

Chapter 32 STORM RECONSTRUCTION¹

Sec. 32-1. Intent of chapter.

Following a damaging storm and enactment of a building moratorium it is the intent of the town to allow rebuilding and reconstruction in an orderly manner. The town will control the issuance of building permits to manage the location, timing, and sequence of reconstruction and repair. It is further the intent of this chapter that the town establish, prior to the storm, a special reconstruction task force which will oversee the recovery and reconstruction process and serve as an advisory body to the town board of commissioners on recovery/reconstruction issues. A main responsibility of this body will be to identify opportunities to mitigate future storm damages through the management of reconstruction. To further the intent of this chapter, the town will make every effort to develop its capacity to identify and orchestrate various post-storm reconstruction resources, while at the same time ensuring maximum local control over the reconstruction process.

(Code 1990, § 16-1)

Sec. 32-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Destroyed structure means a structure that is a total loss or damaged to such an extent that repairs are not technically or economically feasible, that is, 50 percent or more of replacement cost at the time of damage or destruction.

Incipient inlet means an ocean-to-sound inlet which has been formed, or an inlet in the first stages of formation, or an inlet which has opened and is now closed, as a result of a severe storm event.

Incipient inlet high hazard area means that land area on both sides of an inlet, an incipient inlet, or former inlet which has closed.

Local damage assessment team means local damage assessment team. A damage assessment team, required by the state division of emergency management, whose function is to assess losses to property immediately after a storm. The assessment is used to determine if the area can qualify for federal or state disaster assistance.

Major damaged structure means a structure that can be made habitable with extensive repairs. Damage may include foundation, roof structure, and major structural components. The indicator for this category is if the cost to repair is greater than ten percent and less than 50 percent of the replacement cost at the time of damage.

Minor damaged structure means a structure that can be made habitable in a short period of time with minimal repairs. Damage may include doors, windows, floors, furnaces, water heaters, and other minor structural damage. An indicator for this category is if the cost to repair is ten percent or less of the replacement cost at the time of damage.

¹Cross reference(s)—Buildings and building regulations, ch. 10; emergency management, ch. 14; hurricane and storm reconstruction and redevelopment; general use standards for ocean hazard areas, ch. 32, appendix; zoning, UDO; subdivisions, UDO, art. 10, pt. 5.

Storm event means any natural weather event causing damage and destruction of property. A storm event shall include, but not be limited to, hurricanes, northeasters, tornadoes, fire, waterspouts, and ice or snow storms. (Code 1990, § 16-2)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 32-3. Hurricane and storm reconstruction.

(a) *Determination of damage.* A primary task of the local damage assessment team is to identify structures which as a result of the storm event have been damaged. The local damage assessment team will recommend to the building inspector those structures which have:

- (1) Been destroyed;
- (2) Received major damage; or
- (3) Received minor damage.

The building inspector will then inspect the damaged structures and place each structure in one of the categories in this subsection (a).

(b) *Declaration of a building moratorium.* The initial post-storm reconstruction moratorium shall be declared in effect upon the occurrence of one or more of the following findings:

- (1) The town is struck by a hurricane of force equal to or greater than four on the Saffir-Simpson scale as determined by the National Weather Service;
- (2) The town is declared a disaster area by either the Governor of the state or the President of the United States;
- (3) One hundred or more structures have received major damage or have been destroyed as determined by the building inspector;
- (4) Upon the finding by the mayor, or in the absence of the mayor, the mayor pro tem of the town, of the existence of a state of emergency in accordance with G.S. 14-288, the mayor, or the mayor pro tem, as the case may be, shall declare the initial building moratorium, pursuant to G.S. 160A-174, where the mayor finds a moratorium is necessary for the protection of lives, safety and property, or due to the inability of the town to maintain acceptable levels of public order and services. The mayor may, based upon the above findings, extend the initial moratorium until such time as the state of emergency no longer exists.

(c) *Moratoriums.*

- (1) *Initial building moratorium.* Upon the declaration of a building moratorium the initial post-storm moratorium shall be in effect for a minimum period of 48 hours. No building permits shall be issued during this time period. After expiration of this initial moratorium the following moratoria shall then apply.
- (2) *Destroyed structure moratorium.* No building permit shall be issued within 30 days following the expiration of the initial moratorium for the replacement of any structure which has been destroyed. All replacement building shall be subject to meeting all the requirements of article XX, Hurricane and Storm Reconstruction and Redevelopment, an appendix to this chapter, and all applicable sections of provisions of the Unified Development Ordinance, and all applicable town codes, prior to the issuance of a building permit.
- (3) *Major damaged structure moratorium.* No building permit for repairs of a major damaged structure shall be issued for at least seven days following the expiration of the initial moratorium. All repairs to a

major damaged structure shall meet the requirements of article XX, Hurricane and Storm Reconstruction and Redevelopment, an appendix to this chapter, zoning, and all applicable sections of the provisions of the Unified Development Ordinance, and all applicable town codes, prior to issuance of a building permit.

