



Town of Beaufort, NC

701 Front St. - P.O. Box 390 - Beaufort, N.C. 28516
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Town of Beaufort UDO Steering Committee Meeting 10:00 AM Friday, June 20, 2025 - Train Depot, 614 Broad Street, Beaufort, NC 28516 Monthly Meeting

Call to Order

Minutes Approval

- [1.](#) UDO Steering Committee Draft Minutes 4.16.25

Items for Discussion and Consideration

- [1.](#) Preliminary Discussion Draft - Coastal Resilience Overlay District

Adjourn



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Town of Beaufort UDO Steering Committee Meeting 10:00 AM Wednesday, April 16, 2025 - Virtual via Zoom Minutes

Call to Order

Planner Eitner called the meeting to order at 10:00am on Zoom. Those on the call included Michelle Eitner, Planner (Town Staff), Kelly Cousino, White Smith Cousino (UDO Consultant), Caitlin Cameron, White Smith Cousino (UDO Consultant), Paula Gillikin, Commissioner (UDO Steering Committee Member), Jeremy Ganey, Building Inspector/Floodplain Administrator (Town Staff), Ryan Neve, Planning Board Chairman (UDO Steering Committee Member), and Vic Fasolino, Planning Board Member (UDO Steering Committee Member).

Minutes Approval

UDO Steering Committee March 10, 2025 meeting minutes were approved by consensus without any changes

Items for Discussion and Consideration

1. Revised Draft UDO Vision, Principles, & Goals

The Committee discussed the revisions proposed to the UDO Vision, Principles, and Goals document. Following discussion, the Committee decided by consensus:

- Utilize LoPiccolo's version of Goal #1 to reflect, "Align future growth and public services with the capacity of existing and planned infrastructure, both built and natural, to support a thriving and resilient community."
- Utilize LoPiccolo's version of Goal #2, "Expand the availability and diversity of housing options that are attainable for those who live and work in Beaufort, with a focus on supporting year-round residents and the local workforce."
- Update Goal #6 to reflect, "Focus growth, new infrastructure, and expansion of existing infrastructure outside of the Non-Intensification Zone."
- Keep the remainder of the document as revised by BOC on March 10th.

2. Additional Information – Resilience Point Systems

A draft of the resilience module would be released in June for discussion at the June 20th UDO Steering Committee meeting as well as a community meeting that afternoon. Staff and consultants would also host a booth at the Olde Beaufort Farmers' Market on June 21st to increase awareness about the project.

The meeting adjourned by consensus at about 12:00pm.

_____ Committee Staff – Approved _____



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Memorandum

To: UDO Steering Committee
From: Tyson Smith, AICP, and Kelly Cousino, AICP
Date: June 13, 2025
Subj: Preliminary Discussion Draft Coastal Resilience Overlay District
Attachments: N.C. House Bill 281 (v1); N.C. Senate Bill 587 (v2);
 2.7.3_CR-O_Preliminary Discussion Draft 06-13-25

June 20 Meeting

Enclosed for the UDO Steering Committee's review is a Preliminary Discussion Draft of the Coastal Resilience Overlay District (CR-O). It implements the [proposed approach](#) discussed at the Committee's meeting on March 10, 2025. This preliminary draft—along with the [UDO Vision, Principles, & Goals](#)—establishes the general direction for the district regulations.

Prior to the Steering Committee meeting on June 20, we ask that you review the overlay district in detail, paying particular attention to the location/boundaries of the two proposed subdistricts and the applicability of the various provisions. We likely will need to refine the applicability and standards based on neighborhood- or site-specific factors. For example, the proposed requirement to maintain or establish a shoreline buffer may not be feasible on most Front Street lots. To review the extent of the non-intensification zone on a parcel level, see the [N.C. Flood Risk Information System](#) (FRIS). The AE Zone (in blue) and VE Zone (in green) constitute the 100-year floodplain.

Also, we ask that you review the discussion of North Carolina Senate Bill 382 (from the 2023-2024 Legislative Session) both in this memo and at the beginning of the CR-O document. We'll begin the June 20 meeting with a discussion of this bill and its relevance to the UDO drafting process.

Relevance of S382

Take note of the comments at the top of the draft overlay document. Recall the General Assembly passed [S382](#) in December 2024 which, on its face, prohibits North Carolina local governments from "downzoning" property without the affected property owner's written consent. See [N.C.G.S. § 160D-601\(d\)](#). The comments in the draft overlay document describe specifically what the statutory changes were and what questions they left unanswered with respect to "new" restrictions or regulations.

As background, the Town Board of Commissioners passed a resolution in February 2025 requesting the local delegation introduce and support legislation that would exempt Beaufort from the effects of the downzoning amendment. In fact, there are 20 to 30 bills pending that would either significantly clarify what S382 meant, particularly with respect to its purported prohibition on zoning regulations creating “nonconforming uses,” or would exempt individual jurisdictions from the law entirely.

[H281](#) (2025), introduced in the spring, would exempt the Town of Beaufort from the new requirements were it to pass. As of June 11, none of the bills addressing S382 has passed the legislature, though [S587](#) (2025) passed third reading of the senate on May 7 and first reading of the house on May 8th. A copy of both H281 and S587 are attached.

Based on discussions with staff and the Town attorney, we will present the alternative approaches we believe are available to the Town for moving forward with the UDO when we meet with the Steering Committee on June 20.

Next Steps

Following the Steering Committee meeting on June 20, we will hold a Community Conversations event from 2pm to 4pm at the Beaufort Train Depot. This event will provide an opportunity for the community to provide initial feedback on the overlay district specifically and the UDO in general. We will also have a booth at the Olde Beaufort Farmers Market on June 21 to promote awareness of the UDO project.

The Steering Committee will meet again in July to review the next iteration of the CR-O. We will also hold another Community Conversations event on July 22. It is hoped that the General Assembly may have acted or decided not to act on the downzoning bill by this point, though the duration of the current session is uncertain at this time.

