of Oak Island for a conditional use request as described in the submittal package. The Agent is hereby authorized to, on behalf of the property Owner:

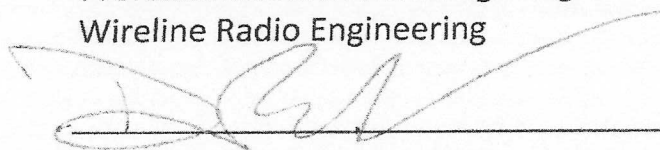
1. Submit the petition and required supplemental information and materials
2. Appear at public hearings to provide representation on behalf of the property owners

Sincerely,



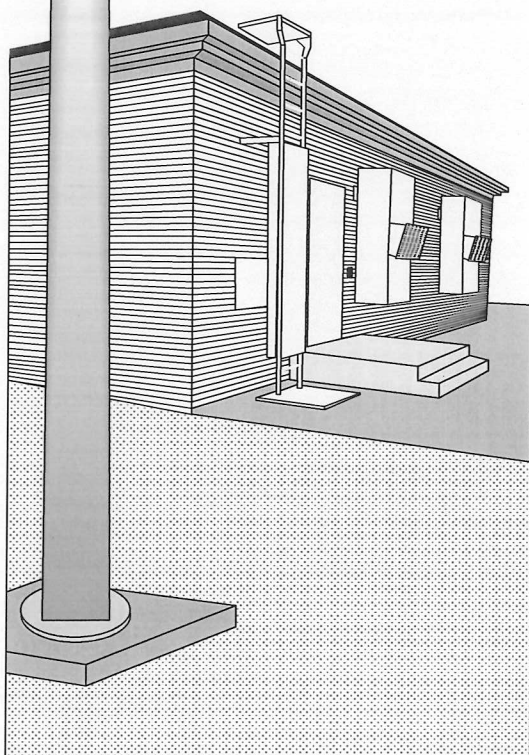
Mitchell Holmgren

Dan Redmond - AT&T
Professional Network Design Engineer
Wireline Radio Engineering



6/22/2017

104' Tip-
100' Monopole
Height
95' Centerline



Brunswick County GIS Data Viewer



June 27, 2017

