

# TOWN OF FLETCHER

PRESTON BLAKELY  
MAYOR

MARK E. BIBERDORF  
TOWN MANAGER



COUNCIL MEMBERS:  
JIM PLAYER  
TREVOR C. LANCE  
KEITH REED  
AMBER MCKINNEY

## **Town Council Agenda Review Meeting May 5, 2025 at 6:00 PM**

Call the meeting to order at: 6:00 PM

Moment of Silence:

Pledge of Allegiance:

Public Comments:

*"We will strive to uphold each citizen's First Amendment right to free speech. We will ensure a level of civility and decorum. We ask that all speakers be respectful and adhere to the three-minute time limit. Council is not expected to debate/discuss issues during public comment."*

Approval of minutes - corrections, additions or deletions

- 1) Agenda Review Meeting April 7, 2025
- 2) Regular Meeting April 14, 2025

Council Updates

Consent Agenda

- 3) Overview of possible amendments to the Floodplain Damage Prevention Ordinance and possible setting of public hearing for the June 9, 2025 meeting
- 4) Approval of Budget Amendment #4 to the FY 24/25 Budget Ordinance.
- 5) Approval of Resolution R-25-05 concerning repeal of the down zoning statute

Discussion Items

- 6) Update on ABC store - Samantha Todd, Chairman.
- 7) Resolution opposing multiple bills in the General Assembly to strip local land use regulatory authority - Mark Bibberdorf, Town Manager
- 8) Update on Tropical Storm Helene recovery efforts - Mark Biberdorf, Town Manager

Town Manager Report

Department Reports

9) April Reports

Adjourn

**Upcoming Events**

First Farmer's Market of the season, May 6, 2025, from 3:00 to 6:00 pm

Budget Workshop Meeting May 8, 2025, at 9:00 am

Mocks & Masterpieces May 9, 2025, at 5:00 pm

Regular Meeting May 12, 2025, at 6:00 pm

Golf Tournament May 16, 2025, at 9:00 am

Agenda Review Meeting June 2, 2025, at 6:00 pm

Summer Concert at the Auction House, June 7, 2025, from 6:00 pm -8:00 pm

Regular Meeting June 9, 2025, at 6:00 pm

Close out Budget year at the end of June?

"This Institution is an equal opportunity provider."

Town of Fletcher  
Town Council Agenda Review Meeting  
Minutes  
April 7, 2025

**Call the meeting to order at: 6:00 PM**

Those who were in attendance are as follows:

Mayor Preston Blakley  
Mayor Pro-Tem Trevor Lance  
Councilmember Keith Reed  
Councilmember Jim Player  
Councilmember Amber McKinney  
Town Manager Mark Bibedorf  
Parks & Recreation Director Josh Queen

**Moment of Silence:**

**Pledge of Allegiance:**

**Public Comments:**

Joe Black of 340 Howard Gap Road Fletcher commented on the area changing with all the development destroying the views of the mountains and that he would like to see more events in the park.

**Approval of minutes - corrections, additions or deletions**

**Agenda Review Meeting 3-3-25**

**Regular Meeting 3-10-25**

**Pre -Budget Workshop Meeting 3-18-25**

No comments were made at this time.

**Council Updates**

No comments were made at this time.

**Consent Agenda**

**Approval of year end audit contact for FY 24/25**

No comments were made at this time.

## **Discussion Items**

### **Discussion and possible re-appointment of Louis Linn to another term on the ABC board.**

Mr Linn came up and spoke to the council about himself and his family, stating that he has lived in Fletcher for 47 years and has enjoyed serving on the ABC Board and would like to continue to serve.

The Town Council and Mayor thanked Mr. Linn for his service to the town and ABC board.

Mayor Blakely stated that approval for his reappointment will be on the Consent Agenda at the regular meeting next week.

### **Presentation on having the summer concerts at the Auction House - Josh Queen, Parks & Recreation Director.**

Parks & Recreation Director Josh Queen requested approval to have a Summer Concert at the Auction House instead of Bill Moore Community Park. The event will take place on June 7th from 4:00 to 8:00 pm. There will be a bounce house, face painting for the kids and the concert will begin at 6:00 pm. Also, Parks & Recreation would provide a transport service from town hall over to the Auction House as well due to limited parking.

Discussion Followed:

Mayor Pro-Tem Trevor Lance mentioned that he had heard from residents in the past who preferred to have concerts at the park instead of other venues/places.

After some discussion, the council agreed to have this concert (June 7th) at the Auction House to see how it goes, then decide at that point about where to have the next summer concert.

### **Request from Duke Energy for easement for Landing at Meadowview - Morgan Patton, Duke Energy.**

Morgan Patton from Duke Energy gave an overview for a requested utility easement for the Meadowview subdivision behind town hall.

Discussion Followed:

Council is agreeable to the easement and this item will be moved to the consent agenda next week for approval.

### **Presentation of FY 2025-2026 match request for Apple Country Transportation - Janna Bianculli, Henderson County**

Janna Bianculli gave a presentation on Apple Country Transit and the budget request from Fletcher for the upcoming FY budget 25/26.

Discussion Followed:

The council did mention that they would like to see what the express stop method would look like for Fletcher.

Town Manager Mark Biberdorf stated that he would add the requested amount of \$31,543.63 to the budget for the presentation in May.

**Request to state legislative delegation to change filing period for municipal elections - Mark Biberdorf, Town Manager**

Town Manager Mark Biberdorf stated the town was made aware of a bill being filed by Senator Moffitt that would change the City of Hendersonville's filing period for elections from December to July. It might be of interest to us to either be added to this bill or file a separate bill. The benefit to this is having the filing period be closer to the actual election.

Mayor Pro-Tem Trevor Lance mentioned that he thought that the Board of Elections preferred the filing period in December. He is interested in getting more clarification on this.

Discussion Followed:

Town Manager Mark Biberdorf stated that he would contact the Board of Elections and give an update next week. Though council is interested in changing the filing period to July from December.

**Consideration of realignment of ABC board member terms - Mark Biberdorf, Town Manager**

Town Manager Mark Biberdorf stated that we had been contacted by the state ABC Commission to realign our board appointments so that they are staggered and would each expire one year apart.

