

## ARTICLE 14

### FLOODPLAINS, DRAINAGE, STORM WATER MANAGEMENT & WETLAND PROTECTION

#### **Section 14.1 Flood Hazard (FP) Regulations**

The flood hazard areas within the zoning jurisdiction of the Town of Mineral Springs, North Carolina are subject to periodic inundation which results in loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base; all of which adversely affect the public health, safety and general welfare. These flood losses are caused by:

- 1) The cumulative effect of obstruction in Floodplains causing increases in flood heights and velocities.
- 2) The occupancy of flood hazard areas by uses vulnerable to floods or hazardous to other lands that are inadequately elevated, flood proofed, or otherwise unprotected from flood damages. These regulations shall therefore only be applicable in Floodplain areas in the Town of Mineral Springs as designated by the Federal Emergency Management Agency (FEMA) in its most recent Flood Insurance Study for the Town of Mineral Springs.

#### **Section 14.2 Statement of Purpose**

The objectives of these Floodplain regulations are:

- 1) To protect human life and health.
- 2) To minimize expenditure of public money for costly control projects.
- 3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
- 4) To minimize prolonged business interruptions.
- 5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, and streets and bridges located in Floodplains.
- 6) To help maintain a stable tax base by providing for the sound use and Development of flood-prone areas in such a manner as to minimize future flood blight areas.

#### **Section 14.3 Definitions**

The following definitions shall be applicable to any areas that are subject to these regulations only. Definitions of other terms are found in Section 2.2 of this Ordinance. For purposes of any areas that are subject to these regulations, wherever a conflict exists between a definition of a word herein described and one found in Section 2.2 of this Ordinance, the definitions listed herein shall apply.

**Accessory Structure.**

A structure that is 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.

**Addition to an Existing Building.**

Any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a fire wall. Any walled and roofed addition that is connected by a fire wall or is separated by independent perimeter load-bearing walls is new construction.

**Area of Special Flood Hazard.**

The land in the Floodplain within the Town’s zoning jurisdiction subject to a one (1) percent or greater chance of flooding in any given year.

**Base Flood.**

The flood occurring in a Floodplain having a one (1) percent chance of being equaled or exceeded in any given year based on existing conditions land use.

**Base Flood Elevation (BFE).**

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 or State or other source using FEMA approved engineering methodologies. This elevation, when combined with the Freeboard, establishes the Regulatory Flood Protection Elevation.

**Basement.**

The lowest level or story of a building which has its floor subgrade on all sides.

**Building.**

Any structure built for support, shelter, or enclosure for any occupancy or storage.

**Development.**

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.

**Drainage Easement.**

An area of land dedicated for the purpose of conveying storm water runoff by means of an open channel or drainage pipe.

**Dry Public Street.**

A public street at the intersection of a proposed driveway where the surface of the pavement is

at an elevation above the FEMA Base Flood Elevation or the Future Base Flood Elevation [if required by Section 14.14(6) of this Ordinance].

**Dryland Access.**

A gravel, paved, or concrete access route, at least ten (10) feet wide, which is above the FEMA Base Flood Elevation or the Future Base Flood Elevation [if required by Section 14.14(6) of this Ordinance] and connects a habitable building to a dry public street.

**Elevated Building.**

A non-basement building that has its lowest elevated floor raised above ground by foundation walls, shear walls, posts, piers, pilings, or columns.

**Existing Construction.**

For the purposes of determining rates, structures for which the start of construction commenced before the effective date of the Flood Insurance Rate Map (FIRM) or before January 1, 1975, for FIRMs effective before that date. The term “existing construction” may also be referred to as “existing structures”.

**Existing Manufactured Home Park or Manufactured Home Subdivision.**

A parcel (or contiguous parcels) of land, divided into two (2) or more manufactured home lots for rent or sale, for which the construction of facilities for servicing the lot on which the manufactured home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the implementation date of this zoning district.

**Expansion to an Existing Manufactured Home Park or Subdivision.**

The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete slabs).

**FEMA.**

The Federal Emergency Management Agency.

**FEMA Base Flood.**

The Base Flood determined using existing land use conditions.

**FEMA Flood Fringe Area.**

The land area located between the FEMA Floodway Encroachment Lines and the line depicting the maximum elevation subject to inundation by the FEMA Base Flood as defined herein.

**FEMA Flood Fringe Line.**

The line on a map that depicts the outer limits of the FEMA Flood Fringe Area

**FEMA Floodway.**

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the FEMA Base Flood, without cumulatively increasing the water surface elevation more than 0.5 feet.

**FEMA Floodway Encroachment Lines.**

The lateral limits of the FEMA Floodway.

**Flood or Flooding.**

A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters or the unusual and rapid accumulation or runoff of surface waters from any source.