On August 25, we anticipate holding a Joint Board of Commissioners-Planning Board Work Session to review the draft CR-O (revised following the Steering Committee’s July meeting). We will also hold the third Community Conversations event.

Following the Joint Work Session, we will revise the CR-O to incorporate feedback received. Then, in September, we will present this final draft to the Planning Board (September 15) and hold our final Community Conversations event for Module 1.

October 13 has been identified as a potential date for the BOC’s consideration of the draft.

In order to meet the Resilient Coastal Communities grant timeline, the Town would like to have completed a draft regulatory framework that at least has the general support of the Board. However, a realistic timeline depends not only on the time needed for the Board’s consideration but also the outcome of the legislative session.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025

H

1

HOUSE BILL 281

Short Title: Restore Down-Zoning/Multiple Municipalities. (Local)

Sponsors: Representative Cairns.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary 3, if favorable, Housing and Development, if favorable, Rules, Calendar, and Operations of the House

March 5, 2025

A BILL TO BE ENTITLED
AN ACT TO RESTORE THE AUTHORITY TO INITIATE DOWN-ZONING IN
MOREHEAD CITY, THE TOWN OF BEAUFORT, THE TOWN OF BOGUE, THE
TOWN OF CAPE CARTERET, THE TOWN OF CEDAR POINT, AND THE TOWN OF
NEWPORT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160D-601(d), as amended by Section 3K.1(a) of S.L. 2024-57, reads as rewritten:

"(d) Down-Zoning. – No amendment to zoning regulations or a zoning map that down-zones property shall be ~~initiated, enacted, or enforced~~ initiated nor is it enforceable without the written consent of all property owners whose property is the subject of the down-zoning ~~amendment.~~ amendment, unless the down-zoning amendment is initiated by the local government. For purposes of this section, "down-zoning" means a zoning ordinance that affects an area of land in one of the following ways:

- (1) By decreasing the development density of the land to be less dense than was allowed under its previous usage.
- (2) By reducing the permitted uses of the land that are specified in a zoning ordinance or land development regulation to fewer uses than were allowed under its previous usage.
- (3) ~~By creating any type of nonconformity on land not in a residential zoning district, including a nonconforming use, nonconforming lot, nonconforming structure, nonconforming improvement, or nonconforming site element."~~

SECTION 2.(a) This act applies only to the municipality of Morehead City and the Towns of Beaufort, Bogue, Cape Carteret, Cedar Point, and Newport.

SECTION 2.(b) This act is effective when it becomes law and applies retroactively to December 11, 2024. Any adopted ordinance affected by Section 3K.1 of S.L. 2024-57 shall be in effect as it was on or before December 11, 2024.



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025

S

2

SENATE BILL 587
Second Edition Engrossed 5/7/25

Short Title: Clarify Nonconforming Uses. (Public)

Sponsors: Senators Lazzara and Sawrey (Primary Sponsors).

Referred to: Rules and Operations of the Senate

March 26, 2025

A BILL TO BE ENTITLED
AN ACT TO CLARIFY NONCONFORMITIES IN LAND DEVELOPMENT
REGULATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160D-102 is amended by adding a new subdivision to read:

"(23m) Nonconformity. – Any of the following that was lawfully operated, established, or commenced in accordance with applicable development regulations in effect at the time the nonconformity became nonconforming so long as the nonconformity is not extended, expanded, enlarged, increased, or intensified:

- a. A lot, parcel, or tract of land that fails to meet all current development regulation requirements.
- b. A structure that no longer complies with all current development regulation requirements applicable to that structure.
- c. The use of a property for a purpose or activity, or in a manner, made unlawful by a current development regulation.
- d. Any dwelling, accessory building, accessory structure, outdoor lighting, fence, wall, sign, off-street parking, vehicular surface area, or private access point."

SECTION 2. Article 1 of Chapter 160D of the General Statutes is amended by adding a new section to read:

"§ 160D-108.2. Nonconformities.

(a) Amendments in land development regulations are not applicable or enforceable without the written consent of the owner with regard to a nonconformity. All of the following shall apply to vested rights in a nonconformity established under this section:

- (1) The establishment of a vested right under this section does not preclude vesting under one or more other provisions of law or vesting by application of common law principles.
- (2) A vested right, once established as provided for in this section or by common law, precludes any action by a local government that would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property allowed by applicable development regulations, except where a change in State or federal law mandating local government enforcement occurs after the nonconformity was established that has a fundamental and retroactive effect on the development or use.
- (3) G.S. 160D-108(h) shall apply to the claiming of nonconformities.



(4) Unless otherwise specified by this section or another statute, a nonconformity may continue until intentionally and voluntarily discontinued.

(b) The statutory vesting period granted by this section for a nonconformity expires if the nonconformity is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months. The 24-month discontinuance period shall be automatically tolled during any of the following events:

(1) The pendency of any board of adjustment proceeding or civil action in a State or federal court regarding the validity of the use of the property or the existence of the statutory vesting period granted by this section.

(2) The pendency of any litigation involving use of the property that is the subject of the vesting.

(3) The duration of any emergency declaration issued under G.S. 166A-19.20 or G.S. 166A-19.22 for which the defined emergency area includes the property, in whole or in part.

(c) Reconstruction, re-establishment, repair, and maintenance of a nonconformity shall be allowed by right provided the nonconforming is not extended, expanded, enlarged, increased, or intensified by the reconstruction, re-establishment, repair, or maintenance.

(d) This section shall not apply to G.S. 160D-912 and G.S. 160D-912.1."

SECTION 3. G.S. 160D-108 reads as rewritten:

"§ 160D-108. Permit choice and vested rights.

...

(d) Duration of Vesting. – Upon issuance of a development permit, the statutory vesting granted by subsection (c) of this section for a development project is effective upon filing of the application in accordance with G.S. 143-755, for so long as the permit remains valid pursuant to law. Unless otherwise specified by this section or other statute, local development permits expire one year after issuance unless work authorized by the permit has substantially commenced. A local land development regulation may provide for a longer permit expiration period. For the purposes of this section, a permit is issued either in the ordinary course of business of the applicable governmental agency or by the applicable governmental agency as a court directive.