- (4) *Minor damaged structure moratorium.* Permits for the repair of minor damaged structures may be issued following the expiration of the initial moratorium. All repairs to minor damaged structures shall meet the requirements of article XX, Hurricane and Storm Reconstruction and Redevelopment, an appendix to this chapter, and all applicable sections of the Unified Development Ordinance of this Code and all applicable town codes, prior to issuance of a building permit.
 - (5) *Incipient inlet moratorium.* The mayor or board of commissioners may on their own, or upon recommendation by the reconstruction task force, designate any land area bordering an incipient inlet, former inlet or potential inlet as an incipient inlet high hazard area. No building permits shall be issued until such time that the inlet has either closed to such a degree that re-opening is unlikely or that the inlet migration has been stabilized. The reconstruction task force shall recommend to the board of commissioners conditions which will allow for repair of existing damaged structures within the incipient inlet high hazard area.
 - (6) *Outstanding building permits moratorium.* All building permits which were issued prior to the storm event shall be revoked and shall not be reissued for a minimum period of 30 days following the expiration of the initial moratorium, unless upon finding by the chief building inspector on a case-by-case basis that sufficient inspection staff is available to adequately inspect the structures should construction begin or resume. All permits issued prior to the storm event must meet the additional requirements of the article XX of chapter 32 appendix, before construction can resume. Applications for building permits revoked under this section shall be reissued at no charge.
 - (7) *Site plan review.* Site plans which have been submitted to the town prior to the storm event shall not be reviewed by the staff, planning board or board of commissioners for a period of 30 days following the expiration of the initial moratorium. All submittal dates and review periods shall be adjusted accordingly to reflect the time period covered by this 30-day moratorium.
 - (8) *Time limit of acceptance of plans.* No new site plans, zoning requests or subdivision plats shall be accepted by the town for a period of 30 days following the expiration of the initial moratorium. All submittal dates and review periods shall be adjusted accordingly to reflect the time period covered by this 30-day moratorium.
 - (9) *Duration of moratorium.* All moratoriums other than the initial moratorium as enacted in subsection (b)(4) of this section shall be in effect for the length of time described above and may be cancelled or extended by the mayor or resolution by the board of commissioners.
 - (10) *Temporary waiver of application fees.* Upon the expiration of a building moratorium and the resuming of the acceptance of permit applications as provided for in this subsection, zoning and building permit application fees as required by provisions of the Unified Development Ordinance and chapter 10 of this Code shall be temporarily waived for a period of 90 days. This temporary waiver of application fees shall be limited to applications for the repair or reconstruction of structures that were damaged or destroyed by the storm event causing the enactment of the initial moratorium.
- (d) *Emergency repairs.* While a moratorium is in effect no construction or reconstruction activity may be undertaken, excepting only minor interior repairs and emergency repairs necessary to prevent injury or loss of life or imminent collapse or other substantial additional damage to the structure. For illustrative purposes only, items that constitute minor repairs may include temporary roof repairs to avoid further water damage, minor repairs to steps and the temporary shoring up of a structure to avoid imminent collapse.

(Code 1990, § 16-3; Ord. No. 06-06-018, Pt. I, 6-7-2006; Ord. No. 19-08-009, Pts. XXX, XXXI, 8-7-2019)

Sec. 32-4. Reserved.

Editor's note(s)—Ord. No. 06-06-022, Pt. I, adopted June 21, 2006, repealed § 32-4, which pertained to the reconstruction task force and derived from Code 1990, § 16-4.

Sec. 32-5. Temporary mobile office units.