**Flood Hazard Boundary Map (FHBM).**

An official map of the Town of Mineral Springs zoning jurisdiction, issued by the Federal Insurance Administration, where the boundaries of the areas of special flood hazards have been designated as Zone A.

**Flood Insurance Rate Map (FIRM).**

An official map of the Town of Mineral Springs zoning jurisdiction on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the Town's zoning jurisdiction.

**Flood Insurance Study.**

The official report provided by the Federal Insurance Administration, which contains flood profiles, as well as the Flood Hazard Boundary Map and the water surface elevation of the Base Flood.

**Floodplain.**

Any land area susceptible to being inundated by water from the base flood. As used in this Ordinance, the term refers to that area designated as subject to flooding from the Base Flood (one hundred year flood) on the 'Flood Hazard Boundary Map' or 'Flood Insurance Rate Map' prepared by the U.S. Department of Housing and Urban Development, or the Federal Emergency Management Agency and dated July 18, 1983 (or latest revision thereof), a copy of which is on file in the Administrator's office. Floodplain may also be referred to as a 'Special Flood Hazard Area' (SFHA).

**Floodplain Administrator.**

The individual appointed to administer and enforce the Floodplain Management Regulations. The Mineral Springs Zoning Administrator shall be considered to be the Floodplain

Administrator and is assigned to administer the regulations of Article 14 – Floodplains, Drainage, Stormwater Management and Wetland Protection.

**Floodplain Development Permit.**

A permit that is required in conformance with the provisions of this Ordinance, prior to the commencement of any Development activity.

**Floodplain Management Regulations.**

Those regulations found in Article 14 – Floodplains, Drainage, Stormwater Management and Wetland Protection of the Mineral Springs Zoning Ordinance and other applicable sections of the Zoning Ordinance, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in Flood prone areas. This term describes federal, state or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

**Floodway.**

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.**

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, bridge openings, and the hydrological effect of urbanization on the watershed. The Base Flood Elevation plus the freeboard establishes the “Regulatory Flood Protection Elevation”.

**Functionally Dependent Facility.**

A facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sale, or service facilities.

**Future Base Flood.**

The flood occurring in a Floodplain having a one (1) percent chance of being equaled or exceeded in any given year determined using future conditions land use hydrology.

**Future Base Flood Elevation.**

The water surface elevation for the one (1) percent annual chance flood determined using future conditions land use hydrology as determined in accordance with this Ordinance.

**Future Flood Fringe Line.**

The line indicating the limits of the area inundated by one (1) percent annual chance flood

using future conditions land use hydrology as determined in accordance with this Ordinance.

**Future Floodplain.**

Any land area susceptible to being inundated by water from the one (1) percent annual chance flood using future conditions land use hydrology as determined in accordance with this Ordinance.

**Hazardous Waste Management Facility.**

A facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste as defined in NCGS Article 9 of Chapter 130A.

**Highest Adjacent Grade.**

The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of the structure.

**Historic Structure.**

Any structure that is (a) listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register; or, (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; or, (c) individually listed on a State inventory of historic places; or, (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by an approved state program as determined by the Secretary of Interior or directly by the Secretary of Interior in states without approved programs.

**Lowest Adjacent Grade (LAG).**

The elevation of the ground, sidewalk, patio slab, or deck support immediately next to the building after completion of the building. For Zone A and AO, use the natural grade elevation prior to construction.

**Lowest Floor.**

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 storage in an area other than a basement area is not considered a building's lowest floor provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this section.

**Mean Sea Level.**

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.

**Mobile Home (manufactured home).**

A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “mobile home” does not include “recreational vehicle”.

**New Construction.**

Structures for which the ‘start of construction’ commenced on or after the effective date of these Floodplain Regulations.

**New Manufactured Home Park or Subdivision.**

A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete slabs) is completed on or after the effective date of these Floodplain regulations.

**Non-Encroachment Area.**

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the Future Base Flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.

**Recreational Vehicle.**

A vehicle which is (a) built on a single chassis; (b) four hundred (400) square feet or less when measured at the maximum length and width; (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 a temporary living quarters for recreational, camping, travel, or seasonal use.

**Regulatory Flood Protection Elevation.**

The elevation to which all structures and other Development located within the Special Flood Hazard Areas must be elevated or flood proofed if non-residential. Within areas where the FEMA Base Flood Elevation is utilized this elevation shall be two (2) feet above the FEMA Base Flood Elevation. Within areas where the Future Base Flood Elevations have been determined, this elevation shall be one (1) foot above the Future Base Flood Elevation.

**Remedy a Violation.**

To bring the structure or other Development into compliance with state or local 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 these regulations or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other Development.

**Salvage Yard.**

Property used for the storage, collection, and/or recycling of any type of equipment whatsoever, whether industrial or noncommercial, and including but not limited to vehicles, appliances and related machinery.

**Solid Waste Disposal Facility.**

Any facility involved in the disposal of solid waste, as defined in NCGS 130A-290(a)(35).

