



Town of Beaufort, NC

701 Front St. - P.O. Box 390 - Beaufort, N.C. 28516
252-728-2141 - 252-728-3982 fax - www.beaufortnc.org

Town of Beaufort Planning Board Regular Meeting

6:00 PM Monday, September 15, 2025 - Train Depot, 614 Broad Street, Beaufort, NC 28516
Monthly Meeting

Call to Order

Roll Call

Agenda Approval

Minutes Approval

[1.](#) PB Draft Minutes 061625

Public Comment

New Business

[1.](#) UDO Coastal Resilience Overlay District Draft

Commission / Board Comments

Staff Comments

Adjourn



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Town of Beaufort Planning Board Regular Meeting
6:00 PM Monday, June 16th, 2025 - Train Depot, 614 Broad Street, Beaufort, NC 28516
Minutes

Call to Order

Chair Neve called the June 16th, 2025 Planning Board meeting to order at 6:00 p.m.

Roll Call

The Secretary conducted the roll call for the meeting.

Members Present: Ryan Neve, Chair; George Stanziale, Vice-Chair; Becky Bowler, Vic Fasolino

Members Absent: Tammy Hunsucker, Clark Patton, Jeff Vreugdenhil

A quorum was declared with four members present.

Town Staff Present: Kyle Garner, Planning Director; Mrs. Michelle Eitner, Town Planner; Mr. Arey Grady, Town Attorney; Ms. Laurel Anderson, Board Secretary

Agenda Approval

Member Bowler made the motion to approve the agenda and Member Fasolino made the second. Chair Neve took a vote that was unanimously approved.

Voting yea: Chair Neve, Vice-Chair Stanziale, Becky Bowler, Vic Fasolino

Minutes Approval

1. PB Draft Minutes 051925

Member Fasolino made the motion to approve the minutes and Member Bowler made the second. Chair Neve took a vote that was approved.

Voting yea: Chair Neve, Becky Bowler, Vic Fasolino

Abstained: Vice-Chair Stanziale

Public Comment

Chair Neve then asked if anyone would like to speak. There were no public comments.

New Business

1. Case #25-10 Annie L Jones Co 1600/1612 Live Oak Street Preliminary & Final Plat

Mrs. Eitner gave the Staff Report to recommend to the Board of Commissioners approval or denial of the proposed subdivision preliminary & final plat of 1600/1612 Live Oak Street. There are 3.65 total acres, subdivided into two tracts of 1.45 acres on tract 1 and 2.2 acres on tract 2, with McDonald's to purchase tract 1 which they currently lease. There is an on-site stormwater retention pond established for both lots to be maintained jointly. There is no development currently planned as a result of this subdivision. He showed the proposed subdivision and existing conditions, with a red dashed line illustrating the proposed division.

Josh Edmundson, Tidewater Associates, explained that the stormwater pond maintenance would be equally shared between the owners of the two properties.

Member Vreugdenhil arrived at the meeting and participated in the discussion from that point forward.

Vice-Chair Stanziale made the motion to recommend approval and Member Bowler made the second. Chair Neve took a vote that was approved.

Voting yea: Chair Neve, Vice-Chair Stanziale, Becky Bowler, Vic Fasolino, Jeff Vreugdenhil

2. Case #25-11 Enclave @ Beaufort Club – Preliminary Plat

Mr. Garner gave the Staff Report to subdivide a 25.93-acre tract into 84 lots, 79 for single family residential and 5 lots for open space - 2.02 acres of open/recreation space which is more than the 1.69 acres required. This site is part of the original Planned Unit Development from the early 2000's and was originally labeled as Parcel "B" on the original master plan. On November 25th, 2024, the Board of Commissioners approved sewer allocation for the Enclave in the amount of 12,600 gallons per day and placed a condition that the final plat will not be approved until the agreed upon second point of access is provided from Cedar Avenue through Windswept Lane. Mr. Garner noted the Town's Technical Review Committee has thoroughly reviewed these plans for consistency with Town design specifications.

The Board discussed the proposed second road access between Windswept Lane and Cedar Avenue, the ongoing maintenance of the sidewalks and the roads, street tree and sidewalk requirements. Member Vreugdenhil stated that he wanted to see the design of the secondary point of access road through Cedar Avenue and his concerns about the approval process and timing of infrastructure development and tree preservation and removal of existing trees shown on the submitted map. Mr. Garner clarified that the streets and sidewalks would be maintained by the Town of Beaufort and Cedar Avenue is a state road and is not owned by Beaufort Club.