Discussion Followed:

The council is in agreement with this.

**Town Manager Report**

On the park repairs, Patton Construction has been working on the fencing and has made some progress. The small dog park is completed, the concrete/sidewalk area around the multi-use courts has been demoed, and they are working on that. They started on the ballfield(s). The laser grading on the ballfield(s) has been delivered, and they have been working on that. Our next big thing is the bridge and the streambank areas. McGill has been working with us and trying to get some bid specs together.

On debris removal, the town has assisted the county with vegetative debris removal, and we are now starting back to regular brush pickups. The next thing was C & D removal and the

county offered municipalities that had the capability to pick up to be able to participate in this. Jabbo Pressley reached out to them last week to make sure that our trucks were certified, and they are coordinating with their contractor (monitors) for pickups. We do not have as many C&D piles as we originally had. The county has communicated that if you have storm-related debris it needs to be put out by May 1st.

Just a reminder, this Saturday is our shred event and medication/pill drop event. This will be in the southside parking lot from 9:00 to noon. Also, the Easter egg hunt is from 12:00 to 2:00 pm as well.

Mayor Blakely commented that he had received a complaint from a resident over in Windstone about the noise coming from Wilsonart and Town Manager Mark Biberdorf stated that he had received an email about this as well.

Town Manager Mark Biberdorf stated that the plant had been there long before Windstone was ever built, and they are trying to be a good neighbor. About 10/11 years ago they put a muffler on there to try and dampen the sound. However, there is noise in the plant when they release the steam from the manufacturing process. I know we want to be responsive, but this is not something new.

Mayor Pro-Tem Trevor Lance said that someone contacted him about the Farmer's Market saying that the person put in for all the days but was only given a few, and he asked was it getting full.

Town Manager Mark Biberdorf stated that, yes, it was, and they are as they had way more applications than openings.

Councilmember Jim Player stated the same thing about the market as well.

Discussion Followed:

The council does agree that they want priority to be given to farmers as it is a Farmer's Market.

Mayor Pro-Tem Trevor Lance also said that he had a request from North Hillcrest Road as they wanted the town to take it over.

Town Manager Mark Biberdorf stated that, essentially, roads that are built after a certain date in order for the town (per our regulations) to take a road over, the homeowners have to bring it up to NCDOT standards/specifications.

Discussion Followed:

## Department Reports

### March Reports

### Adjourn

**Mayor Blakely** asked for a motion to adjourn.

Councilmember Jim Player motioned to adjourn, and it was seconded by Mayor pro-Tem Trevor Lance.

Motion all in favor.

Adjourned at: 7:14 pm

### Upcoming Events

**Regular Meeting April 14, 2025, at 6:00 pm**

**LGCCA April 15, 2025, at 3:00 pm (Fletcher Hosting)**

**Easter Egg Hunt Saturday, April 12, 2025**

**Spring Shred Pill drop event Saturday, April 12, 2025, 9:00 to 12:00 pm**

**Agenda Review Meeting May 5, 2025, at 6:00 pm**

**Budget Workshop Meeting May 8, 2025, at 9:00 am**

**Regular Meeting May 12, 2025, at 6:00 pm**

Approved.

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Date

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Signed

Town of Fletcher  
Town Council Regular Meeting  
Minutes  
April 14, 2025

**Call the meeting to order at: 6:00 PM**

Those who were in attendance are as follows:

Mayor Preston Blakely  
Mayor Pro-Tem Trevor Lance  
Councilmember Amber McKinney  
Councilmember Keith Reed  
Councilmember Jim Player  
Town Manager Mark Biberdorf

**Moment of Silence:**

Mayor Blakely led the group in a moment of silence.

**Pledge of Allegiance:**

Mayor Blakely led the group in the Pledge of Allegiance.

**Public Comments:**

Andrew Davis of 15 Regent Drive Fletcher stated that he is the president of the HOA in St Johns Woods Subdivision, and he asked about the town changing the laws/ordinances concerning rentals (general/short-term) and Airbnb. He stated that it is creating issues for their neighborhood.

Doug Boone of 94 Grove End Road, Fletcher, shared his concerns about this as well.

**Approval of minutes - corrections, additions or deletions**

**Agenda Review Meeting 3-3-25**

**Regular Meeting 3-10-25**

**Pre -Budget Workshop Meeting 3-18-25**

**Mayor Blakely** asked for questions or comments on the minutes and, if not, do I have a motion to approve the minutes as presented?

Councilmember Keith Reed motioned to approve the minutes and it was seconded by

Councilmember Jim Player.

Motion all in favor.

### **Council Updates**

Mayor Blakley commented on the shred event on Saturday and how successful it was along with the Easter Egg hunt in the park.

Councilmember Jim Player commented that we collected about 4,000 pounds of paper from the shred event.

### **Consent Agenda**

**Approval of year end audit contact for FY 24/25**

**Approval of Louis Linn to serve another term on the ABC Board.**

**Approval of a utility easement for Duke Energy.**

**Mayor Blakely** asked for a motion to approve the consent agenda as presented.

Councilmember Jim Player made a motion to approve the consent agenda, and it was seconded by Councilmember Keith Reed and Councilmember Amber McKinney.

Motion all in favor.

### **Discussion Items**

**Request to state legislative delegation to change filing period for municipal elections - Mark Biberdorf, Town Manager**

Town Manager Mark Biberdorf went over the change of the filing period for municipal elections from December to July. The council is agreeable to this. Changed from the primary method to the plurality method.

Discussion Followed:

**Mayor Blakely** asked for a motion to approve the change in the filling period for municipal elections from December to July.

Councilmember Jim Player motioned to approve the change in the filing period, and it was seconded by Councilmember Amber McKinney.

Motion all in favor.

## **Consideration of realignment of ABC board member terms - Mark Biberdorf, Town Manager**

Town Manager Mark Biberdorf went over the information from Quinn Woolard of the ABC Commission suggesting the realignment of the terms for the Fletcher ABC Board.