Except where a longer vesting period is provided by statute or land development regulation, the statutory vesting granted by this section, once established, expires for an uncompleted development project if development work is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months, ~~and the statutory vesting period granted by this section for a nonconforming use of property expires if the use is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months.~~ The 24-month discontinuance period is automatically tolled during any of the following:

(1) ~~the~~ The pendency of any board of adjustment proceeding or civil action in a State or federal trial or appellate court regarding the validity of a development permit, the use of the property, or the existence of the statutory vesting period granted by this section.

(2) ~~The 24-month discontinuance period is also tolled during the pendency of any litigation involving the development project or property that is the subject of the vesting.~~

(3) The duration of any emergency declaration issued under G.S. 166A-19.20 or G.S. 166A-19.22 for which the defined emergency area includes the property, in whole or in part.

...

(h) Process to Claim Vested Right. – A person claiming a statutory or common law vested right may submit information to substantiate that claim to the zoning administrator or other officer designated by a land development regulation, who shall make an initial determination as to the existence of the vested right. The decision of the zoning administrator or officer may be

1 appealed under G.S. 160D-405. On appeal, the existence of a vested right shall be reviewed de
2 novo. In lieu of seeking such a determination or pursuing an appeal under G.S. 160D-405, a
3 person claiming a vested right may bring an original civil action as provided by
4 G.S. 160D-1403.1. This subsection shall apply to the claiming of vested rights in a
5 nonconformity under G.S. 160D-108.2.

6"

7 **SECTION 4.** G.S. 160D-108.1(f)(3) reads as rewritten:

8 "(3) Notwithstanding any provision of this section, the establishment of a vested
9 right does not preclude, change, or impair the authority of a local government
10 to adopt and enforce development regulations governing ~~nonconforming~~
11 ~~situations or uses-nonconformities.~~"

12 **SECTION 5.** G.S. 63-31(e) reads as rewritten:

13 "(e) All airport zoning regulations adopted under this Article shall be reasonable, and none
14 shall require the removal, lowering, or other change or alteration of any structure or tree not
15 conforming to the regulations when adopted or amended, or otherwise interfere with the
16 continuance of any ~~nonconforming use, nonconformity~~ as defined in G.S. 160D-102 except as
17 provided in G.S. 63-32, subsection (a)."

18 **SECTION 6.** G.S. 63-36 reads as rewritten:

19 **"§ 63-36. Acquisition of air rights.**

20 (a) In any case in which:

21 (1) It is desired to remove, lower, or otherwise terminate a ~~nonconforming use;~~
22 ~~nonconformity;~~ or

23 (2) The approach protection necessary cannot, because of constitutional
24 limitations, be provided by airport zoning regulations under this Article; or

25 (3) It appears advisable that the necessary approach protection be provided by
26 acquisition of property rights rather than by airport zoning regulations,

27 the political subdivision within which the property or ~~nonconforming use-nonconformity~~ is
28 located or the political subdivision owning the airport or served by it may acquire, in the manner
29 provided by the law under which municipalities are authorized to acquire real property for public
30 purposes, such an air right, easement, or other estate or interest in the property or ~~nonconforming~~
31 ~~use-nonconformity~~ in question as may be necessary to effectuate the purposes of this Article.

32 (b) If any political subdivision, or if any board or administrative agency appointed or
33 selected by a political subdivision, shall adopt, administer or enforce any airport zoning
34 regulations which results in the taking of, or in any other injury or damage to any existing
35 structure, such political subdivision shall be liable therefor in damages to the owner or owners of
36 any such property and the liability of the political subdivision shall include any expense which
37 the owners of such property are required to incur in complying with any such zoning regulations.

38 (c) For purposes of this section, "nonconformity" shall have the same meaning as in
39 G.S. 160D-102."

40 **SECTION 7.** G.S. 160A-31(h) reads as rewritten:

41 "(h) A city council which receives a petition for annexation under this section may by
42 ordinance require that the petitioners file a signed statement declaring whether or not vested
43 rights with respect to the properties subject to the petition have been established under
44 ~~G.S. 160D-108 or G.S. 160D-108.1.~~ G.S. 160D-108, G.S. 160D-108.1, or G.S. 160D-108.2. If
45 the statement declares that such rights have been established, the city may require petitioners to
46 provide proof of such rights. A statement which declares that no vested rights have been
47 established under ~~G.S. 160D-108 or G.S. 160D-108.1~~ G.S. 160D-108, G.S. 160D-108.1, or
48 G.S. 160D-108.2 shall be binding on the landowner and any such vested right shall be
49 terminated."

50 **SECTION 8.** G.S. 160A-58.1(d) reads as rewritten:

"(d) A city council which receives a petition for annexation under this section may by ordinance require that the petitioners file a signed statement declaring whether or not vested rights with respect to the properties subject to the petition have been established under ~~G.S. 160D-108 or G.S. 160D-108.1~~ G.S. 160D-108, G.S. 160D-108.1, or G.S. 160D-108.2. If the statement declares that such rights have been established, the city may require petitioners to provide proof of such rights. A statement which declares that no vested rights have been established under ~~G.S. 160D-108 or G.S. 160D-108.1~~ G.S. 160D-108, G.S. 160D-108.1, or G.S. 160D-108.2 shall be binding on the landowner and any such vested rights shall be terminated."

SECTION 9. G.S. 160D-403(c) reads as rewritten:

"(c) Duration of Development Approval. – Unless a different period is specified by this Chapter or other specific applicable law, including for a development agreement, a development approval issued pursuant to this Chapter expires one year after the date of issuance if the work authorized by the development approval has not been substantially commenced. Local development regulations may provide for development approvals of shorter duration for temporary land uses, special events, temporary signs, and similar development. Local development regulations may also provide for development approvals of longer duration for specified types of development approvals. Nothing in this subsection limits any vested rights secured under ~~G.S. 160D-108 or G.S. 160D-108.1~~ G.S. 160D-108, G.S. 160D-108.1, or G.S. 160D-108.2."