Steve Saieed, property co-owner, then answered questions and first discussed the secondary road. He assured the board that they owned all the necessary property for the development up to the access road. Mr. Saieed stated that the new road will be built to the Fire Marshal's specifications and the lots will not be recorded until the Cedar Avenue access is completed and accepted by the Town. Member Vreugdenhil then noted that trees had already been cleared in the new subdivision area before plat approval was obtained. Member Fasolino asked if there was a landscape plan and if street trees would be installed. Mr. Saieed stated that each builder was responsible for landscape plans when they submitted architectural plans. He went on to say that they planned to plant crepe myrtles every 40 feet along the street but that was not a condition of the submission.

Member Bowler expressed concern about construction traffic coming in and out of the current entrance and Mr. Saieed said the entrance would be upgraded through working with the state.

Vice-Chair Stanziale requested that street trees be considered and Mr. Saieed committed to planting two live oak trees or other

native trees per lot.

The Board expressed concern about the design of the secondary road not being shown or built before the subdivision is complete, especially as that is the condition to obtain the sewer allocation. In answer to the concern that the existing Cedar Avenue road is not up to the standards for a fire road, Mr. Garner stated that it is an NCDOT road built to their specifications and maintained by them. He also explained that the condition was already placed by the Board of Commissioners which was part of the sewer allocation negotiation by the developer.

Member Bowler asked what work could be completed by the developer if the preliminary plat is recommended to be approved. Mr. Garner explained that state permits must be in place and then they can begin work on infrastructure. Member Bowler then asked if and how potential buyers on Windswept Avenue would know that their lots may be adjacent to the new road and Mr. Saieed later answered that builders were aware and had been told to inform their buyers. Mr. Vreugdenhil asked if the homeowners on Cedar Avenue knew that the new road would be cutting into their road and Mr. Saieed stated he did not know. Member Vreugdenhil explained that the new road should have been included in the preliminary plat and he would have felt more comfortable approving it if it had been. After further discussion he asked Mr. Saieed if he had written assurance from DOT that they had no issues with the new access road and Mr. Saieed stated he did not but he did not forecast any problems with DOT. Mr. Garner explained that if they did not receive DOT approval then they would lose sewer allocation.

After further discussion, Member Vreugdenhil made the motion to recommend approval contingent upon a following preliminary and final plat approval for access to Cedar Avenue before approval of a final plat and Vice-Chair Stanziale made the second. Chair Neve took a vote that was approved.

Voting yea: Chair Neve, Becky Bowler, George Stanziale, Jeff Vreugdenhil

Voting nay: Vic Fasolino

Vice-Chair Stanziale made a motion for a recommendation that the developer consider planting two street trees such as oaks or other native trees every 40 feet and Member Bowler made the second. Chair Neve took a vote that was approved.

Voting yea: Chair Neve, Becky Bowler, Vic Fasolino, George Stanziale, Jeff Vreugdenhil

Commission / Board Comments

Member Fasolino reminded the Board of the Unified Development Ordinance Steering Committee meetings on Friday and at the Farmer's Market on Saturday. Chair Neve mentioned addressing the requirement for applicants to map all the trees and then cutting them down before approvals are received in the new UDO. Mr. Grady stated that the current LDO states that no development shall occur until all approvals are in hand, noting that the definition of development is broad and includes moving one grain of sand. There was discussion regarding enforcement and notices of violations in these matters and the definition of timbering rather than clearcutting.

Chair Neve expressed a concern that all the Board's motions be conveyed to the Board of Commissioners and not paraphrased.

Staff Comments

Mr. Garner asked the Board to stay engaged with the UDO and Mrs. Eitner gave a brief overview of the upcoming Community Conversations.

Adjourn

Member Vreugdenhil made the motion to adjourn and Member Stanziale made the second. Chair Neve took a vote that was unanimously approved.

Voting yea: Chair Neve, Becky Bowler, Vic Fasolino, George Stanziale, Jeff Vreugdenhil

Chair Neve then declared the meeting adjourned at 7:33 p.m.

Ryan Neve, Chair

Laurel Anderson, Board Secretary

DRAFT

DRAFT

1.