The terms would be as follows:

|                     |             |           |
|---------------------|-------------|-----------|
| Samatha Todd, Chair | 3-year term | June 2027 |
| Louis Linn          | 3-year term | June 2028 |
| Brandon Olsen       | 3-year term | June 2026 |

Discussion Followed:

**Mayor Blakely** asked for a motion to approve the realignment in the ABC Board member terms.

Mayor Pro-Tem Trevor Lance motioned to approve the change in the board terms, and it was seconded by Councilmember Keith Reed.

Motion all in favor.

## **Town Manager Report**

The park repairs are well underway by Patton Construction. You probably noticed that a lot of the fencing poles are now up. The broken concrete sections around the multi-use courts have been dug out, and they laid cement last week. The damaged fence in the dog park has been repaired. What is remaining is the patching of the multi-use courts, the rest of the poles on the ball fields and the fencing up. Some of the backstops are being repaired/replaced. We are working with McGill on getting a description of the repairs for the rest of the park that needs to happen. There has to be a scope of work for FEMA to get reimbursement for these repairs. American Electric is working on restoring the power to the park and the

Discussion Followed:

Public Works is essentially finished with the Construction & Demolition removal, and we have one other address that had a garage that was damaged by the storm, and they may have some other debris removal from that. Beyond that, we do not know of any other C & D sites. Brush is still happening. We should be caught up on that, but residents keep putting debris still out from the storm.

Discussion Followed:

Following up from last week about the noise complaint from Windstone by the Wilsonart plant, I reached out to the plant manager, and they are having their contractor look at the muffler that releases the steam to see if any modifications can be made. I have not heard back from her as yet. She did point out one other thing that all the trees that went down from the storm breaks down some of your sound dampening.

On the Farmers Market we are changing our number from 20 to 25 vendors so that everyone can get in. We are gearing up for this to manage traffic and parking. Starts May 6th at 3:00 pm. We are giving priority to farmers.

We had a question last week about the town taking over North Hillcrest Road. North Hillcrest is a DOT-maintained road, so they are responsible for maintenance. If there are any private roads, our process to consider taking a road over is that all property owners abutting the road have to file a petition requesting the road be taken over. It needs to be brought up to DOT minimum standards before the town would even consider taking the road over.

## **Department Reports**

### **March Reports**

### **Adjourn**

**Mayor Blakely** asked for a motion to adjourn

Councilmember Jim Player motioned to adjourn, and it was seconded by Councilmember Amber McKinney

Motion all in favor.

Adjourned at: 6:42 pm

### **Upcoming Events**

**LGCCA April 15, 2025, at 3:00 pm (Fletcher Hosting)**

**Agenda Review Meeting May 5, 2025, at 6:00 pm**

**Budget Workshop Meeting May 8, 2025, at 9:00 am**

**Regular Meeting May 12, 2025, at 6:00 pm**

Approved.

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Date

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Signed

## MEMORANDUM

TO: Mayor & Town Council  
FROM: Eric Rufa, Planning & Zon Dir  
COPY TO: Mark Biberdorf, Town Manager  
DATE: 4/29/2025



SUBJECT: Overview of possible amendments to the Floodplain Damage Prevention Ordinance and possible setting of public hearing for the June 9, 2025 meeting

### Background:

At their April meeting, the Fletcher Planning Board recommended several amendments to Appendix 1 of the Fletcher Land Development Code. (Specifically, the section regarding the Flood Damage Prevention Ordinance). The amendments basically call for an increase in the elevation of residential uses by one foot, which would bring the requirement to four (4) feet above the base flood elevation. This would match the highest requirement in the state at the present time (outside of coastal zones). The draft ordinance also proposes to eliminate several other uses from being allowed in designated floodplains. These uses would include:

- a) Private and Public Schools
- b) Child/Adult Day Care
- c) Housing for the Elderly (Nursing Homes and other forms of assisted living)
- d) Multi-Family Residential
- e) Public Works Facilities
- f) Mission-critical facilities, including but not limited to, police, fire, EMS, hospitals, emergency response centers, data centers, any other facilities deemed essential for important operations, services, and needing to ensure continuous operation.

### Recommendation:

The above mentioned recommendations were made. Several other technical amendments were recommended by McGill Associates in order to gain consistency with language of the state model ordinance. Staff is requesting that public hearing be set for June to consider these. No recommendations were made regarding fill limits or no-adverse impact. We need to monitor several bills approved or being considered by the State legislatures that could affect a local jurisdiction's authority on various matters before other items are considered.

### Attachments:

1. Appendix1\_FloodDamagePrev WORD Draft Rev for Planning Board Mtg 4-15-2025

**Town of Fletcher**

**FLOOD DAMAGE PREVENTION ORDINANCE**

*(Appendix 1 to the Land Development Code)*

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

**SECTION A.     STATUTORY AUTHORIZATION.**

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.

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Article 6 of Chapter 153A; Article 8 of Chapter 160A; and Article 7, 9, and 11 of Chapter 160D (Effective July 1, 2021) of the North Carolina General Statutes, delegated to local governmental units the authority to adopt regulations designed to promote the public health, safety, and general welfare.

Therefore, the Town Council of Fletcher, North Carolina, does ordain as follows:

**SECTION B.     FINDINGS OF FACT.**

- (1) The flood prone areas within the jurisdiction of The Town of Fletcher and its extra-territorial jurisdiction (ETJ) 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) help maintain a stable tax base by providing for the sound use and development of flood prone areas; and
- (7) 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 its 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.

“Appeal” means a request for a review of the Floodplain Administrator’s interpretation of any provision of this ordinance.

“Area of Special Flood Hazard” see “Special Flood Hazard Area (SFHA)”.

“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.

“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.

“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 floodplain, which may impede or alter the flow capacity of a floodplain.

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

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

- (1) the overflow of inland or tidal waters; and/or
- (2) the unusual and rapid accumulation or runoff of surface waters from any source.

“Flood 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 Federal Emergency Management Agency, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

“Flood Insurance Study (FIS)” means an examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the Federal Emergency Management Agency. 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.

“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.

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

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

“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 National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which Base Flood Elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

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

“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.

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

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

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

Prohibited Uses means uses listed within this Ordinance that the Town of Fletcher has restricted building within the Special Flood Hazard Areas.

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

“Reference Level” is the top of the lowest floor for structures within Special Flood Hazard Areas designated as Zone A1-A30, AE, A, or A99.