**Solid Waste Disposal Site.**

Defined as in NCGS 130A-290(a)(36).

**Special Flood Hazard Area (SFHA).**

The land in the floodplain subject to a one (1) percent or greater chance of being flooded in any given year. SFHA may also be referred to as “Floodplain” in these regulations.

**Start of Construction.**

The first placement of permanent construction of structure (including a manufactured home) on site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or the placement of 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 the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units, or not as 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.**

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

**Substantial Damage.**

Damage of any origin sustained by a structure whereby the cost of restoring the structure to it's before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

**Substantial Improvement.**

Any repair, reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures that have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either: any project of improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to ensure safe living

conditions; or any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

**Substantially Improved Existing Manufactured Home Park or Subdivision.**

Where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceed fifty (50) percent of the value of the streets, utilities and pads before the repair, reconstruction, or improvement commenced.

**Violation.**

The failure of a structure or other Development to be fully compliant with the Town's Floodplain Management Regulations. A structure or other Development without the elevation certificate, other certifications, or other evidence of compliance required herein is presumed to be in violation until such time as that documentation is provided.

**Watercourse.**

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.

**Water Surface Elevation (WSE).**

The height, in relation to mean sea level, of floods of various magnitudes and frequencies in the Floodplains of coastal or riverine areas

**Section 14.4 Relationship of Flood Plain Regulations to Underlying Primary Zoning District**

These regulations are established to provide for certain additional requirements in FEMA designated Floodplain areas. Thus, in addition to the requirements of the underlying general zoning district, the provisions of these Floodplain regulations would also prevail in such areas. In any instance where the requirements of these Floodplain regulations and the primary zoning district conflict, the more restrictive requirements apply.

**Section 14.5 Adoption of the Official Flood Hazard Maps**

The Special Flood Hazard Areas identified by FEMA in its most recent Flood Insurance Study for the Town of Mineral Springs with accompanying maps and other supporting data, and any revisions thereto are adopted by reference and declared to be a part of these regulations. Copies of this study and these maps shall be on file in the offices of the Town Clerk.

**Section 14.6 Floodplain Development Permit Required**

A Floodplain Development Permit (FDP) shall be required in conformance with the provisions of these regulations prior to the commencement of any Development activities. No structure or land shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of these regulations and other applicable regulations.

### **Section 14.7 Interpretation**

In the interpretation and application of these Floodplain regulations, all provisions shall be: 1) considered as minimum requirements; 2) liberally construed in favor of the Town of Mineral Springs; and 3) deemed neither to limit nor repeal any other powers granted to the Town under North Carolina Statutes.

### **Section 14.8 Warning and Disclaimer of Liability**

The degree of flood protection required by these Floodplain regulations is considered reasonable for regulatory purposes and is future based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. These Floodplain regulations do not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free of flood damages. These regulations shall not create liability on the part of the Town of Mineral Springs or by any officer or employee thereof for any flood damages that result from reliance on these regulations or any administrative decision lawfully made hereunder.

### **Section 14.9 Permit and Certification Requirements**

In general, Development within a Floodplain is severely restricted per Section 14.14(1) of this Ordinance. The following provisions apply for the limited instances when Development may take place in a Floodplain. Prior to issuing a Floodplain Development Permit for any structure or Development located or appearing to be located within a Floodplain, the Zoning Administrator shall require the applicant to submit a plot plan which shows the location of the one hundred (100) year Floodplain contour as shown on the FIRM and the location of the Future Flood Fringe Line [if required per Section 14.14(6) of this Ordinance] or a statement that the entire lot lies within a Floodplain. The plot plan must be prepared by or under the direct supervision of a North Carolina registered land surveyor or professional civil engineer and certified by the same and show the location of the Floodway as shown on the FIRM or FHBM or the setback required for streams without designated Floodways.

Where Base Flood and/or Future Base Flood Elevation data is provided in accordance with Section 14.5 of this Ordinance, the application for a Floodplain Development Permit within Zone A or AE on the FIRM shall show:

- 1) The elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures.
- 2) The elevation in relation to mean sea level to which any non-residential structure has been flood proofed in accordance with Section 14.15(11)(b) of this Ordinance.

Where the Base Flood Elevation and/or Future Base Flood Elevation data is not provided, the application for a Floodplain Development Permit must include a flood study prepared by a professional civil engineer indicating the one (1) percent annual chance flood elevation at the site using either existing or future land use hydrology, per Section 14.14(6) of this Ordinance, whichever is applicable.

Where any watercourse will be altered or relocated as a result of proposed Development, the application for a Floodplain Development Permit shall include or be accompanied by a description of the extent of watercourse alteration or relocation; 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 of the property line; and a map showing the location of the proposed watercourse alteration or relocation.