Following a storm event for which a state of emergency has been declared in accordance with chapter 14 of this Code, self contained mobile office unit shall be permitted on-site of the business requesting the mobile office unit subject to the following conditions:

- (1) The business requesting placement of the mobile office unit shall be an established business within the town.
- (2) The business requesting placement of the mobile office unit shall be involved in supplying critical services necessary for storm recovery related to the construction or reconstruction of storm damaged structures or infrastructure including, but not limited to, insurance offices, engineers and surveyors and financial institutions.
- (3) The mobile office shall be removed within seven days following the restoration of all utilities or upon issuance of a certificate of completion if repairs are needed to the building housing the business, however mobile office units shall not be on-site for greater than six months following declaration of the disaster.
- (4) The mobile office unit shall meet all applicable regulations including, but not limited to the state building code, flood and health regulations.

(Ord. No. 06-07-026, § I, 7-5-2006)

APPENDIX HURRICANE AND STORM RECONSTRUCTION AND REDEVELOPMENT²

***ARTICLE XX. HURRICANE AND STORM RECONSTRUCTION AND REDEVELOPMENT;
GENERAL USE STANDARDS FOR OCEAN HAZARD AREAS³***

Sec. 48-741. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Destroyed structure means a structure that is a total loss or damaged to such an extent that repairs are not technically or economically feasible, i.e., 50 percent or more of the replacement cost at the time of damage or destruction.

²Editor's note(s)—Formerly codified as Article XX of Ch. 48. At the direction of § XXXI of Ord. No. 19-08-009, Article XX has been relocated as an Appendix to Chapter 32, with no renumbering to the article, as herein set out.

³Cross reference(s)—Beaches and waterways, ch. 8.

Erosion escarpment means the normal vertical drop in the beach profile caused from high tide and/or storm tide erosion.

Frontal dune means, in areas where there is a primary dune, that dune shall be deemed to be the frontal dune. Where there is no primary dune, the frontal dune is deemed to be the first mound of sand located landward of the ocean beach having sufficient vegetation, height, continuity and configuration to offer protective value. Manmade mounds seaward of the natural line of frontal dunes and dunes created after June 1, 1979, shall not be considered to be frontal or primary dunes, except where no frontal or primary dune exists.

High hazard flood area means the area subject to high velocity waters (including, but not limited to, hurricane wave wash) in a storm having a one percent chance of being equalled or exceeded in any given year, as identified as zone V1-30 on the flood insurance rate maps of the Federal Insurance Administration, U.S. Department of Housing and Urban Development. In the absence of these rate maps, other available base flood elevation data prepared by a federal, state or other source may be used, provided that such data source is approved by the town.

Major damaged structure means a structure that can be made habitable with extensive repairs. Damage may include foundation, roof structure and major structural components. The indicator for this category is if the cost to repair is greater than ten percent and less than 50 percent of the replacement cost at the time of damage.

Measurement line means the line from which the oceanfront setback as described in subsection 48-743(a) is measured in the unvegetated beach area of the ocean hazard area. Procedures for determining the measurement line shall be adopted by the town for each area where such a line is designated. These procedures shall be available from the zoning administrator.

Minor damaged structure means a structure that can be made habitable in a short period of time with minimal repairs. Damage may include doors, windows, floors, furnaces, water heaters and other minor structural damage. An indicator for this category is if the cost to repair is ten percent or less of the replacement cost at the time of damage.

Ocean beach means the area of land consisting of unconsolidated soil material that extends from the mean low water line landward to a point where either the growth of vegetation occurs; or a distinct change in slope or elevation alters the configuration of the land form, whichever is farther landward.

Ocean erodible area means the area in which there exists a substantial possibility of excessive erosion and significant shoreline fluctuation. The seaward boundary of this area is the mean low water line. The landward extent of this area is determined as follows:

- (1) A distance landward from the first line of stable natural vegetation to the recession line that would be established by multiplying the longterm annual erosion rate times 60, provided that, where there has been no longterm erosion or the rate is less than two feet per year, this distance shall be set at 120 feet landward from the first line of stable natural vegetation. For the purposes of this chapter, the erosion rates shall be those set forth in tables entitled "Longterm Annual Erosion Rates Updated Through 1987," approved by the Coastal Resources Commission on March 18, 1983, July 25, 1986, and July 29, 1988. The tables are available without cost from the zoning administrator.
- (2) A distance landward from the recession line established in subsection (1) of this definition to the recession line that would be generated by a storm having a one percent chance of being equalled or exceeded in any year.

Ocean hazard area means the area consisting of the ocean erodible area and the high hazard flood area.

Primary dune means the first mound of sand located landward of the ocean beach having an elevation equal to the mean flood level (in a storm having a one percent chance of being equalled or exceed in any given year) for the area plus six feet. The primary dune extends landward to the lowest elevation in the depression landward of that same mound of sand (commonly referred to as the "dune trough").