“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 ~~Four (4)~~ Three (3) feet of freeboard ~~for all residential uses; for all other allowable uses the freeboard shall be three (3) feet.~~ In “Special Flood Hazard Areas” where no BFE has been established, this elevation shall be at least ~~four (4) feet above the highest adjacent grade for all residential uses, and three (3) feet above the highest adjacent grade for all other allowable uses.~~

“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.

“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 its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See definition of “substantial improvement”.

**Commented [CB1]:** Another recommendation is to have a freeboard requirement for residential and another for business/industrial, (Overlay Zoning). Does this fall under the new regulatory restriction of no down-zoning? ( SB 382)

**Commented [CB2]:** This is the only location where the freeboard is given (Definition Section). Most other Flood Damage Prevention Ordinances in NC are similar as far as where this information is located. The majority of NC Flood Ordinances (Municipal and County) call for 2' of freeboard. Note: Laurel Park (which is also in Henderson County) has a stipulated freeboard of 4'.

**Commented [CB3]:** At the February 18<sup>th</sup>, 2025 Planning Board Meeting discussions took place about increasing the freeboard amount to possibly 4' or 5'. Another option was put forth to have “no impact/not development in the Special Flood Hazard Areas”.

**Commented [CB4]:** Discussion on zoning vs the Regulatory Flood Protection Elevation (RFPE). Looking into the Town of Fletcher's zoning map in relation to the Special Flood hazard Area (SFHA), it appears the residential zoning is minor compared to the remainder of the zoning designations.

“Substantial Improvement” means any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. 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.

“Threat to 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.

“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)*, of the Town of Fletcher and within the jurisdiction of any other community whose governing body agrees, by resolution, to such applicability.

#### **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 Flood Insurance Study (FIS) and its accompanying Flood Insurance Rate Maps (FIRM), for Henderson County, dated October 2, 2008, which are adopted by reference and declared to be a part of this ordinance.

The initial Flood Insurance Rate Maps are as follows for the jurisdictional areas at the initial date:  
Henderson County Unincorporated Area, dated March 1, 1982; Town of Fletcher, dated March 1, 1982.

#### **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 the Town of Fletcher 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 misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than ~~\$50.00~~ \$100.00 or imprisoned for not more than thirty (30) days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of Fletcher 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 Planning Director or his/her designee, hereinafter referred to as the "Floodplain Administrator", is hereby appointed to administer and implement the provisions of this ordinance.

**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 certification of the plot plan by a registered land surveyor or professional engineer.
- (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 Zone AE, or A 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 81-65~~ **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)(c) when solid foundation perimeter walls are used in Zones A, AE, and A1-30.
- (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 description of the development to be permitted under the floodplain development permit.
  - (b) The Special Flood Hazard Area determination for the proposed development in accordance with available data

**Commented [CB5]:** See comment next page

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, as applicable.
- (g) The flood openings requirements, if in Zones A, AE or A1-30.
- (h) Uses in enclosed areas below BFE shall be limited to parking, building access, and limited storage only.

(3) Certification Requirements.

(a) Elevation Certificates

- (i) An Elevation Certificate ~~(FEMA Form 81-31)~~ **FF-206-FY-22-152** is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to ~~mean sea level, NAVD 1988~~. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.
- (ii) An Elevation Certificate ~~(FEMA Form 81-31)~~ **FF-206-FY-22-152** 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, NAVD 1988~~. Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.
- (iii) A final as-built Elevation Certificate ~~(FEMA Form 81-31)~~ **FF-206-FY-22-152** is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy. **The Finished Construction Elevation Certificate certifier shall provide at least 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.**

(b) Floodproofing Certificate

If non-residential floodproofing is used to meet the Regulatory Flood Protection Elevation requirements, a Floodproofing Certificate ~~(FEMA Form 81-65)~~ **086-0-347**, with supporting data, an operational plan, and an

**Commented [CB6]:** This Form is still in use and acceptable. They have an updated form FF-206-FY-22-153, however, the updated form specifies "DRY" non-residential floodproofing and also ask for more information. It is more restrictive for obtaining floodproofing credit. Does the Town want to list this form?

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~~ NAVD 1988. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

- (c) If a manufactured home is placed within Zone A, AE, or A1-30 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 Zone A, AE or A1-30, 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 less than 150 square feet meeting requirements of Article 5, Section B(8).

#### **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.
- (3) Notify adjacent communities and the North Carolina Department of Crime Control and 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~~ NAVD 1988) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with the provisions of Article 4, Section B(3).
- (7) Obtain actual elevation (in relation to ~~mean-sea-level~~ NAVD 1988) 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)NAVD 1988 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 Base Flood Elevation (BFE) data have 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)(b), in order to administer the provisions of this ordinance.
- (12) When Base Flood Elevation (BFE) data are provided but no floodway or non-encroachment area data have 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 are above the Base Flood Elevation (BFE), advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the LOMA issued by FEMA in the floodplain development permit file.
- (14) Permanently maintain all records that pertain to the administration of this 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 FIS Report, 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 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 misdemeanor and shall be punished at the discretion of the court.

**SECTION E. VARIANCE PROCEDURES.**

- (1) The Zoning Board of Adjustment as established by the Town of Fletcher, 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 Base Flood Elevation (BFE) and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE will result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage possibly resulting in premiums that are cost prohibitive and not eligible for a federally backed mortgage. This could add to difficulty in resale. 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 Federal Emergency Management Agency 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

**Commented [CB7]:** Reference - NCQuickGuide20217

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.

## **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) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding to the Regulatory Flood Protection Elevation. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, hot water heaters, and electric outlets/switches.
- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.
- (7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (8) Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this ordinance.
- (9) 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.
- (10) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical

storage facilities shall not be permitted. 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).

- (11) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.
- (12) All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (13) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (14) All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- (15) When a structure is partially located in a Special Flood Hazard Area, the entire structure shall meet the requirements for new construction and substantial improvements.
- (16) When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple Base Flood Elevations (BFEs), the provisions for the more restrictive flood hazard risk zone and the highest BFE shall apply.