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Town of Beaufort Planning Board Regular Meeting 6:00 PM Monday, September 15, 2025 – Train Depot

AGENDA CATEGORY: New Business
SUBJECT: UDO Coastal Resilience Overlay District Draft

BRIEF SUMMARY:

The UDO Steering Committee has worked closely with staff and the consultant team since March to develop the draft Coastal Resilience Overlay District (CR-O), which aligns with the Non-Intensification Zone (NIZ) guidance of the Comprehensive and CAMA Land Use Plan. The consultants presented the draft for joint review by the Board of Commissioners and Planning Board on August 25th and will provide an updated version to the Planning Board for review and recommendation. Final review and recommendation for adoption will not occur until the entire UDO is complete, anticipated in late 2027.

REQUESTED ACTION:

Presentation and discussion of proposed ordinance
Provide recommendation to Board of Commissioners

EXPECTED LENGTH OF PRESENTATION:

15 Minutes

SUBMITTED BY:

Michelle Eitner
Town Planner

Legend

CR-O

CR-M Subdistrict

CR-NIZ Subdistrict

Beaufort Town Limits

Beaufort ETJ

Carteret County Tax Parcels

1.

N

Michael J. Smith Airport

Highway 70

Highway 101

Highway 70

Live Oak St

Steep Point Rd

Turner St

Cedar St

Arm St

Lemoxville Rd

Town of Beaufort

Coastal Resilience Overlay District (CR-O)



2.7.3: Coastal Resilience Overlay District

Board of Commissioners & Planning Board Review Draft
August 15, 2025 | REVISED September 5, 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, retroactively to June 22, 2024. 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, 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 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.” In short, the bill does not appear to prohibit

municipalities from enforcing *all* restrictions on *all* properties that may be more restrictive than regulations adopted prior to June 2024.

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/>).

August 2025 Update

The North Carolina General Assembly (i.e., the Senate and House of Representatives) adjourned on July 31. The General Assembly adopted a [Joint Resolution](#) "adjourning the 2025 regular session of the General Assembly to a date certain and limiting the matters that may be considered upon reconvening." They will reconvene on August 26 for a short session until August 28, followed by several additional short sessions in 2025 and 2026.

The Joint Resolution limits the matters the General Assembly may consider. Generally, these matters are limited in scope and, with two exceptions, do not include pending bills. However, it appears they may be able to consider at least one of the bills related to the 2024 downzoning legislation during their September 2025 and April 2026 sessions. It appears the General Assembly could consider [S587](#), which restores the ability of local governments to initiate downzonings, but not [H281](#), which is specific to Carteret County and its municipalities.

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Article 2: Zoning Districts

2.7. Overlay Zoning Districts

2.7.3. CR-O, Coastal Resilience Overlay District¹

- A. **Purpose.** The purpose of the Coastal Resilience Overlay District (CR-O) 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. Recognize the designation of Beaufort’s downtown waterfront as an Urban Waterfront, as defined in [15A NCAC 07H .0209\(g\)](#);
 4. Protect and improve water quality;
 5. Reduce the quantity of stormwater pollutants entering local waterways;
 6. Reduce shoreline erosion;
 7. Preserve wildlife habitat;
 8. Prepare for effects of anticipated sea level rise, as measured by NOAA;
 9. Reduce flooding and subsequent property damage;
 10. 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;
 11. Minimize public and private losses due to flood and related conditions in the most vulnerable areas of the Town; and
 12. Promote public health, safety, and general welfare.

¹ Note that while the geographic areas subject to the proposed Overlay align with Federal floodplain areas, the standards proposed in the Town’s overlay are different from those that apply per Federal law and rules. While important to highlight that the geographic areas are the same (which the overlay, as revised, does in section 2.7.3(B)2. And 3., the current draft is titled as a “Coastal Resilience” overlay, that includes a subdistrict titled as a “Non-Intensification Zone,” order to both maintain consistency with the CAMA plan’s terminology and to also highlight the substantive differences between Federal flood regulations and the matters addressed locally via the overlay.

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 has the same boundary as the Special Flood Hazard Area (SFHA)² in effect on the date the Board of Commissioners (BOC) adopted the CR-O. The Federal Emergency Management Agency (FEMA) identifies and maps the SFHA which, in Beaufort, includes the AE and VE Zones. These areas are commonly referred to as the 100-year floodplain or the 1% annual chance flood hazard area.
3. *CR-M, Moderate Hazard Subdistrict.* This subdistrict has the same boundary as the Shaded X Zone within the Non-Special Flood Hazard Area (NSFHA)³ in effect on the date the BOC adopted the CR-O. This area is commonly referred to as the 500-year floodplain or the 0.2% annual chance flood hazard area.
4. *Changes to District Boundary.* The boundary of the CR-O is expected to change over time as 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.⁴ 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.