Vegetation line means the first line of stable natural vegetation, which shall be used as the reference point for measuring oceanfront setbacks. This line represents the boundary between the normal dry-sand beach, which is subject to constant flux due to waves, tides, storms and wind, and the more stable upland areas. It is generally located at or immediately oceanward of the seaward toe of the frontal dune and/or erosion escarpment. In areas where there is no stable natural vegetation present, this line shall be established by connecting or extending the lines from the nearest adjacent vegetation on either side of the site and by extrapolating (by either on-ground observation or by aerial photographic interpretation) to establish the line.

(Code 1990, § 22-631; Ord. No. 19-08-009, Pt. XXXI, 8-7-2019)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 48-742. Hurricane and storm reconstruction and redevelopment.

- (a) *Intent.* Following a damaging storm and enactment of a building moratorium, it is the intent of the town to allow rebuilding and reconstruction in an orderly manner. The town will control the issuance of building permits to manage the location, timing and sequence of reconstruction and repair. Primary consideration will be afforded to those structures which have received minor and major damage as defined in chapter 32 of this Code.
- (b) *Conditions for issuance of building permit.* Upon expiration or cancellation of the applicable building moratorium enacted in chapter 32 of this Code, the following additional requirements, in addition to all applicable sections of this chapter and this Code, shall be met prior to issuance of a building permit.
 - (1) *Destroyed structure.* The following additional requirements must be met prior to the issuance of any building permit for construction of a new structure:
 - a. A post-storm survey and/or site plan, as applicable, of the lot and the proposed structure.
 - b. Site plan approval as provided in the Unified Development Ordinance.
 - c. Verified location of CAMA setback boundaries.
 - d. On-site inspection of lot by zoning administrator.
 - e. Town water will be restorable at street frontage of lot.
 - f. Direct, uninterrupted, approved vehicular access to lot.
 - g. Electrical service restorable to building site.
 - h. All debris removed from lot.
 - i. Septic improvements permits issued by the county department of environmental health or the division of environmental management.
 - (2) *Major damaged structure.* The following additional requirements must be met prior to issuance of a building permit for a major damaged structure:
 - a. A post-storm survey and/or site plan, as applicable, of the lot and structure if there is a proposed increase in the footprint of the structure over the pre-storm structure. In addition, the following information shall be provided on the survey/site plan:
 - 1. CAMA setback boundary.
 - 2. The location of all property boundary lines.
 - 3. The possible existence of any nonconformities.
 - b. Site plan approval as provided in the Unified Development Ordinance.

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- c. On-site inspection of lot by zoning administrator.
 - d. Town water will be restorable at street frontage of lot.
 - e. Direct, uninterrupted, approved vehicular access to lot.
 - f. Electrical service restorable to building site.
 - g. All debris removed from lot.
 - h. Septic improvements permit issued by the county department of environmental health or the division of environmental management, if required.
- (3) *Minor damaged structure.* The following additional requirements must be met prior to issuance of a building permit to repair a minor damaged structure:
- a. A post-storm survey and/or site plan, as applicable, of the lot and structure if there is a proposed increase in the footprint of the structure over the pre-storm structure. In addition, the following information shall be provided on the survey/site plan: The location of all property boundary lines.
 - b. Site plan approval as provided in the Unified Development Ordinance.
 - c. On-site inspection of lot by zoning administrator.
 - d. Vehicular access to lot.
 - e. All debris removed from lot.
 - f. Septic improvements permit issued by the county environmental health department or the division of environmental health, if required.

(Code 1990, § 22-632; Ord. No. 19-08-009, Pt. XXXI, 8-7-2019)

Sec. 48-743. General use standards for ocean hazard areas.