When a structure is flood proofed, the application shall be accompanied by a certificate from a registered professional engineer or architect stating that the non-residential flood proofed structure meets the flood proofing criteria in Section 14.15(11)(b) of this Ordinance.

A floor elevation or flood proofing certification must be submitted to the Zoning Administrator within twenty-one (21) calendar days of establishment of the lowest floor elevation, or flood proofing by whatever construction techniques. It shall be the duty of the permit holder to submit to the Zoning Administrator a certification of the elevation of the lowest floor, flood proofed elevation, as built, in relation to mean sea level after construction is complete, prior to the issuance of a certificate of occupancy. Said certification shall be prepared by or under the direct supervision of a North Carolina registered land surveyor or professional engineer and certified by same. When flood proofing is utilized for a particular building, said certification shall be prepared by or under the direct supervision of a North Carolina professional engineer and certified by same. Any work done within the twenty-one (21) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Zoning Administrator shall, in a timely manner, review the floor elevation survey as submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project. Any work completed by the permit holder prior to Zoning Administrator approval, shall be at the permit holder's own risk.

#### **Section 14.10 Duties and Responsibilities of the Floodplain Administrator**

The Zoning Administrator (and any other staff assigned to administer these regulations) shall be considered to be the Floodplain Administrator.

The duties of the Floodplain Administrator shall include, but not be limited to:

- 1) Reviewing all Floodplain Development Permits to assure that the permit requirements of these regulations have been satisfied.
- 2) Advising permittee that additional Federal or State permits may be required and requiring that copies of such permits are provided and maintained on file with the zoning permit.
- 3) Notifying 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 submitting evidence of such notification to the Federal Emergency Management Agency.
- 4) Assuring that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

- 5) Preventing encroachments within Floodplains and Floodways unless the certification and flood hazard reduction provisions of this Section are met.
- 6) Verifying and recording the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been flood proofed.
- 7) Verifying and recording the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures.
- 8) Obtaining certification from a registered professional engineer or architect when flood proofing is utilized for a particular structure.
- 9) Interpreting, where interpretation is needed, the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). Any person contesting the location of a boundary shall be given a reasonable opportunity to appeal said interpretation as herein provided.
- 10) When Base Flood Elevation and/or Future Base Flood Elevation data has not been provided under Section 14.5 of this Ordinance, obtaining, reviewing, and reasonably utilizing any Base Flood Elevation data, Floodway data and preliminary maps available from a federal, state, or other source in order to administer the provisions of this Section.
- 11) Maintaining records pertaining to the provisions of this Section, which shall be open to public inspection.
- 12) Performing onsite inspections of projects in accordance with Section 14.12 of this Ordinance. The Town shall be reimbursed by the applicant for all costs associated with the Town's engineering and/or consulting services with respect to such inspections.
- 13) Serving notices of violations, issuing stop-work orders, revoking permits and taking corrective actions in accordance with Section 14.12 of this Ordinance.
- 14) Maintaining all records pertaining to the administration of this Section and making these records available for public inspection.
- 15) Providing the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program with two (2) copies of the maps delineating new corporate limits within six months from the date of annexation or change in corporate boundaries.

#### **Section 14.11 "Reserved"**

#### **Section 14.12 Administrative Procedures**

- 1) Inspections of Work in Progress.** As the work pursuant to a permit progresses, the Zoning 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 these regulations and the terms of the zoning permit. In exercising this power, the Administrator has a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction at any reasonable hour for the purposes of inspection or other enforcement action.
- 2) Stop Orders.** Irrespective of all other administrative procedures contained in these regulations, whenever a building or part thereof is being constructed, reconstructed, altered

or repaired in violation of these regulations, the Administrator may order the work to be immediately stopped. The stop work order shall be in writing and be directed to the person doing the work. The stop work order shall state the specific work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed.

- 3) Revocation of Permits.** The Zoning Administrator may revoke and require the return of the zoning permit by notifying the permit holder in writing stating the reason for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentations made in securing the permit. Any permit mistakenly issued in violation of an applicable state or local law may also be revoked.
- 4) Periodic Inspections.** The Zoning Administrator and each member of his/her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises at any reasonable hour for the purposes of inspection or other enforcement action.
- 5) Violations to be Corrected.** When the Zoning Administrator finds violations of applicable state and local laws, it shall be his/her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall each immediately remedy the violations of law in the property he/she owns.
- 6) Actions in Event of Failure to Take Corrective Action.** If the owner of a building or property fails to take prompt corrective action, the Zoning Administrator shall give him written notice, by certified or registered mail to his/her last known address or by personal service of the following:
  - a) That the building or property is in violation of these regulations.
  - b) That a hearing will be held with the Zoning 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.
  - c) That following the hearing, the local Administrator may issue such order to alter, vacate, or demolish the building; or to remove fill as appears appropriate.
- 7) Order to Take Corrective Action.** If, upon a hearing held pursuant to the notice prescribed above, the Zoning Administrator shall find that the building or Development is in violation of these regulations, he/she shall make an order in writing to the owner, requiring the owner to remedy the violation, within such period, not less than sixty (60) days, the Zoning Administrator may prescribe; provided, that where the Zoning Administrator finds that there is imminent danger to life or other property, he/she may order that corrective action be taken in such lesser period as may be feasible. The Zoning Administrator and the Town of Mineral Springs as indicated in Article 10 of this Ordinance, may also take other corrective actions.
- 8) Appeal.** An action or decision made by the Zoning Administrator may be appealed to the Board of Adjustment within ten (10) days following issuance of said decision or order being made. Appeals shall be made per Section 11.2.2 of this Ordinance. In the absence of an