² UDO Article 12 will include the Flood Damage Prevention Ordinance's current definition of SFHA.

³ UDO Article 12 will define NSFHA.

⁴ 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. When a standard applies to redevelopment, defined as existing development that is proposed to be renovated, repaired, altered, or otherwise improved by more than 50% of its replacement value⁵ 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.

D. Exception for Nonconforming Single-Family Houses.

1. When a nonconforming detached single-family house suffers substantial damage⁶ by fire, flood, wind, or other natural disaster or event beyond the owner's reasonable control, substantial improvements⁷ to the house are allowed to repair and restore it to its pre-event dimensions⁸ on the pre-event footprint⁹ if the improvements:
 - (a) Meet all applicable building codes;

⁵ This aligns with the Town's provisions for bringing nonconforming structures into compliance with current regulations.

⁶ UDO Article 12 will carry forward the Flood Damage Prevention Ordinance's definition of *substantial damage*, which is "damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred. See definition of substantial improvement.

Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25% of the market value of the structure before the damage occurred."

⁷ UDO Article 12 will carry forward the Flood Damage Prevention Ordinance's definition of *substantial improvement*, which is "any combination of repairs, reconstruction, rehabilitation, addition or other improvement of a structure, taking place during any one-year period whereby the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either: (1) Any correction of existing violations of state or community health, sanitary or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or (2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure."

⁸ The term *dimensions* includes both horizontal dimensions and vertical dimensions (i.e., setbacks and height).

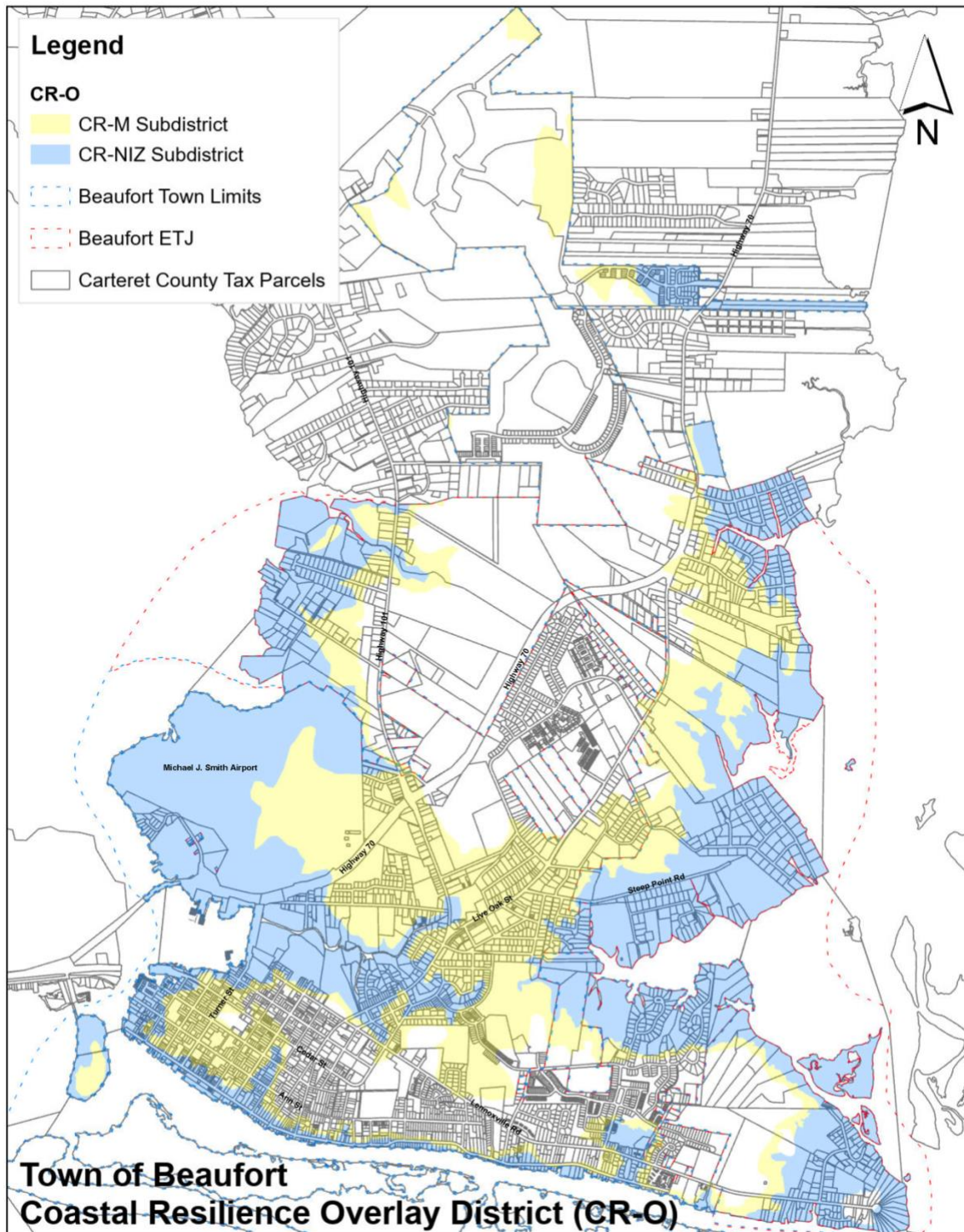
⁹ This is a current provision in the Town's LDO (see Section 11, Paragraph D.6).