SECTION 10.(a) G.S. 160D-601, as amended by Section 3K.1(a) of S.L. 2024-57 reads as rewritten:

"§ 160D-601. Procedure for adopting, amending, or repealing development regulations.

...

(d) Down-Zoning. – No amendment to ~~zoning regulations or a zoning map~~ a zoning regulation that down-zones property shall be initiated, enacted, or enforced without the written consent of all property owners whose property is the subject of the down-zoning ~~amendment~~ amendment, unless the down-zoning amendment is initiated by the local government.

(e) For purposes of this section, "down-zoning" or "down-zone" means a zoning ~~ordinance~~ regulation that affects an area of land in one of the following ways:

- (1) By decreasing the development density of the land to be less dense than was allowed under its previous usage.
- (2) By reducing the substantive permitted uses of the land that are specified in a zoning ~~ordinance or land development~~ regulation to fewer uses than were allowed under its previous usage.
- (3) ~~By creating any type of nonconformity on land not in a residential zoning district, including a nonconforming use, nonconforming lot, nonconforming structure, noneonforming improvement, or nonconforming site element."~~

SECTION 10.(b) This section is effective when it becomes law and applies retroactively to December 11, 2024. Any development ordinance affected by Section 3K.1 of S.L. 2024-57 shall be treated as if it remained in effect from June 14, 2024, to December 11, 2024.

SECTION 11. Except as otherwise provided, this act is effective when it becomes law and applies to any nonconformity existing on or after December 11, 2024.



2.7.3: Coastal Resilience Overlay District

Preliminary Discussion Draft | June 13, 2025



Town of Beaufort, NC | Unified Development Ordinance

Effect of S382 on Local Zoning Regulations

In December 2024, the North Carolina Legislature ratified Session Law 2024-57 ([Senate Bill 382](#)) which pertained primarily to disaster recovery funding for Western North Carolina communities in the wake of Hurricane Helene. However, the law also included provisions that profoundly limit the planning and zoning authority of local governments, though in what manner or to what extent exactly remains quite unclear. Nonetheless, despite the Governor’s veto, the law currently stands and is codified at [N.C.G.S. § 160D-601\(d\)](#).

The law prohibits “downzoning” of property unless the property owner provides explicit written consent to the downzoning. It defines *downzoning* as “a zoning ordinance that affects an area of land in one of the following ways:

1. By decreasing the development density of the land to be less dense than was ***allowed under its previous usage***.
2. By ***reducing the permitted uses*** of the land that are specified in a zoning ordinance or land development regulation to ***fewer uses*** than were allowed ***under its previous usage***.
3. By creating any type of ***nonconformity*** on land not in a ***residential zoning district***, including a nonconforming use, nonconforming lot, nonconforming structure, nonconforming ***improvement***, or nonconforming ***site element***.”

Prior to this change, only third parties were prohibited from initiating a rezoning of another’s property, but not local government. Unfortunately, the bill used terminology that, though it may have particular meaning in a given jurisdiction, is not defined in the law or is out of logical context, leaving local governments in the state uncertain of its effect and of what it means for ongoing planning and zoning efforts. Some of these terms are highlighted above.

Response in opposition to the bill has been widespread and there appears to be significant legislative support for significant changes, clarifications, or corrections. In fact, the 2025-2026 Legislative Session has seen a number of bills filed in response to the downzoning provisions—including [House Bill 281](#), which would restore the ability of local governments in Carteret County to initiate downzonings without property owner consent, and [Senate Bill 587](#), which clarifies the definition of nonconformities.

As currently drafted, this proposed Coastal Resilience Overlay District implements Town policy as expressed in its Comprehensive & CAMA Land Use Plan and incorporates input and direction from the UDO Steering Committee. During its deliberations, the Committee and staff will consider whether or how to consider the 2024 bill’s impact on Town authority to address urgent resilience and critical public safety goals. As noted, local government planners and attorneys have posited different interpretations of the statute since its adoption, particularly alternative constructions of the term “nonconforming,” which may leave room for application of new restrictions, particularly outside of “residential zoning districts.”

The UNC School of Government Coates' Canons NC Local Government Law blog provides a helpful discussion of this new law and its potential implications for local zoning (see <https://canons.sog.unc.edu/2024/12/limits-on-down-zoning/>).

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2

Article 2: Zoning Districts

2.7. Overlay Zoning Districts

2.7.3. CR-O, Coastal Resilience Overlay District

A. **Purpose.** The purpose of the Coastal Resilience Overlay District is to:

1. Achieve goals expressed in the *Beaufort Comprehensive and CAMA Land Use Plan*;
2. Implement the “Resiliency Vision” expressed in *Resilient Beaufort*;
3. Protect and improve water quality;
4. Reduce the quantity of stormwater pollutants entering local waterways;
5. Reduce shoreline erosion;
6. Preserve wildlife habitat;
7. Prepare for effects of anticipated sea level rise;
8. Reduce flooding and subsequent property damage;
9. Encourage construction of buildings that are more resistant to damage from hurricanes, high winds, flooding, and hail and to avoid ongoing or repetitive structural and infrastructure damage and costs;
10. Minimize public and private losses due to flood and related conditions in the most vulnerable areas of the Town; and
11. Promote public, health, safety, and general welfare.

B. **District Boundary.**

1. *Generally.* The Coastal Resilience Overlay District, depicted in Figure 2.7.3-1, is comprised of two subdistricts:
 - (a) CR-NIZ, Non-Intensification Zone Subdistrict; and
 - (b) CR-M, Moderate Hazard Subdistrict.