(17) New construction of certain facilities as listed herein shall be prohibited in the Special Flood Hazard Areas:

- a) Private and Public Schools
- b) Child/Adult Day Care
- c) Housing for the Elderly (Nursing Homes and other forms of assisted living)
- d) Multi-Family Residential
- e) Public Works Facilities
- f) Mission-critical facilities, including but not limited to, police, fire, EMS, hospitals, emergency response centers, data centers, any other facilities deemed essential for important operations, services, and needing to ensure continuous operation.

## SECTION B. SPECIFIC STANDARDS.

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data have 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 A, AE, and A1-30 Zones may be floodproofed to the Regulatory Flood Protection Elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the Regulatory Flood Protection Elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. 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

**Commented [CB8]:** Does the Town want to add something about method of elevation such as compaction of floodplain fill, distance from structure etc.? (Ref p. 48 NCQuickGuide2017)

**Commented [CB9]:** Add restriction on fill? Henderson Co. limits fill to 20% in flood fringe, but also include floodway. Under consideration now is that they will totally restrict floodway fill which Fletcher already is doing.

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:
- (a) shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;
  - (b) shall be constructed entirely of flood resistant materials.
  - (c) shall include, in Zones A, AE, and A1-30, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:
    - (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 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.
- (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.
    - (ii) a substantial improvement, both the existing structure and the addition and/or improvements must

comply with the standards for new construction.

- (b) Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.
  - (c) Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
    - (i) not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.
    - (ii) a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
- (6) Recreational Vehicles. Recreational vehicles shall either:
- (a) be on site for fewer than 180 consecutive days and 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); or
  - (b) 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)(c).

An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with Article 4, Section B(3).

**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 Base Flood Elevation (BFE) data have 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 Base Flood Elevation (BFE) data are 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 are 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 Base Flood Elevation (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 the provisions of Article 3, Section B and utilized in implementing this ordinance.
  - (d) When Base Flood Elevation (BFE) data are 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 Base Flood Elevation (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.**

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

1. **No encroachments, including fill, new construction, substantial improvements or other developments shall be permitted in the floodway and non-encroachment areas except that recreational and agricultural uses and infrastructure and utility improvements may be permitted if:**
  - (a) **it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood. Such certification and technical data shall be presented to the floodplain administrator prior to issuance of floodplain development permit, or**
  - (b) **a ~~A~~ Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained upon completion of the proposed encroachment.**
2. If Article 5, Section F(1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.
3. No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision provided the following provisions are met:
  - a. The anchoring elevation standards of Article 5, Section B(3) and,
  - b. The no encroachment standards of Article 5, Section F(1).

**Commented [CB10]:** Formatting, make this section same font and size, can still bold sentences

## **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 January 13, 2003 as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the flood damage prevention ordinance of the Town of Fletcher enacted on January 13, 2003, as amended, which are not reenacted herein are repealed.

The date of the initial flood damage prevention ordinance for the unincorporated area of Henderson County is July 5, 2005.

### **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. EFFECTIVE DATE.**

**This ordinance shall become effective October 2, 2008.**

**SECTION D.     ADOPTION CERTIFICATION.**

I hereby certify that this is a true and correct copy of the flood damage prevention ordinance as adopted by the Town Council of Fletcher, North Carolina, on the 11<sup>th</sup> day of August, 2008. ~~????~~

WITNESS my hand and the official seal of \_\_\_\_\_, this the \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

Mavor William B. Moore Preston Blakely

## MEMORANDUM

TO:

FROM:

COPY TO:

DATE:



SUBJECT: Approval of Budget Amendment #4 to the FY 24/25 Budget Ordinance.

Background:

Recommendation:

Attachments:

1. Auditors Report Fire AUP FFR
2. Amendment 4- Fire Departments Prior Year Adjustment (002)

**Independent Accountants' Report  
On Applying Agreed-Upon Procedures**

To the Mayor and Town Council of the  
Town of Fletcher

We have performed the procedures enumerated below on verification of payments made to the Fletcher Fire and Rescue Department, Inc. and the Mills River Fire and Rescue, Inc. in accordance with contracted guidelines with both fire departments for the Town of Fletcher for the year ended June 30, 2024. Town of Fletcher's management is responsible for the Town's accounting records related to the verification of payments made to the Fletcher Fire and Rescue Department, Inc. and the Mills River Fire and Rescue, Inc. in accordance with contracted guidelines with both fire departments.

Town of Fletcher has agreed to and acknowledged that the procedures are appropriate to meet the intended purpose of verification of payments made to the Fletcher Fire and Rescue Department, Inc. and the Mills River Fire and Rescue, Inc. This report may not be suitable for any other purpose. The procedures performed may not address all the items of interest to a user of this report and may not meet the needs of all users of this report and, as such, users are responsible for determining whether the procedures performed are appropriate for their purposes.

The procedures and associated findings are as follows:

We compared the collections received for the year ended June 30, 2024, adjusted for collections outside of the Fletcher Fire District and for refunds, if any, paid due to Henderson County billing errors, to the payments made by the Town of Fletcher Fire and Rescue Department, Inc. and Mills River Fire and Rescue, Inc.

The amount owed to Fletcher Fire and Rescue Department, Inc., for the year ended June 30, 2024, was \$1,832,181. Of this amount, the Town has paid \$1,733,034. Based on this comparison, there is \$99,147 additional amount due to Fletcher Fire and Rescue Department, Inc.

The amount owed to Mills River Fire and Rescue, Inc., for the year ended June 30, 2024, was \$36,196. Of this amount, the Town has paid \$20,465. Based on this comparison, there is \$15,731 additional amount due to Mills River Fire and Rescue, Inc.

We were engaged by the Town of Fletcher to perform this agreed-upon procedures engagement and conducted our engagement in accordance with attestation standards established by the AICPA. We were not engaged to and did not conduct an examination or review engagement, the objective of which would be the expression of an opinion or conclusion, respectively, on the accounting records related to the verification of payments made to the Fletcher Fire and Rescue Department, Inc. and the Mills River Fire and Rescue, Inc. Accordingly, we do not express such an opinion or conclusion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

We are required to be independent of the Town of Fletcher and to meet our ethical responsibilities, in accordance with the relevant ethical requirements related to our agreed-upon procedures engagement.