- (b) Meet or exceed the Regulatory Flood Protection Elevation (RFPE),¹⁰ unless a variance has been granted pursuant to [Section 6.3.4, Variance Procedures](#),¹¹ of the Town's Flood Damage Prevention Ordinance; and
 - (c) If applicable, receive a Certificate of Appropriateness in accordance with [Section 7.5.3](#).¹²
- 2. If a house is nonconforming with respect to height or would exceed the district height limit after a substantial improvement because an increase in elevation is required to comply with the Flood Damage Prevention Ordinance or the Building Code, it may be reconstructed to the greater of:
 - (a) Its height at the time of the substantial damage; or
 - (b) The base zoning district height limit plus one foot for each one foot the house is elevated above the RFPE, up to a maximum of three feet.

¹⁰ The Town's [Flood Damage Prevention Ordinance \(Sec. 151.05\)](#) defines *regulatory flood protection elevation* as "the elevation to which all structures and other development located within the Special Flood Hazard Areas must be elevated or floodproofed, if non-residential. Within areas where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus one foot of freeboard. In areas where no BFE has been established, all structures and other development must be elevated or floodproofed, if non-residential, to two feet above the highest adjacent grade."

¹¹ This is a cross-reference to the new UDO section that will establish the Flood Damage Prevention Ordinance's Variance procedure; the teal highlight is a reminder to verify the cross-reference once the UDO is drafted. The current cross-reference is [Section 151.28](#).

¹² This is a cross-reference to the new UDO section that will include the Certificate of Appropriateness procedure for historic district development (Section 23 in the LDO); the teal highlight is a reminder to verify the cross-reference once the UDO is drafted. The procedure is described Section 23 of the current LDO.

Figure 2.7.3-1: Coastal Resilience Overlay District Boundary

E. Allowed Uses.

1. 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:
 - (a) New critical facilities¹³ are prohibited in the CR-NIZ subdistrict;¹⁴ and
 - (b) New residential uses, other than detached single-family houses, are prohibited in the CR-NIZ subdistrict.¹⁵
2. Renovations, repairs, alterations, or other improvements that do not exceed 50% of a structure's replacement value at the time of renovation, repair, alteration, or improvement are allowed for existing critical facilities and existing residential uses (other than detached single-family houses, which may be improved by more than 50% of their replacement value).

F. Residential Density. New developments in the CR-NIZ subdistrict are limited to a maximum density of five dwelling units per acre.

G. Impervious Surface Coverage.¹⁶

¹³ UDO Chapter 12 will propose the following definition of *critical facility*: Public or private structures or other improvements essential for the delivery of vital services and for the protection of the community. In Beaufort, critical facilities include only the following *principal* uses:

Fire stations, police stations, rescue squads, and emergency operations centers; hospitals, long-term care facilities, and other healthcare facilities where the occupants may not be sufficiently mobile to evacuate in an emergency; emergency shelters; jails and other detention centers; preschools, elementary schools, and secondary schools; water supply facilities, wastewater treatment facilities (excluding wastewater pump and lift stations), power substations, and natural gas gate stations; and telecommunications towers unless no feasible alternative location is available to the carrier in order to achieve coverage as is required by federal law." Note that this policy limiting major infrastructure in vulnerable areas does not limit underground water and sewer line extension otherwise approved by the Town.