2. *CR-NIZ, Non-Intensification Zone Subdistrict.* This subdistrict is coterminous with the Special Flood Hazard Area.¹
3. *CR-M, Moderate Hazard Subdistrict.* This subdistrict is coterminous with the Shaded X Zone within the Non-Special Flood Hazard Area.²
4. *Changes to District Boundary.* The boundary of the CR-O is expected to change over time as the Federal Emergency Management Agency (FEMA) revises the Flood Insurance Rate Maps (FIRMs). The Town may amend the UDO to reflect changes to FEMA-designated SFHAs and NSFHAs and subsequent changes to the CR-O boundary.

C. Applicability.

1. The overlay district applies to all lots located within the district boundary, including those in the Town's extraterritorial jurisdiction.
2. When a lot is located in both the CR-NIZ and CR-M subdistricts, the standards applicable to each subdistrict apply on the respective portions of the lot.³ If any portion of a structure is located in the CR-NIZ, the regulations applicable to the CR-NIZ apply to the entire structure.
3. Applicability of individual standards is specified in the paragraphs below pertaining to the particular standard.
4. When a standard applies to existing development that is proposed to be renovated, repaired, altered, or otherwise improved by more than 50% of its replacement value⁴ at the time of renovation, repair, alteration, or improvement:
 - (a) Replacement value of existing principal structures is determined using a qualified appraisal of the market value of the structure before the start of construction of the improvement; and
 - (b) Replacement value for other improvements (e.g., vehicle accommodation areas) is determined using cost estimates prepared by a professional that typically constructs or installs the type of improvement proposed for renovation, repair, alteration, or improvement.

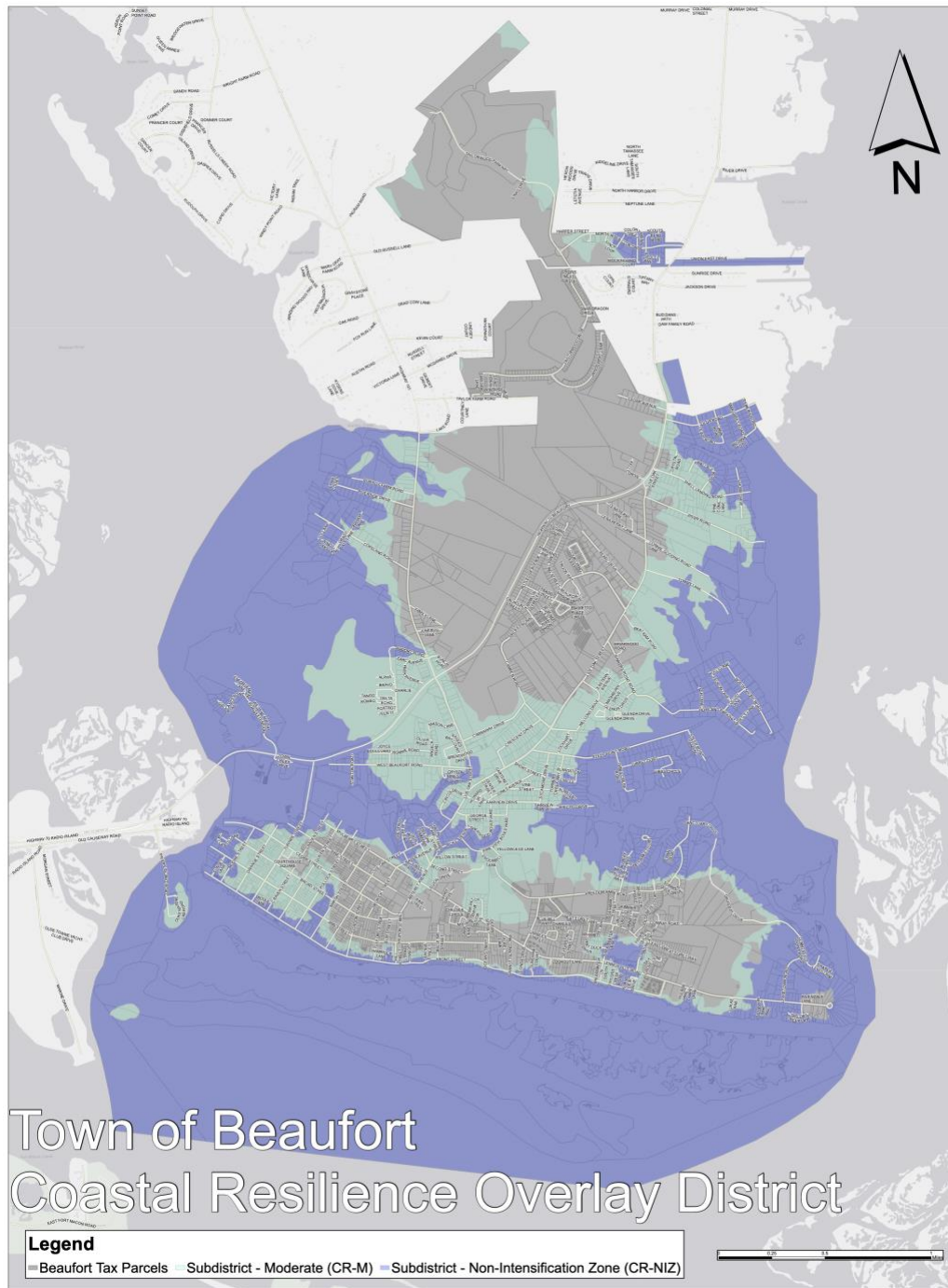
¹ UDO Article 12 will include the Flood Damage Prevention Ordinance's current definition of SFHA.

² UDO Article 12 will define NSFHA.

³ This provision is a starting point for discussion purposes. The UDO Steering Committee will consider the applicability of the two subdistricts on split-zoned lots as well as the need to fine-tune overlay applicability according to historic and anticipated development patterns throughout the Town and ETJ..

⁴ This aligns with the Town's provisions for bringing nonconforming structures into compliance with current regulations.

