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Town of Emerald Isle
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ORDINANCE AMENDING CHAPTER 10 – DEFINITIONS AND RULES OF INTERPRETATION – OF THE UNIFIED DEVELOPMENT ORDINANCE IN ORDER TO COMPLY WITH THE FLOODPLAIN MANAGEMENT REQUIREMENTS AS DEFINED IN THE TITLE 44 OF THE CODE OF FEDERAL REGULATIONS SECTION 60.3

WHEREAS, the Board of Commissioners adopted a flood damage prevention ordinance on July 1, 1977, and over time these regulations have were adopted into the Town of Emerald Isle Unified Development Ordinance, and

WHEREAS, the Board of Commissioners of the Town of Emerald Isle on its own motion or by petition may amend, supplement, change or repeal the flood damage prevention regulations as found in the Unified Development Ordinance, and

WHEREAS, the Town of Emerald Isle is required to have flood damage prevention regulations that meet or exceeds the floodplain management requirements as defined in the Title 44 of the Code of Federal Regulations Section 60.3 in order to remain in good standing with the National Flood Insurance Program, and

WHEREAS, provisions of the Town of Emerald Isle’s flood damage prevention regulations enacted on July 1, 1977 , including all revisions therein since are now desired to be amended in an effort to meet and/or exceed those floodplain management requirements defined in the Title 44 of the Code of Federal Regulations Section 60.3,

NOW, THEREFORE, BE IT RESOLVED by the Emerald Isle Board of Commissioners that

1. Chapter 10, “Definitions and Rules of Interpretation”, “Section 10.2 – Definitions“ of the Unified Development Ordinance is hereby amended to add the following definitions in alphabetical order to the existing definitions as follows:

10.2 – Definitions

ALTERATION OF A WATERCOURSE

Means a dam, impoundment, channel relocation, change in channel alignment, channelization, 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 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 or AH 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

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 Environmental Quality (NCDEGQ) Division of Coastal Management (DCM).

COASTAL A ZONE (CAZ)

Means an area with 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).

DESIGN FLOOD

See "Regulatory Flood Protection Elevation."

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, pool, 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.

EXISTING BUILDING AND EXISTING STRUCTURE

Means any building and/or structure for which the "start of construction" commenced before the community entered the NFIP, dated April 1, 1977

EXISTING MANUFACTURED HOME PARK OR MANUFACTURED HOME SUBDIVISION

A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of

concrete pads) the effective date of the floodplain management regulations adopted by the community dated April 1, 1977.

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.

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 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.

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.

HISTORIC STRUCTURE

(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.

LIMIT OF MODERATE WAVE ACTION (LIMWA)

Means the boundary line given by FEMA on coastal map studies marking the extents of Coastal A Zones

LOWEST ADJACENT GRADE (LAG)

Means the lowest elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

MAP REPOSITORY

Means the location of the official flood hazard data to be applied for floodplain management. It is a central location in which flood data is stored and managed; in North Carolina, FEMA has recognized that the application of digital flood hazard data products carry the same authority as hard copy products. Therefore, the NCEM's Floodplain Mapping Program websites house current and historical flood hazard data. For effective flood hazard data the NC FRIS website (<http://FRIS.NC.GOV/FRIS>) is the map repository, and for historical flood hazard data the FloodNC website (<http://FLOODNC.GOV/NCFLOOD>) is the map repository.

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.

OTHERWISE PROTECTED AREA (OPA)

See Coastal Barrier Resources System (CBRS)

POST-FIRM

Construction or other development for which the "start of construction" occurred on or after April 1, 1977, the effective date of the initial Flood Insurance Rate Map.

PRE-FIRM

Construction or other development for which the "start of construction" occurred before April 1, 1977, the effective date of the initial Flood Insurance Rate Map.

RECREATION VEHICLE

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.

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 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.

TECHNICAL BULLITEN 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.

TEMPERATURE CONTROLLED

Means having the temperature regulated by a heating and/or cooling system, built-in or appliance.

2. The Board of Commissioners has determined that the above amendment is consistent with the Town of Emerald Isle's 2017 CAMA Land Use Plan, as amended.
3. The Board of Commissioners has determined that the above amendment is both reasonable and in the public interest for the following reasons:
 - Are necessary to protect the life and property of the citizens of the Town of Emerald Isle
 - Are necessary to comply with the standards set forth in Title 44 of the Code of Federal Regulations Section 60.3 in order to remain in good standing with the National Flood Insurance Program
 - Are necessary to keep the current 15% flood insurance rate reduction received by all flood policy holders within the Town of Emerald Isle
4. The Town Clerk is authorized to amend the sections as set forth above.
5. This ordinance shall become effective immediately upon its adoption. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Adopted this the 9th day of June, 2020, by a vote of

Commissioner(s) Dodley, Finch, Messer, Normie, Taylor voting for,

Commissioner(s) _____ voting against,
and

Commissioner(s) _____ absent.



Eddie Barber, Mayor

ATTEST:



Rhonda Ferebee, Town Clerk