¹⁴ 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."

¹⁵ The Town's Comprehensive & CAMA Land Use Plan (p. 196) suggests "[s]ingle family detached residential of low densities (i.e. – without public utilities) and other lower intensity uses (parks, open space, hunting stands, docks and fishing areas, day-use areas, flood absorption, etc.) should be the only uses allowed in the Non-Intensification Zone, with the exception of existing nonconformities."

¹⁶ 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 (if the lot contains a residential use). **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

1. *Applicability.* All lots in the CR-O are subject to this Section, except as provided in 2.7.3.G.2, Exemptions.¹⁷ This includes new development and redevelopment as defined in 2.7.3.C.4 above.
2. *Exemptions.*
 - (a) Lots located in the following zoning districts are exempt from the impervious surface coverage limitation:
 - (1) H-BD;
 - (2) H-WBD; and
 - (3) R-8A.
 - (b) Developments that require a stormwater permit issued by the North Carolina Department of Environmental Quality are exempt from the impervious surface coverage limitation.
3. *Impervious Surface Coverage Limitation.* Lots subject to this Section are limited to the impervious surface coverage limit specified in Table 2.7.3-1.

commercial/mixed use districts). In Craven County, **New Bern** does not regulate impervious surface coverage, but **Havelock** regulates it in most zoning districts. The limits in residential districts range from 30% to 50%, except in the most rural district (5 acre minimum lot area) where it is 10%. Where regulated in other districts, the limit is 50%. In Onslow County, **Swansboro** does not regulate impervious surface or lot coverage but does require landscaping and buffers and regulates for maximum building area. In Dare County, **Duck** regulates lot coverage by zone; residential zones are limited to 30% lot coverage with up to 35% for enhanced stormwater management. Commercial zones lot coverage ranges from 50% to 60%. "Large Residences" are defined and are additionally required to maintain a 20% vegetative lot coverage (10% natural vegetation). **Nags Head** regulates lot coverage by zone; residential zones are limited to 30% + 300 sf or 33%, whichever is greater. Commercial and Mixed Use zones are increasingly permissive with lot coverage ranging from 40 to 55%. For lots abutting shoreline, lot coverage is limited to 30% within the estuarine area. Lot coverage increases are incentivized for increased stormwater measures and permeable pavement, and exceptions are given for shared-use drives and accommodation of alternative transportation.

¹⁷ See discussion of N.C.G.S. § 160D-601(d) above.

Table 2.7.3-1: Impervious Surface Coverage Limit

Use	Impervious Surface Coverage (max) ¹⁸	
	CR-NIZ	CR-M
Residential use other than a detached single-family house	30%	40%
Detached single-family house	2,500 sf or 30% of the lot area, whichever is greater ¹⁹	2,500 sf or 40% of the lot area, whichever is greater
Non-residential use or a mixture of uses	50%	60%

Key: max = maximum allowed | sf = square feet

H. **Shoreline Management.**²⁰

1. *Applicability.* All lots in the CR-O are subject to this Section.
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.²¹

¹⁸ UDO Article 12 will propose the following definition of *pervious surface*: “A surface that allows water to infiltrate through the surface and into the subsoil. Examples of pervious surfaces include slatted decks; the water area of a swimming pool; a surface of number 57 stone, as designated by the American Society for Testing and Materials, laid at least four inches thick over a geotextile fabric; pavement, if it is porous with a hydraulic conductivity greater than 0.001 centimeters per second (1.41 inches per hour); and landscaping material, including gravel, mulch, sand, and vegetation, placed on areas that receive only pedestrian or bicycle traffic or on portions of driveways and parking areas that will not be compacted by the weight of a vehicle.” These examples are from the definition of *built-upon area* in [N.C.G.S. § 143-214.7D](#).

¹⁹ On a lot zoned R-8 that meets the minimum dimensional standards (8,000 sf lot area and 60 ft lot width), the lot area within the minimum required setbacks constitutes 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.

²⁰ These provisions mainly apply in CR-NIZ since that’s the primary CR-O subdistrict along the shoreline.