Figure 2.7.3-1: Coastal Resilience Overlay District Boundary



- D. **Allowed Uses.** Any use allowed by a lot's base zoning district may be established in the CR-O pursuant to its required approval procedure, except that new critical facilities⁵ are prohibited in the CR-NIZ subdistrict.⁶
- E. **Impervious Surface Coverage.**⁷
1. *Applicability.* All lots in the CR-O are subject to this Section.⁸
 2. *CR-NIZ Subdistrict.* All lots in the CR-NIZ are limited to a maximum 30% impervious surface coverage.⁹
 3. *CR-M Subdistrict.* All lots in the CR-M are limited to a maximum 40% impervious surface coverage.
- F. **Shoreline Management.**¹⁰
1. *Applicability.* All lots in the CR-O are subject to this Section.

⁵ UDO Chapter 12 will propose the following definition of *critical facility*, which is from FEMA's [*Design Guide for Improving Critical Facility Safety from Flooding and High Winds*](#) (FEMA 543): "Critical facilities commonly include all public and private facilities that a community considers essential for the delivery of vital services and for the protection of the community. They usually include emergency response facilities (fire stations, police stations, rescue squads, and emergency operation centers [EOCs]), custodial facilities (jails and other detention centers, long-term care facilities, hospitals, and other health care facilities), schools, emergency shelters, utilities (water supply, wastewater treatment facilities, and power), communications facilities, and any other assets determined by the community to be of critical importance for the protection of the health and safety of the population. The adverse effects of damaged critical facilities can extend far beyond direct physical damage. Disruption of health care, fire, and police services can impair search and rescue, emergency medical care, and even access to damaged areas."

⁶ Note paragraph (d)(2) in N.C.G.S. § 160D-601 regarding new State law limitations on reducing "permitted uses" to "fewer uses than were allowed under its previous usage."

⁷ Currently, the only zoning district that limits impervious surface coverage is RS-5. The limit is 50%. As proposed here, lots zoned RS-5 and located in the CR-O would be subject to a more restrictive impervious surface limit. The Steering Committee should discuss potential exemptions from these limits or different limits for certain zoning districts (e.g., HBD and HWBD; or keeping RS-5 at the current 50% limit). **Carteret County** does not limit impervious surface coverage, but other cities/towns in the region do. **Morehead City** has a 40% limit in most zoning districts except the Commercial Marina District where the limit is 50% and the two downtown districts where there is no limit. **Atlantic Beach** also has a 40% limit in most districts, except the least intensive residential district (1 acre lot size) where the limit is 10% and the two most intensive commercial districts where the limit is 75%. **Pine Knoll Shores** has a 35% limit in residential districts and a 25% limit in Special Flood Hazard Areas and "any other lot in residential property districts R-1, R-2, R-3, and R-4 with a seasonal high water table of 24 inches or less to grade." Finally, **Emerald Isle** requires a minimum percentage of "natural/vegetated area" in most zoning districts (35% in residential districts and 15% in commercial/mixed use districts).

⁸ See discussion of N.C.G.S. § 160D-601(d) above.

⁹ On a lot zoned R-8 that meets the minimum dimensional standards (8,000 sf lot area and 60 ft lot width), the minimum required setbacks constitute approximately 54% of the lot. Under the current regulations, the remaining 46% of the lot could be covered by impervious surfaces. Under this proposed standard, only about two-thirds of the remaining 46% of the lot could be covered by impervious surfaces.

¹⁰ These provisions mainly apply in CR-NIZ since that's the primary CR-O subdistrict along the shoreline.

2. *Hardened Shorelines.* An existing hardened shoreline may:
 - (a) Remain in place; and
 - (b) Be partially or fully replaced if its location is not changed by more than two feet in either direction (waterward or landward).
3. *Conversion of Natural Shorelines.* Property owners should not convert existing natural shorelines to hardened shorelines.¹¹

G. **Shoreline Buffer.**¹²

1. *Applicability.*
 - (a) All lots in the CR-O that have frontage along a natural waterbody must maintain or establish a shoreline buffer.
 - (b) Where a developed lot does not meet the shoreline buffer requirements, the buffer must be established in accordance with this Section if the principal structure on the lot is improved by 50% or more of its assessed value.
 - (c) Where a vacant lot does not meet the shoreline buffer requirements, the buffer must be established in accordance with this Section when the lot is developed.
2. *Buffer Width.* A shoreline buffer must be at least 20 feet in width, measured landward from the mean high water line.
3. *Existing Vegetation.* Where vegetation naturally exists along a shoreline, it must remain undisturbed except as otherwise provided in this Section.
4. *Planting Requirements.*
 - (a) Lots without existing vegetation must meet the planting requirements in this Paragraph. Lots with existing vegetation that does not meet the standards in this Paragraph must supplement with additional plantings.

¹¹ Typically, a regulatory document should avoid language encouraging, rather than requiring, a particular action. However, Town staff and the consultant team feel this is the best approach for this particular provision until the Town completes the estuarine shoreline management plan recommended in the CAMA Land Use Plan since shoreline hardening is the best solution in certain instances. The shoreline management plan would identify the areas where the Town should prohibit and allow hardened shorelines. Once it is complete, the Town could consider revisions to this provision in the CR-O.

¹² See discussion of N.C.G.S. § 160D-601(d) above and note that compliance incentives could include reduced setbacks or an increased building height limit.