This report is intended solely for the information and use of the Mayor and Town Council of the Town of Fletcher and is not intended to be and should not be used by anyone other than those specified parties.

*Lowdermilk Church & Co., L.L.P.*

April 25, 2025

**BUDGET AMENDMENT 4**  
**Original Ordinance # 0-24-06**  
**Amended May 12, 2025**  
**0-25-03**

**REQUEST FOR BOARD ACTION**  
**TOWN OF FLETCHER**

**MEETING DATE:** May 12, 2025

**SUBJECT:** Budget Amendment 4

**ATTACHMENTS:** YES

**SUMMARY OF REQUEST:**

The Town reviews our prior year's payments to Fletcher Fire & Rescue and Mills River Fire & Rescue to see if we met our contract obligations to them. Lowdermilk Church & Co. provided this Agreed Upon Procedure to verify our payments, and any under or overpayments to each fire department.

For the 2024 tax year both Fletcher Fire & Rescue and Mills River Fire & Rescue were underpaid due to more taxes levied than budgeted. Based off the AUP, the Town owes \$99,147 to Fletcher Fire and \$15,731 to Mills River.

The attached budget amendment will adjust the Fletcher Fire Prior Year Adjustment and Mills River Prior Year Adjustment line items to account for the underpayment, and using Fund Balance Appropriated to balance the remaining portion. The Town budgeted funds within the Fletcher Fire Prior Year Adjustment line item, based off prior history so only an adjustment of \$75,147 is needed (\$99,147-\$24,000 already budgeted).

**TOWN MANAGER'S RECOMMENDATION:**

It would be appropriate for the Board to approve the attached budget amendment to increase the Fletcher and Mills River Fire & Rescue Prior Year Adjustment line items, as well as use Fund Balance Appropriated to balance.

**BUDGET AMENDMENT # 4**  
**FY 18/19 BUDGET ORDINANCE**  
**Effective May 12, 2025**

|                                     | <b>Account #</b> | <b>Debit</b> | <b>Credit</b> |
|-------------------------------------|------------------|--------------|---------------|
| <hr/>                               |                  |              |               |
| <b>General Fund</b>                 |                  |              |               |
| <b>Revenues</b>                     |                  |              |               |
| Fund Balance Appropriated           | 10-3990-0000     |              | 90,878.00     |
| <b>Expenditures</b>                 |                  |              |               |
| Fletcher Fire Prior Year Adjustment | 10-5300-4501     | 75,147.00    |               |
| Mills River Prior Year Adjustment   | 10-5300-4502     | 15,731.00    |               |

Approved this the 12<sup>th</sup> day of May 2025

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Mayor Preston Blakely

ATTEST:

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Christine Thompson, MMC, NCCMC  
Town Clerk

## MEMORANDUM

TO:

FROM:

COPY TO:

DATE:



SUBJECT: Approval of Resolution R-25-05 concerning repeal of the down zoning statute

Background:

Recommendation:

Attachments:

1. Down Zoning R-25-05-2

**RESOLUTION – REPEAL OF DOWN-ZONING STATUTE**

**WHEREAS,** the current North Carolina law under GS 160D-601 (d) states that no amendment to zoning regulations or a zoning map that down-zones property shall be initiated nor is it enforceable without written consent of all property owners whose property is the subject of the down-zoning amendment unless the down-zoning amendment is initiated by the local government; and

**WHEREAS,** the limitation of down-zoning authority under GS 160D-601(d) significantly hinders the Town of Fletcher’s ability to keep pace with community growth and to respond to emerging property use issues; and

**WHEREAS,** the right of citizens to determine future growth through their elected local representatives should be maintained; and

**WHEREAS,** various amendments to GS 160D-601 (d) have been proposed in the current session of the General Assembly, many on a local basis; and

**WHEREAS,** the current law and amendment impacts the ability of the Town of Fletcher Town council to be in compliance with the comprehensive planning requirements of GS 160D Article 5, and in doing so limits the voice of the citizens of the Town of Fletcher; and

**WHEREAS,** there is currently in the General Assembly House Bill 24, which would repeal the limitations on local government initiated down-zonings statewide; and

**WHEREAS,** it is the Mayor and Town Council’s opinion that a statewide resolution to this issue would better avoid issues of differing standards in adjoining jurisdictions, while permitting this Council to better express the will of the citizens of the Town of Fletcher.

**NOW, THEREFORE, BE IT RESOLVED** that the Mayor and Town council do hereby support a statewide restoration of the ability of local governments to initiate and legislate down-zonings without the requirement of the direct consent of the affected property owners.

Adopted this the 12<sup>th</sup> day of May 2025.

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Mayor Preston Blakely

ATTEST:

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Christine Thompson, MMC, NCCMC  
Town Clerk



## MEMORANDUM

TO:

FROM:

COPY TO:

DATE:

SUBJECT: Update on ABC store - Samantha Todd, Chairman.



Background:

Recommendation:

Attachments:

None

## MEMORANDUM

TO: Mayor & Council

FROM:

COPY TO: Heather Taylor, Assistant Town Manager

DATE: 4/29/2025

SUBJECT: Resolution opposing multiple bills in the General Assembly to strip local land use regulatory authority - Mark Bibberdorf, Town Manager



### Background:

At the recent Local Government Committee for Cooperative Action (LGCCA) meeting there was an item added to the agenda regarding General Assembly bills that have been introduced that would limit local government's authority to regulate land use. The Village of Flat Rock added the item and shared that they were holding a special call meeting to discuss the potential impact of several of these bills on their community. A resolution has since been passed by the Village of Flat Rock and shared with the other local governments in Henderson County. The attached resolution is a similar version to what Flat Rock passed in opposition to the various bills.

### Recommendation:

Council adopts the attached resolution and forwards it to the members of our legislative delegation.