- (a) Where strict application of the oceanfront setback requirements of this article would preclude placement of permanent substantial structures on lots existing as of June 1, 1979, single-family residential structures may be permitted seaward of the applicable setback line in ocean erodible areas, if each of the following conditions are met:
- (1) If neither a primary nor frontal dune exists in the ocean hazard area on or landward of the lot on which the development is proposed, the development shall be landward of the erosion setback line. The erosion setback line shall be set at a distance of 30 times the longterm annual erosion rate from the first line of stable natural vegetation or measurement line, whichever is applicable. In areas where the rate is less than two feet per year, the setback line shall be 60 feet from the vegetation line or measurement line, whichever is applicable. For the purposes of this chapter, the erosion rates shall be those set forth in tables entitled "Longterm Annual Erosion Rates Updated Through 1987," approved by the Coastal Resources Commission on March 18, 1983, July 25, 1986, and July 29, 1988. The tables are available without cost from the zoning administrator.
 - (2) If a primary dune exists in the ocean hazard area on or landward of the lot on which the development is proposed, the primary structure shall be landward of the crest of the primary dune or the erosion setback line, whichever is farthest from the first line of stable natural vegetation or measurement line, whichever is applicable. For existing lots, however, where setting the development landward of the crest of the primary dune would preclude any practical use of the lot, development may be located seaward of the primary dune. In such cases, the development shall be located landward of the erosion setback line and shall not be located on or seaward of a frontal dune. The words "existing lots" in this requirement shall mean a lot or tract of land which, as of June 1, 1979, is specifically described in a

recorded plat and which cannot be enlarged by combining the lot or tract of land with a contiguous lot or tract of land under the same ownership.

- (3) If no primary dune exists, but a frontal dune does exist in the ocean hazard area on or landward of the lot on which the development is proposed, the development shall be set landward of the frontal dune or landward of the erosion setback line, whichever is farthest from the first line of stable natural vegetation or measurement line, whichever is applicable.
 - (4) Because large structures located immediately along the Atlantic Ocean present increased risk of loss of life and property, increased potential for eventual loss or damage to the public beach area and other important natural features along the oceanfront, increased potential for higher public costs for federal flood insurance, erosion control, storm protection, disaster relief and provision of public services such as water and sewer, and increased difficulty and expense of relocation in the event of future shoreline loss, a greater oceanfront setback is required for these structures than is the case with smaller structures. Therefore, in addition to meeting the criteria in this requirement for setback landward of the primary and/or frontal dune, for all multifamily residential structures (including motels, hotels and condominiums) of more than 5,000 square feet total floor area, and for any nonresidential structure with a total area of more than 5,000 square feet, the erosion setback line shall be twice the erosion setback described in subsection (a)(1) of this section, provided that in no case shall this distance be less than 120 feet. In areas where the rate is more than 3.5 feet per year, this setback line shall be set at a distance of 30 times the longterm annual erosion rate plus 105 feet.
 - (5) Established common-law and statutory public rights of access to public trust lands and waters in ocean hazard areas shall not be eliminated or restricted.
- (b) In order to avoid weakening the protective nature of ocean beaches and primary and frontal dunes, no development will be permitted that involves the removal or relocation of primary or frontal dune sand or vegetation thereon.

(Code 1990, § 22-633; Ord. No. 19-08-009, Pt. XXXI, 8-7-2019)

Sec. 48-744. Exceptions to general use standards for ocean hazard areas.

- (a) Where strict application of the oceanfront setback requirements of this article would preclude placement of permanent substantial structures on lots existing as of June 1, 1979, single-family residential structures may be permitted seaward of the applicable setback line in ocean erodible areas, if each of the following conditions are met:
- (1) The development is set back from the ocean the maximum feasible distance possible on the existing lot and the development is designed to minimize encroachment into the setback area;
 - (2) The development is at least 60 feet landward of the vegetation line;
 - (3) The development is not located on or seaward of a frontal dune, but is entirely behind the landward toe of the frontal dune;
 - (4) The lot complies with the Unified Development Ordinance.
 - (5) The development incorporates each of the following design standards, which are in addition to those required in other regulations of this article:
 - a. All pilings have a tip penetration that extends at least five feet below mean sea level or 16 feet below natural grade, whichever is less;

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- b. The footprint (the greatest exterior dimension of the structure, including covered porches and covered stairways, when extended to ground level) of the structure be no more than 1,000 square feet or ten percent of the lot size, whichever is greater.
- (6) All other provisions of this article and other state and local regulations are met. If the development is to be serviced by an on-site waste disposal system, a copy of a valid permit for such a system must be submitted as part of the building permit application.
- (b) For the purposes of this regulation, an existing lot is a lot or tract of land which, as of June 1, 1979, is specifically described in a recorded plat and which cannot be enlarged by combining the lot or tract of land with a contiguous lot or tract of land under the same ownership.
- (c) At no time shall the oceanfront setback be less than 150 feet. Any structure within the oceanfront setback shall not exceed 25 feet in width.
- (Code 1990, § 22-634; Ord. No. 19-08-009, Pt. XXXI, 8-7-2019)