- (b) New plantings must be:
 - (1) Indigenous to the immediate area;
 - (2) Arranged in a natural random pattern; and
 - (3) Selected from the featured plant list in [NC Coastal Landscaping: A Native Plant Guide](#).¹³
 - (c) The use of turf grass within a shoreline buffer is prohibited.
 - (d) The planting requirement per 100 linear feet is:
 - (1) Three canopy trees of 3-inch caliper with a minimum of two different species;
 - (2) Five understory trees of 2-inch caliper with a minimum of three different species;
 - (3) Eighteen shrubs, 3-gallon pots with a minimum of four different species; and
 - (4) Twenty-five grasses and palms, 1-gallon pots with a minimum of five different species.
5. *Invasive Species.*
- (a) Invasive species may be removed from a shoreline buffer.
 - (b) The use of heavy equipment for vegetation removal is prohibited.
 - (c) Herbicides may be used to eradicate invasive plant species if the removal uses best management practices included in the [North Carolina Forestry Best Management Practices Manual](#) or the N.C. State Extension publication "[Accomplishing Forest Stewardship with Hand-Applied Herbicides](#)." Alternative techniques for plant removal, such as electric weed control, are allowed.
6. *Prohibited Elements.* The following elements are prohibited within a shoreline buffer:
- (a) Impervious surfaces; and

¹³ Alternatively, plants could be selected from another list, such as the [Audubon North Carolina Bird-Friendly Native Plants List](#). This list contains nearly 700 species and identifies native plants that are appropriate for the North Carolina Coastal Plain.

(b) Walls.

7. *Allowed Uses.* The following uses are allowed within a shoreline buffer, unless the use is a critical facility that is otherwise prohibited in the CR-NIZ (see 2.7.3.D, Allowed Uses):

(a) Pedestrian trails if the trail is:

- (1) Constructed of pervious material; and
- (2) Oriented generally parallel to the shoreline;

(b) A pedestrian or vehicular access if the access:

- (1) Is constructed of pervious material or is an elevated boardwalk;
- (2) Leads to a water-dependent use, such as a dock, pier, bridge, or boat landing; and
- (3) Is six feet or less in width (for pedestrian accesses) or 15 feet or less in width (for vehicular accesses);¹⁴

(c) Existing erosion control structures (2.7.3.F, Shoreline Management, prohibits new erosion control structures);

(d) Stormwater drainage outfalls; and

(e) Utility line penetrations that:

- (1) Must necessarily cross a waterway without a reasonable alternative;
- (2) Are the minimum width necessary;
- (3) Run generally perpendicular to the shoreline.

H. **Low Impact Development/Green Stormwater Infrastructure.**

1. *Purpose.*

(a) Low Impact Development (LID) is an ecologically friendly approach to site development and managing stormwater that aims to mitigate development impacts to land, water, and air on a site.

¹⁴ These widths align with [Coastal Resources Commission Rules](#).

- (b) The approach emphasizes integration of site design and planning techniques that conserve natural systems and hydrologic functions and use or mimic natural processes for the infiltration, evapotranspiration, or reuse of stormwater and runoff on the site where it is generated.
 - (c) LID techniques reduce the amount of untreated runoff discharged to surface waters by allowing stormwater to be absorbed and filtered by soil and vegetation before flowing into groundwater or surface water resources. This reduces stormwater maintenance costs and protects water quality.
 - (d) Low Impact Development techniques are established to:
 - (1) Aid in creating drainage systems aligned with sound engineering principles;
 - (2) Reduce expenses linked to the construction and upkeep of engineered stormwater drainage systems by promoting natural drainage flow;
 - (3) Establish a mechanism for development that minimizes negative impacts on the natural surroundings;
 - (4) Counteract heat island effects; and
 - (5) Create amenity and value and enhance the overall aesthetic of developments through incorporation of natural areas.
2. *Applicability.*¹⁵ The use of LID techniques is required in CR-NIZ and CR-M for all new developments that are subject to Chapter 54, Stormwater.¹⁶
3. *Standard.*
- (a) Developments subject to this Section must use at least two LID techniques specified in 2.7.3.H.4 below to manage at least 50% of the development site's peak flow.

¹⁵ See discussion of N.C.G.S. 160D-601(d) above and note that compliance incentives could include increased building height, reduced setbacks, and allowances for vegetated LID features to count towards required landscaping and/or open space.

¹⁶ Chapter 54 applies to "new development activity in the town's corporate limits and in the town's extraterritorial zoning jurisdiction where land disturbing activity, whether part of initial development or subsequent build-out of the development, will (1) Disturb more than one acre of land in any residential zoning district, except for an individual single-family residential lot of record where the impervious surface on the lot will be less than ten percent of the surface area of the lot and no fill dirt is brought onto the lot; or (2) Disturb more than one-half an acre of land in any business or industrial zoning district."

- (b) An applicant must submit an engineer's certification verifying compliance with 2.7.3.H.3(a) above.

4. *LID Techniques.*

- (a) LID techniques may include, but are not limited to, any of the following:
 - (1) Bioretention swales and basins;
 - (2) Level spreaders and filter strips;
 - (3) Porous pavement and permeable pavers;
 - (4) Cisterns and water harvesting;
 - (5) Pocket wetlands; and
 - (6) Rooftop runoff mitigation measures, such as green roofs and rooftop gardens.
- (b) LID techniques must be designed, installed, and maintained in accordance with the [NCDEQ Stormwater Design Manual](#).

I. **Stormwater Retrofit.**¹⁷

1. *Applicability.*

- (a) This Section offers incentives for developed lots in the CR-O that, if they were undeveloped, would be subject to Chapter 54, Stormwater,¹⁸ but do not meet the standards in that chapter.
- (b) The incentives in this Section are available when the existing development is proposed to be renovated, repaired, altered, or otherwise improved by more than 50% of its replacement value at the time of renovation, repair, alteration, or improvement.

- 2. *Techniques.* Stormwater retrofit techniques must be appropriate for the site and serve to incrementally increase compliance with Chapter 54, Stormwater.

¹⁷ N.C.G.S. § 143-214.7(b3)

¹⁸ Chapter 54 applies to "new development activity in the town's corporate limits and in the town's extraterritorial zoning jurisdiction where land disturbing activity, whether part of initial development or subsequent build-out of the development, will (1) Disturb more than one acre of land in any residential zoning district, except for an individual single-family residential lot of record where the impervious surface on the lot will be less than ten percent of the surface area of the lot and no fill dirt is brought onto the lot; or (2) Disturb more than one-half an acre of land in any business or industrial zoning district."