appeal, the order of the Zoning Administrator shall be final.

- 9) Failure to Comply With Order.** If the owner of a building or property fails to comply with an order to take corrective action from which no appeal has been taken, or fails to comply with an order of the governing body following an appeal, he/she shall be in violation of these regulations and be subject to the remedies presented in Section 10.5 of this Ordinance.

### **Section 14.13 Variances**

- 1) The Board of Adjustment shall hear and decide appeals and requests for variances from the requirements of this Section. Variance requests shall be heard in conformance with all applicable provisions of this Section and Article 11 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) The findings of fact which shall be determined by the Board of Adjustment prior to approving a variance are listed in Section 11.3 of this Ordinance. Other findings of fact that must be determined prior to issuing a variance in areas subject to these regulations are as follows:
  - a) The proposed variance has good and sufficient cause.
  - b) Failure to grant the variance will result in exceptional hardship to the applicant.
  - c) The variance will not result in increased flood heights, additional threats to public safety, extraordinary public expenses, the creation of nuisances, fraud on or victimization of the general public, or conflict.
- 4) In determining the findings of fact for a variance involving property subject to these regulations, the Board of Adjustment shall consider all technical evaluations, relevant factors, zoning standards and the following:
  - a) The danger that materials may be swept onto other lands to the injury of others.
  - b) The danger to life and property due to flooding or erosion damage.
  - c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
  - d) The importance of the services provided by the proposed facility to the community.
  - e) The necessity to the facility of a waterfront location, where applicable.
  - f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.
  - g) The compatibility of the proposed use with existing and anticipated Development.
  - h) The relationship of the proposed use to the comprehensive plan and Floodplain Management Regulations for that area.
  - i) The safety of access to the property in the time of flood for ordinary and emergency vehicles.

- j) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site.
  - k) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets.
  - l) The fact that the lot was part of a subdivision which was recorded prior to May 6, 2003.
- 5) Upon consideration of the factors listed above and the purpose of these regulations, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Article.
- 6) Variances shall not be issued within any designated Floodway or Floodplain if any material increase in flood levels during the Base Flood and/or Future Base Flood discharge (if applicable) would result as determined by the Town consulting engineer based on the data provided by the applicant.
- 7) Conditions for Variances:
- a) Variances shall not be issued when the variance will cause the structure to be in violation of other federal, state, or local laws, regulations, or ordinances.
  - b) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- 8) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation such number of feet below the Base Flood and/or Future Base Flood Elevation as is specified by the Board of Adjustment, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. Such notification shall be maintained with a record of all variance actions.
- 9) The Zoning Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.
- 10) A variance may be issued for solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met. A Floodplain Development permit may be issued for such Development only if a variance is granted.
- a) The use serves a critical need in the community.
  - b) No feasible location exists for the use outside the Special Flood Hazard Area.
  - c) The reference level of any structure is elevated or flood proofed to at least the regulatory flood protection level.
  - d) The use complies with all other applicable federal, state and local laws.
  - e) The Zoning Administrator has notified the Secretary of the North Carolina Department of Crime Control and Public Safety of its intention to grant a variance at least thirty (30) days prior to granting the variance.

## **Section 14.14 Provisions for Flood Hazard Reduction**

- 1) No encroachments, including fill, new construction, stormwater detention, substantial improvements and other Developments shall be permitted within any portion of a Floodplain, unless a variance is granted, with the following exceptions:

The Development is for greenway trails, boardwalks, pedestrian crossings, agricultural uses, forestry, parks, playground or other park related equipment, fences, provided that at least eighty (80) percent of the fence shall be open area, and shall be elevated at a minimum, one (1) foot above the ground, public utilities and facilities such as wastewater utility lines, storm drainage construction and repair with approval by the Town Consulting Engineer, gas, electrical, water systems and similar uses that are located and constructed to minimize flood damage.