### Attachments:

1. Resolution Opposing General Assembly Legislation to Strip Local Authority on Land Use Regulation

RESOLUTION CONCERNING GENERAL ASSEMBLY  
LEGISLATION DESIGNED TO REMOVE LOCAL AUTHORITY ON LAND USE MATTERS

Whereas, the Town of Fletcher, North Carolina, has noted with concern those continuing and constant legislative proposals of the North Carolina General Assembly which aim to wrest land-use decisions from the duly elected local officials;

Whereas, the basic statutory framework for N.C. city government was established in 1917, when land-use decision-making authority was designated to the municipal level. Legislative history reveals that alterations to State requirements since 1917 and until recent years, were based on appropriate study, review, and public input. Throughout this century of updates, the control of local land-use decisions and development continued to reside with locally elected officials;

Whereas, the most recent update to land-use regulation (G.S. Chapter 160D) supplied regulations that were updated, reorganized and edited for clarity. Chapter 160D, which included new requirements, was passed in 2019 after four years of extensive review, vetting, public discussion, and draft alterations. After the bill passed, guidance was provided to all N.C. land use professionals and elected officials. These elements of professional policy development and implementation were important, allowing consideration of the varying priorities across North Carolina. They also reduced the harsh consequences of land management without prior planning;

Whereas, recent legislation House Bill 765 Local Government Development Regulations Omnibus proposes that local governments be stripped of their authority over the use and development of land located within their legal boundaries, thus overturning 100 years of established State policy and procedures; negating the well-established notion that voters should have a say through elections in the governing of their communities;

Whereas, HB 765 further seeks to negate and remove established zoning, without providing due process for input by local officials or citizens, to include dictating density requirements based on population. These measures effectively remove any workable land policy development by localities;

Whereas, Senate Bill 493 is intended to eliminate or freeze use of municipal extraterritorial jurisdiction authority, which authority has been accepted since the end of the 19th century. Such action will again affect the ability of localities to follow their state-mandated Land Use Plans, will greatly impact planning for future infrastructure, and erode community compatibility;

Whereas, similar bills were introduced in the Senate within the last month, with more proposals to strip authority from locally-elected officials: SB 495, allowing accessory dwelling

units be permitted in all single-family residential zones; SB 497, requiring that "middle housing," including six-plexes, be allowed in all residential zones; SB 499, which permits residential development "by right" in all areas zoned for commercial use; and SB 688, which prohibits local government from planning, zoning or development regulation authority and further requires that cities allow at least four or five residential units per acre, depending on the size of the municipality.

Now therefore be it resolved, that the Town of Fletcher opposes all legislative efforts to remove the established authority of North Carolina municipalities to control the development of property within its legal boundaries and further petitions the North Carolina General Assembly to use policy development procedures that include the needs and desires of current citizens, and further to provide protective measures for those communities of historic importance.

Adopted this the 12<sup>th</sup> day of May 2025.

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Mayor Preston Blakely

ATTEST:

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Christine Thompson, MMC, NCCMC  
Town Clerk

## MEMORANDUM

TO: Mayor & Council

FROM:

COPY TO: Heather Taylor, Assistant Town Manager  
Jabbo Pressley, Public Works Director  
Josh Queen, Parks & Recreation Director

DATE: 4/30/2025

SUBJECT: Update on Tropical Storm Helene recovery efforts - Mark Biberdorf, Town Manager



### Background:

A memo summarizing current recovery efforts related to Tropical Storm Helene is attached for Council's information. I will provide an overview on this item at the Agenda Review meeting.

### Recommendation:

Information only.

### Attachments:

1. Memo to Council - Update on Tropical Storm Helene Recovery Efforts

## MEMORANDUM

TO: Mayor and Town Council

FROM: Mark E. Biberdorf, Town Manager 

COPY TO: Heather Taylor, Assistant Town Manager  
Jabbo Pressley, Public Works Director  
Josh Queen, Parks & Recreation Director

DATE: April 29, 2025

SUBJECT: Update on Tropical Storm Helene Recovery Efforts

### Status of Repair Work at the Park

Patton Construction started on repairs to multiple areas of Bill Moore Community Park earlier this month. This work has included partial repairs to the fencing on the ballfields and dog park. It has also included repairs to the multi-use courts. We are anticipating that all repairs under Patton's contract will be complete in May. The biggest delay to this point has been the delivery of fencing materials.

The electrical repairs at the park are nearly complete. This project was bid out to A-American Electric and they have repaired or replaced most of the damaged panels and wiring. There are some portions at the front and rear of the park that they will soon be finishing and that will complete all the electrical work.

Town staff is also working with our engineering firm to develop cost estimates and bid specification documents for the remaining repair projects. This would include repairs to the bridge at the rear of the park and the streambanks near two areas of the greenway trails. We are planning to have this bid out in May.

### Assistance with Debris Removal

Henderson County is continuing to provide debris removal services on a county-wide basis. This service is also available to Town of Fletcher businesses and residents. The County has issued a deadline of May 1<sup>st</sup> for all storm related debris to be brought to the edge of the right of way.

In an effort to be responsive to citizen requests for debris removal, the Town's Public Works Department has assisted with brush and construction and demolition material removal for the past month. Public Works has essentially completed this process at this point and has resumed normal brush collection services. Our crews will continue to assist though with any remaining debris piles that they have the capability to collect.

### FEMA Reimbursement

The Town has to date received two reimbursements from FEMA totaling \$133,552. Additional reimbursements will come in as we complete the repair work at the park.

If Council should have questions on this report prior to the Agenda Review meeting, please let me know.

MEB/meb

## Fletcher Parks and Recreation Department

### Monthly Report – April 2025

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#### Programs

##### Spring Yoga Class

Our Spring Yoga Class is in full swing and continues to go well. In addition, we partnered with Soul Summit to offer *Yoga in the Park* twice in April—free of charge for participants. The response from the community has been positive, and we're excited to continue this collaboration.

##### Easter Egg Hunt

The annual Easter Egg Hunt was a tremendous success! All age groups were at capacity, and despite chilly weather, families came out in force to enjoy the event. A special thanks to the *Boys and Girls Club Leadership kids* and *Fletcher Lutheran Church* volunteers for their support.

We're grateful to our event sponsors:

- **FABA**
- **A-American Electric Inc.**
- **Tabatha Hamlin State Farm**
- **The Prescott Auto Reserve**
- **Marthaler Jeweler**

##### Fletcher Farmers Market

We are excited to announce that Fletcher Parks and Recreation will be hosting its first-ever Farmers Market on **May 6th, 2025**, at the **south end of Town Hall**. This event will be a great opportunity for our community to support local farmers, and vendors, while enjoying a variety of fresh produce, handmade goods, and more.