²¹ 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

I. Shoreline Planting Area.

1. *Applicability.* All lots in the CR-O with a base zoning district of R-8A, B-W, H-BD, and H-WBD that have frontage along a natural waterbody are subject to the shoreline planting area requirements described in this Section.
2. *Planting Area Width.* The shoreline planting area includes the landward portions of any parcel within 20 feet of the mean high-water line.
3. *Planting Requirements.* When a landowner chooses to install vegetation within the planting area, it must be:
 - (a) Native to North Carolina; and
 - (b) Selected from the Acceptable Plant Lists in Table 2.7.3-2, Table 2.7.3-3, Table 2.7.3-4, and Table 2.7.3-5

J. Shoreline Buffer.²²

1. *Applicability.*
 - (a) All lots in the CR-O that have frontage along a natural waterbody must maintain or establish a shoreline buffer, except as provided in 2.7.3.J.2, Exemptions.
 - (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. *Exemptions.*
 - (a) Lots located in the following zoning districts are exempt from the requirement to maintain or establish a shoreline buffer, but they are subject to the shoreline planting area requirements specified in 2.7.3.I above:

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.

²² 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.

- (1) R-8A;
 - (2) B-W;
 - (3) H-BD; and
 - (4) H-WBD.
- (b) Lots containing or proposed to contain the following uses are exempt from the requirement to maintain or establish a shoreline buffer:
 - (1) Marinas;²³
 - (2) Water-dependent marine research facilities;²⁴
 - (3) Working docks;²⁵ and
 - (4) Airports.
- 3. *Buffer Width.* A shoreline buffer must be at least 20 feet in width, measured landward from the mean high-water line.
- 4. *Existing Vegetation.* Where vegetation naturally exists along a shoreline, it must remain undisturbed except as otherwise provided in this Section.
- 5. *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.
 - (b) New plantings must be:

²³ The current LDO definition of *marina* is "any publicly or privately owned dock, basin, or wet boat storage facility constructed to accommodate more than ten boats and providing any of the following services: permanent or transient docking spaces, dry storage, fueling facilities, haul-out facilities, and repair service."

²⁴ UDO Article 12 will propose the following definition of *water dependent use*: "A use or portion of a use that requires location on a waterbody due to the intrinsic nature of its operations. A water-dependent use must need physical access to a surface water body to operate and cannot be located away from the water without loss of function."

²⁵ UDO Article 12 will propose the following definition of *working dock*: "A dock, pier, or wharf that is actively used for marine-related commercial, industrial, or institutional operations, including loading and unloading of goods or passengers, seafood landing and processing, fueling of vessels, vessel maintenance and repair, charter operations, and other water-dependent activities. A working dock is distinguished from recreational or residential docks by its function, facilities, and frequency of use in support of maritime commerce or water-based livelihoods."

- (1) Native to North Carolina;
 - (2) Arranged in a natural random pattern; and
 - (3) Selected from the Acceptable Plant Lists in Table 2.7.3-2, Table 2.7.3-3, Table 2.7.3-4, and Table 2.7.3-5.
- (c) The use of turf grass within a shoreline buffer is prohibited.
- (d) The planting requirement per 100 linear feet is:
- (1) Three medium or large trees of 3-inch caliper with a minimum of two different species;
 - (2) Five small trees of 2-inch caliper with a minimum of three different species;
 - (3) Eighteen shrubs or vines, 3-gallon pots with a minimum of four different species; and
 - (4) Twenty-five grasses, 1-gallon pots with a minimum of five different species.

Table 2.7.3-2: Shoreline Buffer Acceptable Plant List – Medium & Large Trees

Common Name	Botanical Name	Suitable for Lowland Areas
American Holly	<i>Ilex opaca</i>	
Bald Cypress	<i>Taxodium distichum</i>	✓
Carolina Cherry Laurel	<i>Prunus caroliniana</i>	
Eastern Red Cedar	<i>Juniperus virginiana</i>	✓
Hackberry	<i>Celtis laevigata</i>	✓
Live Oak	<i>Quercus virginiana</i>	✓
Loblolly Pine	<i>Pinus taeda</i>	✓
Southern Magnolia	<i>Magnolia grandiflora</i>	
Southern Red Cedar	<i>Juniperus virginiana</i> var. <i>silicicola</i>	✓
Sweetgum	<i>Liquidambar styraciflua</i>	✓
Water Oak	<i>Quercus nigra</i>	✓