- 2) With respect to mobile home parks that are nonconforming because they are located within a Floodplain, mobile homes may be relocated in such parks only if the lowest floor of relocated or replacement mobile homes are elevated at least two (2) feet above the FEMA Base Flood Elevation or one (1) foot above the Future Base Flood Elevation (if applicable), per Section 14.14(6) and 14.14 (7) of this Ordinance.
- 3) No new residential building may be constructed and no substantial improvement of a residential building may take place within any Floodplain unless a variance is granted per Section 14.13 and Section 14.15.
- 4) No new non-residential building may be constructed and no substantial improvements of a nonresidential building may take place within any Floodplain.
- 5) Lots within Floodplains shall not be approved for recordation unless the following provisions are met:
  - a) Lots wholly subject to flooding: No proposed building lot that lies wholly within the Floodplain shall be approved.
  - b) Lots partially subject to flooding: No proposed building lot that lies partially within the Floodplain shall be approved unless there is established on the plot plan a contour line representing the FEMA Base Flood Elevation or the Future Base Flood Elevation [if required per Section 14.14(6)] of this Ordinance.
  - c) Where only a portion of a proposed lot is subject to flooding as defined herein, such lot may be approved only if there will be available for building a usable lot area of not less than five thousand (5,000) square feet. The usable lot area shall be determined by deducting from the total lot area, the area of all yard setbacks required by the applicable zoning regulations and any remaining area of the lot lying within the area of the FEMA Base Flood or the Future Base Flood [if required per Section 14.14(6)] of this Ordinance.
  - d) Usable and functional part of the structure shall be defined as being inclusive of living areas, basements, sunken dens, basement utility rooms, crawlspaces, attached carports, garages, and mechanical appurtenances such as furnaces, air conditioners, water pumps, electrical conduits and wiring, but shall not include water lines or sanitary sewer traps, piping and clean-outs; provided openings serving the structure are above the FEMA Base Flood or Future Base Flood level (if applicable).

- 6) The Future Base Flood Elevation and the location of the Future Flood Fringe Line must be established for all large tract subdivisions and all non-residential Development prior to the approval of any Development in, or within one hundred (100) feet of a Floodplain.
- 7) Construction of buildings within one hundred (100) feet of the limits of the FEMA Flood Fringe Line or the Future Flood Fringe Line (measured perpendicular to the stream centerline) must have the lowest floor, including basement, elevated no lower than: two (2) feet above the FEMA Base Flood Elevation or, one (1) foot above the Future Base Flood Elevation [if required per Section 14.14(6)] of this Ordinance, or three (3) feet above the highest adjacent grade (if adjacent to an approximate Zone A area). These elevation requirements must be documented by a professional land surveyor on an as-built survey of the building.
- 8) For new non-residential Development, all areas for the parking of vehicles such as automobiles, trucks, trailers, etc may not be located within the Future Floodplain. Notwithstanding, parking areas for access to public parks and greenways may be permitted if constructed with pervious materials and shall be approved by the Zoning Administrator.

#### **Section 14.15 Development in Floodplain Permitted by Granting of Variance**

- 1) For Development in the Floodplain that is permitted by the granting of a variance, any new construction or substantial improvements shall be:
  - a) Designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure, resulting from hydrodynamic and hydrostatic loads including the effects of buoyancy.
  - b) Constructed with materials and utility equipment resistant to flood damage.
  - c) Constructed by methods and practices that minimize flood damage.
  - d) Constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- 2) Notwithstanding any other provision of this Ordinance, no mobile home may be located or relocated within the Floodplain.
- 3) No portion of a Floodplain may be altered unless the slopes are adequately stabilized to withstand the erosive force of the Future Base Flood and the Zoning Administrator approves the plans.
- 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.
- 5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- 6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood

waters.

- 7) On-site waste disposal systems shall be located 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 Section, shall meet the requirements of 'new construction' as herein contained.
- 9) Non-conforming buildings or uses may not be enlarged, replaced, or rebuilt unless such enlargement or reconstruction is accomplished in conformance with the provisions of these regulations. Provided, however, nothing in these regulations shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of these regulations and located totally or partially within the Floodway or Floodplain, provided that the bulk of the building or structure below FEMA Base Flood Elevation or Future Base Flood Elevation (if applicable) in the Floodway or Floodplain is not increased and provided that such repair, reconstruction, or replacement meets all of the other requirements of these regulations.
- 10) Dryland Access. Access to buildings in these areas during a flood event is extremely hazardous. Dryland Access must be provided to any existing or proposed habitable building on the property located in the Floodplain. Plans and details for the Dryland Access must be submitted by a registered land surveyor or professional engineer and approved by the Floodplain Administrator. If Dryland access cannot be provided, the applicant may request a variance from the Board of Adjustment of who will make a determination if the project should be approved.
- 11) Specific Standards. In all areas of special flood hazards where Base Flood Elevation and/or Future Base Flood Elevation data have been provided as set forth in Section 14.5 or Section 14.10(10) of this Ordinance, the following provisions are required:
  - a) Residential Construction. New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated three (3) feet above FEMA Base Flood Elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of flood waters shall be provided.
  - b) Nonresidential Construction. New construction or substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated no lower than two (2) feet above the level of the FEMA Base Flood or one (1) foot above the Future Base Flood Elevation [per Section 14.14(6) of this Ordinance]; or together with attendant utility and sanitary facilities, be flood proofed so that below the FEMA or Future Base Flood level (if applicable) the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Zoning Administrator as set forth in Section 14.9 of this Ordinance.
  - c) Manufactured Homes.
    - 1) Manufactured homes that are placed or substantially improved on sites:

- i) Outside a manufactured home park or subdivision.
  - ii) In a new manufactured home park or subdivision.
  - iii) In an expansion to an existing manufactured home park or subdivision.
  - iv) In an existing manufactured home park or subdivision on which a manufactured home has incurred 'substantial damage' as the result of a flood, must be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated no lower than two (2) feet above the FEMA Base Flood Elevation or one (1) foot above the Future Base Flood Elevation [per Section 14.14(6) and 14.14 (7) of this Ordinance] and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- 2) Manufactured homes that are to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the provisions of Section 14.14(2) of this Ordinance, must be elevated so that the lowest floor of the manufactured home is elevated no lower than two (2) feet above the FEMA Base Flood Elevation or one (1) foot above the Future Base Flood Elevation [per Section 14.14(6) and 14.14 (7) of this Ordinance], and be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement.
  - 3) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. For the purpose of this requirement, manufactured homes must be anchored to resist flotation, collapse, or lateral movement in accordance with the regulations for mobile homes and modular housing adopted by the Commissioner of Insurance pursuant to G.S. 143.15. Additionally, when the elevation would be met by an elevation of the chassis at least thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or other foundation elements of at least equivalent strength. When the elevation of the chassis is above thirty-six (36) inches in height an engineering certification is required.
  - 4) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the local administrator and the local Emergency Management Coordinator.
- d) Recreational Vehicles. A recreational vehicle is ready for highway use if it is on wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions. Recreation vehicles placed on sites shall either:
- 1) Be on site for fewer than one hundred-eighty (180) consecutive days.
  - 2) Be fully licensed and ready for highway use.
  - 3) Meet the requirements of Section 14.9 and Section 14.15(1) of this Ordinance.
- e) Elevated Buildings. New construction or substantial improvements of elevated buildings that include fully enclosed areas that are usable solely for the parking of vehicles, building access or storage in an area other than a basement and which are subject to

flooding shall be designed to preclude finished living space and be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater.

- 1) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:
    - i) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.
    - ii) The bottom of all openings shall be no higher than one foot above grade.
    - iii) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwater in both directions.
  - 2) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator); and
  - 3) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
- f) Temporary Structures. Prior to the issuance of a zoning permit for a temporary structure, the following requirements must be met:
- 1) All applicants must submit to the Zoning Administrator a plan for the removal of such structure(s) in the event of a hurricane or flash flood notification. The plan must include the following information:
    - i) The name, address and phone number of the individual responsible for the removal of the temporary structure.
    - ii) The time frame prior to the event at which a structure will be removed.
    - iii) A copy of the contract or other suitable instrument with a trucking company to insure the availability of removal equipment when needed.
    - iv) Designation, accompanied by documentation, of a location outside the Floodplain to which the temporary structure will be moved.
    - v) The length of validity of the temporary use permit. The above information shall be submitted in writing to the Zoning Administrator for review and written approval.
- g) Accessory Structures, Minor. When minor accessory structures (any shed, gazebo, detached garage, etc.) with all walls less than twelve (12) feet in length and width or any minimum impact structure, such as pole barns, sheds, and other buildings with no exterior walls, are to be placed in the Floodplain, the following criteria shall be met:
- 1) Accessory structures shall not be used for human habitation.
  - 2) Accessory structures shall be designed to have low flood damage potential and be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.

- 3) Accessory structures shall be firmly anchored in accordance with Section 14.15(1)(a) of this Ordinance.
  - 4) Service facilities such as electrical and heating equipment shall be elevated in accordance with Section 14.15(1)(d) of this Ordinance.
  - 5) Openings to relieve hydrostatic pressure during a flood shall be provided below the FEMA Base Flood or Future Base Flood Elevation (if applicable) in accordance with Section 14.14(11)(e) of this Ordinance.
- h) Accessory Structures, Major. When major accessory structures (sheds, detached garages, barns, stables, etc.) with any walls exceeding twelve (12) feet in length and width are to be placed in the Floodplain, the following criteria shall be met when granting a variance:
- 1) Accessory structures shall not be used for human habitation.
  - 2) No other feasible location outside the Floodplain exists.
  - 3) Accessory structures shall be designed to have low flood damage potential and be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
  - 4) Accessory structures shall be firmly anchored in accordance with Section 14.15(1)(a) of this Ordinance.
  - 5) Service facilities such as electrical and heating equipment shall be elevated in accordance with Section 14.15(1)(d) of this Ordinance.
  - 6) Openings to relieve hydrostatic pressure during a flood shall be provided below the FEMA Base Flood or Future Base Flood Elevation (if applicable) in accordance with Section 14.14(11)(e) of this Ordinance.
- i) Floodways. Located within areas of Special Flood Hazard established in Section 14.5 of this Ordinance, are areas designated as Floodways. Since the Floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