3. *Incentives.*

- (a) Table 2.7.3-1: Incentives for Stormwater Retrofits specifies available incentives.
- (b) Incentives are cumulative. For example, if three improvements are used, the incentive available for each improvement may be used.

Table 2.7.3-1: Incentives for Stormwater Retrofits

Improvement	Incentive
Vegetation added to existing retention/detention areas	Vegetation may count towards any landscaping required on the site
Installation of bioswales/rain gardens	Vegetation may count towards any landscaping required on the site
Installation of rainwater harvesting features	Width of buffer required by § 4.3.3 may be reduced by 1 foot for every 75 gallons ¹⁹ of rainwater harvested, up to a maximum reduction of 5 feet
Removal of curbing to route stormwater into vegetated areas	Maximum lot coverage may be increased by an area equivalent to the amount of impervious surface removed, up to a maximum increase of 5%
Impervious surface disconnection	Maximum lot coverage may be increased by an area equivalent to the amount of impervious surface removed, up to a maximum increase of 5%
Replacement of impervious surfaces with pervious surfaces	Shoreline buffer required by § 4.3.3 may be reduced by an area equivalent to the amount of impervious surface removed, up to a maximum reduction of 750 square feet
Installation of underground stormwater control measures, such as sand filters	Maximum lot coverage may be increased by the area of the underground SCM, up to a maximum increase of 5%
Full compliance with Chapter 54	For developments subject to Site Plan Review, final approval may be granted by staff

¹⁹ Rain barrels typically range in size from 55 to 95 gallons. Larger rainwater harvesting systems are available but less common, particularly in a residential application.

J. Increased Construction Standards.²⁰

1. *Applicability.*
 - (a) *CR-NIZ Subdistrict.* Increased construction standards apply to new development in the CR-NIZ and to existing development that is proposed to be renovated, repaired, altered, or otherwise improved by more than 50% of its replacement value at the time of renovation, repair, alteration, or improvement.²¹
 - (b) *CR-M Subdistrict.* Increased construction standards are not required in the CR-M. However, this Section establishes incentives for development that incorporates one or more increased construction standard.
2. *Required Points in CR-NIZ.* Each development in the CR-NIZ must achieve at least eight points using the techniques specified in Table 2.7.3-2: Increased Construction Standards.
3. *Incentives in CR-M.* Each development in the CR-M that incorporates one or more of the techniques specified in Table 2.7.3-2: Increased Construction Standards may use the incentive specified for that technique.²²

Table 2.7.3-2: Increased Construction Standards

Element	Description	Points (CR-NIZ)	Incentive (CR-M)
Structure	Principal structure meets the minimum requirements for FORTIFED Gold™ designation	8	Staff Site Plan Review [1], Expedited Permitting [2]
Structure	Principal structure meets the minimum requirements for FORTIFED Silver™ designation	7	Staff Site Plan Review [1], Expedited Permitting [2]

²⁰ These increased construction standards may be applied as a generally applicable development standard to areas beyond the overlay district, since the impacts these standards are intended to address may apply within and outside of the flood zone. The UDO Steering Committee will discuss the applicability of these proposed standards.

²¹ See discussion of N.C.G.S. 160D-601(d) above and note possible alternative compliance incentives.

²² Alternatively, incentives could be available for developments in the CR-M that achieve a certain number of points. For example, developments that achieve 8 points could receive expedited permitting and staff Site Plan Review.

Element	Description	Points (CR-NIZ)	Incentive (CR-M)
Roof	Principal structure meets the minimum requirements for FORTIFIED Roof™ designation	6	Expedited Permitting [2]
Freeboard [3]	Principal structure is elevated at least 3 feet above base flood elevation	4	Maximum building height may be increased by up to 3 feet
Roof	Principal structure is constructed with roof materials that achieve Class 3 or Class 4 impact resistance, as defined by UL Standard 2218 ²³	3	Maximum lot coverage may be increased by up to 2%
Openings	At least 75% of the windows and doors on the principal structure are impact-resistant ²⁴	3	Maximum lot coverage may be increased by up to 2%
Storm shutters	At least 75% of the windows on the principal structure include operable storm shutters permanently installed on the structure	2	Maximum lot coverage may be increased by up to 1.5%
Attic vents	Principal structure uses ridge vents rather than gable vents or uses vents certified as resistant to wind and water intrusion	2	Maximum lot coverage may be increased by up to 1.5%
Generators	Install a generator for power generation to keep critical functions (in residential buildings, this includes refrigerator, freezer, basic lighting, and healthcare appliances) working in the event of power failure	2	Maximum lot coverage may be increased by up to 1.5%

²³ UL Standard 2218 primarily measures resistance to hail. This region receives very little hail so, while the UL standard is not applicable, the increased impact resistance may provide some measure of resistance to debris other than hail. Note that ASTM 7158 H classification shingles for high wind zones (150mph) is required by the NC Building and Residential Codes.

²⁴ The Town Building Inspector notes that impact resistant materials may be cost prohibitive. The Building Code requires windows to have a minimum design pressure (DP) rating of DP50. This is a high level of wind resistance, though not necessarily impact resistance.

Element	Description	Points (CR-NIZ)	Incentive (CR-M)
Generators	Principal structure is wired to accommodate a generator	1	Maximum lot coverage may be increased by up to 1%
Reinforced soffits	All soffits on principal structure include additional bracing and fasteners	1	Maximum lot coverage may be increased by up to 1%

[1] Staff Site Plan Review: For structures subject to Site Plan Review, final approval may be granted by staff.

[2] Expedited Review: Building permit applications are placed at the front of the queue.²⁵

[3] This applies only in CR-NIZ since it is the only area of the CR-O with a base flood elevation.

K. **Cluster Development.** <<The next iteration of the CR-O will include provisions incentivizing or requiring cluster subdivisions in the CR-O.>>

²⁵ Town staff typically reviews and acts on complete applications within one week, so this particular incentive may offer limited benefit.