##### Mocks and Masterpieces

Join us on **May 9th at 5:00 PM** at Fletcher Town Hall for *Mocks and Masterpieces*—a relaxing, beginner-friendly painting session.

What to expect:

- Guided painting instruction
- All supplies provided

- A variety of mocktails to enjoy while you paint

### **Summer Day Camp & Middle School Adventure Camp**

Preparations are underway for an exciting summer camp season. We are nearly fully staffed and are still looking to fill two remaining positions, one each for our Elementary and Middle School Camps. We look forward to welcoming campers for a season of fun and adventure!

### **Fletcher Baseball & Softball League**

We are thrilled to report a record turnout for the 2025 season, with **390 players** participating! The season will run through **May 31st**, and it is especially meaningful as our community returns to play following the challenges of Hurricane Helene. It's wonderful to see the fields filled with energy and enthusiasm once again.

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## **Facilities & Maintenance**

### **Bill Moore Community Park**

Our maintenance team has been diligently preparing the park for the spring season. With mowing in full swing, staff are working hard to keep all five baseball and softball fields ready each day.

### **Fence & Multi-Court Repairs**

Progress continues on our park improvement projects. While the fence project has experienced delays due to pending materials, we're pleased to report that repairs to the multi-court are nearly complete. We're excited to reopen this space to the community soon!

### **Concession Stand**

We're happy to announce that repairs to the concession stand are complete—just in time for opening night of the baseball and softball season! We're also excited to welcome back **Baabals Ice Cream** for the season.

### **Electrical Repairs**

A-American is in the final stages of restoring full power to Bill Moore Community Park. We expect all systems to be fully operational very soon."

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## **Employment**

We are happy to report that the Parks and Recreation Department is now **fully staffed**.

**Public Works Department  
Monthly Report  
April 2025**

Brush Pick Up

At this time, Public Works has resumed brush collection. Public Works is currently hauling the brush to our facility where contractors for FEMA are collecting it. For the month of March, Public Works collected 256 brush orders which produced 432 Cyds of brush.

For our spring leaf collection, Public Works collected 54 work orders which produced 30 Cyds of leaves. These are disposed at the Henderson County Landfill.

Vehicles

Maintenance was performed on 14 police cars, 6 Public Works Vehicles and 2 P&R vehicles.

Sanitation

Public Works collected 187.00 tons of garbage for a daily average of 8.52 tons. Public Works collected 12 white goods.

Bill Moore Community Park

Public Works removed all the old fencing materials from the Park. We are allowing the contractor to use our lot to store the material for repairs.

## **Monthly Update— April, 2025**

### **Planning & Zoning**

**Planning Board/ZBA** – The Planning Board met on April 15. At the meeting, the Board finalized recommendations on several potential amendments to the Town’s floodplain development regulations. Staff will give Council an overview at the May 5 agenda meeting and request a public hearing for June. The Board recommended that the elevation requirement be increased by one foot to a min. 4 foot above BFE freeboard. Also, a number of specific uses are being recommended to be prohibited from any designated floodplains. A few other technical amendments are proposed that makes our ordinance consistent with the state model ordinance. The planning board now has a vacancy for the District 4 seat as long time member Joe Tandy has had to step down.

- Continued day to day issuance of permits, fielded inquiries about potential new developments, and responded to miscellaneous complaints (various complaints involving zoning, solid waste, and/or junked vehicles.
- Continued work on implementation of various minimum measures related to the Town’s MS4 Stormwater Permit. Continued discussions and work with Mary Roderick from LOS and Chris Brown from McGill on various aspects of the program.
- Attended the March meeting of TCC (advisory board to the FBRMPO)
- Have been continuing work with owners of properties affected by Helene. Met again with reps from FEMA on 3/12 who are continuing to check in regarding our “substantial damage” process. I have had dealings with all of the owners or tenants of affected structures at this point. We have seen several manu homes replaced and built to current elevation requirements. I am working with several owners who are awaiting assistance and/or insurance. As best as possible, I am trying to steer folks toward various agencies to inquire about assistance. I have had one instance where illegal repairs have been made to a manu home, and am working with the owner to bring about compliance regarding elevation/anchoring.

# **Administration Monthly Report**

## **Heather Taylor, Assistant Town Manager**

### **April 2025**

#### ***Assistant Town Manager:***

- **Hurricane Helene/FEMA Park Recovery:**
  - Fencing, electrical, and court repair projects began in April, and will continue through May.
  - Bridge and streambank repair projects will be advertised for bid on May 5, with bids due on May 27.
- **Website/Facebook:**
  - Continuing to update the Town's website with current Town information as well as trying to post to the Town's Facebook account a couple times a week.
- **ARPA Funding-**
  - Submitted our fourth Project Expenditure report to the US Treasury in advance of the 4/30 deadline.

#### ***Finance:***

- **Taxes for 2024-** we have collected approximately 99.76% of taxes levied for 2024 as of the end of April.
- **Business Registration Revenue-** continued collection on our outstanding business registration receivables, and as of the end of April we are down to just one outstanding receivable.
- **Budgets for 25/26-** During the month of April, Mark & I worked on finalizing the budget requests in preparation for our budget workshop on 5/8.
- **FY 24/25 Audit-** LGC approved our audit contract, and dates were selected for early August and early October to conduct the Town's FY 24/25 audit.
- **GASB 101-** A new accounting standard goes into effect with the FY 24/25 financial statements, so I've been working and studying on how to implement this new accounting standard prior to finishing our FY 24/25 audit.

#### ***Human Resource:***

- **Employment-**
  - Part-Time/Seasonal:
    - P/T Summer Day Camp Counselors- Interviews were held during April, and the Parks/Rec staff hope to wrap up their hiring in early May.
    - Summer Internship- Interviews were held in April.
- **Wellness-**
  - Employee Gym- Over 60 hours of exercise by employees occurred during April in the employee wellness gym.
- **Insurance-** Heather has been working with our health insurance broker on renewal rates for medical and dental insurance for our next renewal date for June 2025-May 2026.