No encroachments, including fill, new construction, substantial improvements and other Developments shall be permitted unless it has been demonstrated through hydrologic and hydraulic analyses performed and certified by a registered professional civil engineer, in accordance with standard engineering practice that the proposed encroachment would not result in any (0.00') increase in the flood levels during the occurrence of the Base Flood and/or Future Base Flood (if applicable). Such certification and technical data shall be presented to the Zoning Administrator for any change which would cause a rise in the Base Flood and/or Future Base Flood Elevation (if applicable) and will require notification of adjoining property owners and a Conditional Letter of Map Revision from FEMA. If approved and constructed, as-built plans must be submitted by the property owner and approved by FEMA and a Letter of Map Revision issued. A Certificate of Occupancy will not be issued without the above stated Letter of Map Revision.

- 12) New solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted in Special Flood Hazard Areas. 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 flood proofed to at least the regulatory flood protection elevation and certified according to Section 14.9 of this Ordinance.

**Section 14.16 Standards for Streams without Established Base Flood Elevations and/or Future Base Flood Elevations or Floodways**

Located within the Special Flood Hazard Areas established in Section 14.5 of this Ordinance, small streams exist but where no Base Flood or Future Base Flood data has been provided or where no Floodways have been provided, the following provisions apply:

- 1) No encroachments, including fill material or structures shall be located within a distance of the stream bank equal to five (5) times the width of the stream at the top of bank or twenty (20) feet each side from top of bank, whichever is greater, unless certification 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 and/or Future Base Flood (if applicable) discharge.
- 2) New construction or substantial improvements of structures shall be elevated or flood proofed in accordance with elevations established in accordance with these Regulations. Base flood and Future Base Flood Elevation (if applicable) data must be developed by a professional civil engineer and the lowest floor, including basement, shall be elevated, at least one (1) foot above the calculated Future Base Flood Elevation or two (2) feet above the FEMA Base Flood Elevation, whichever is applicable per Section 14.14 (6) and Section 14.14 (7).
- 3) All subdivisions including, manufactured home parks and non-residential Development proposals shall provide FEMA Base Flood Elevation and/or Future Base Flood Elevation data which ever is applicable. Such Base Flood Elevation data shall be adopted by reference and used to regulate new Development.

**Section 14.17 Standards for Subdivision Proposals**

- 1) All subdivision proposals shall be consistent with the need to minimize flood damage.
- 2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- 3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

**Section 14.18 Minimum Drainage Easement Requirements for Storm Drain Pipes and Open Channels**

Drainage easements shall be established and recorded for all lots containing storm drainage pipes or channels. No structure, with the exception of a fence, shall be erected across or within a drainage easement. Fences are allowed provided that at least eighty (80) percent of the fence shall be open area, and shall be elevated at a minimum, one (1) foot above the ground to prevent the restriction or obstruction of the natural flow of water. The following table shall be used as a minimum for drainage easements for all open channels and streams:

- <25 acres – 20 feet
- <50 acres – 30 feet
- <75 acres – 40 feet\*
- >75 acres – 50 feet\*

In addition, all drainage pipes shall have a minimum drainage easement width of twenty (20) feet. The strip of land in the drainage easement to a stream or river shall be retained in its natural vegetative state unless prior approval from the Zoning Administrator is obtained. The above table is intended for a guide and as a minimum and is not intended to be used in place of accepted Engineering practice.

\*Each plat containing drainage easements for watershed areas exceeding Q 100 = 50 cubic feet per second will require the following Engineering certification:

I \_\_\_\_\_, a duly registered Professional Engineer, licensed in the State of North Carolina, do hereby certify that the drainage easements shown on this plat are sufficient to carry the 100 year storm runoff within the easement limits as shown.  
 N.C. P.E. # \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_  
 (Signature and Seal)

**Easement Requirements for Storm Drain Pipe:**

Pipe Size	Easement Requirement
15"	20'
18"	20'
24"	20'
30"	20'
36"	20'
42"	25'
48"	25'
54"+	30' min (varies)

General Notes:

- a) For open channels the minimum easement must contain the width of the stream from top of bank to top of bank.
- b) Wider easement widths may be required for pipe depths greater than ten feet.
- c) Pipe systems and open channels on private property shall be placed in a storm drainage easement.