Table 2.7.3-3: Shoreline Buffer Acceptable Plant List – Small Trees

Common Name	Botanical Name	Suitable for Lowland Areas
American persimmon	<i>Diospyros virginiana</i>	
Serviceberry	<i>Amelanchier canadensis</i>	
Southern Wax Myrtle	<i>Morella cerifera</i>	✓
Tea Olive	<i>Osmanthus americanus</i>	✓
Yaupon Holly	<i>Ilex vomitoria</i>	✓

Table 2.7.3-4: Shoreline Buffer Acceptable Plant List – Shrubs & Vines

Common Name	Botanical Name	Suitable for Lowland Areas
Adams Needle	<i>Yucca filamentosa</i>	
Brownsville tree	<i>Baccharis halimifolia</i>	✓
Coral Bean	<i>Erythrina herbacea</i>	
Coral Honeysuckle	<i>Lonicera sempervirens</i>	
Dwarf Palmetto	<i>Sabal minor</i>	✓
Inkberry	<i>Ilex glabra</i>	✓
Oakleaf hydrangea	<i>Hydrangea quercifolia</i>	
Sea oxeye daisy	<i>Borrichia frutescens</i>	✓
Seaside Goldenrod	<i>Solidago sempervirens</i>	✓
Spanish Dagger	<i>Yucca aloifolia</i>	✓
Swamp Milkweed	<i>Asclepias incarnata</i>	
Swamp Sunflower	<i>Helianthus angustifolius</i>	
Sweet Pepperbush	<i>Clethra alnifolia</i>	

Table 2.7.3-5: Shoreline Buffer Acceptable Plant List – Grasses

Common Name	Botanical Name	Suitable for Lowland Areas
Bear Grass	<i>Yucca filamentosa</i>	
Bitter Panicum	<i>Panicum amarum</i>	✓
Little Bluestem	<i>Schizachyrium scoparium</i>	
Pink Muhly Grass	<i>Muhlenbergia capillaris</i>	✓
Saltmeadow Cordgrass	<i>Sporobolus pumilus</i>	✓

6. *Invasive Species.*

- (a) Invasive species may be removed from a shoreline buffer. Invasive species are any of those listed as Rank 1, Rank 2, or Rank 3 on the most recent [North Carolina Ranked List of Invasive Plants](#) adopted by the North Carolina Invasive Plant Council.
- (b) The use of heavy equipment for vegetation removal is discouraged. If heavy equipment is used, measures should be taken to ensure existing (non-invasive) vegetation is not damaged in the process.
- (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.

7. *Prohibited Elements.* The following elements are prohibited within a shoreline buffer:

- (a) Impervious surfaces; and
- (b) Walls.

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

- (a) Pedestrian trails if the trail is:
 - (1) Constructed of pervious material or is an elevated boardwalk;

- (2) Six feet or less in width and
- (3) 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);²⁶
- (c) Erosion control structures as allowed by 2.7.3.H, Shoreline Management;
- (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.

K. Low Impact Development.

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.
- (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.

²⁶ These widths align with [Coastal Resources Commission Rules](#). Note [Section 503.2.1: Dimensions](#) of the North Carolina State Building Code: Fire Prevention Code requires fire apparatus access roads to have a minimum unobstructed width of 20 feet and a minimum vertical clearance of 13 feet, 6 inches.

- (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.*²⁷ The use of LID techniques is required in CR-NIZ and CR-M for all new developments that are subject to Chapter 54, Stormwater.²⁸
3. *Standard.*
- (a) Developments subject to this Section must use at least two LID techniques specified in 2.7.3.K.4 below to manage at least 50% of the development site's peak flow.
 - (b) An applicant must submit an engineer's certification verifying compliance with 2.7.3.K.3(a) above.

²⁷ 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.

²⁸ 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."

4. *LID Techniques.*

- (a) LID techniques may include, but are not limited to, any of the following:²⁹
 - (1) Bioretention cells;
 - (2) Level spreaders and filter strips;
 - (3) Permeable pavement;
 - (4) Rainwater harvesting;
 - (5) Stormwater 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](#).

L. **Stormwater Retrofit.**³⁰

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,³¹ 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.

²⁹ Revised to align with terminology used in the NCDEQ Stormwater Design Manual.

³⁰ N.C.G.S. § 143-214.7(b3)

³¹ 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 2.7.3-6: 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 2.7.3-6: 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 shoreline buffer required by § 4.3.3 may be reduced by 1 foot for every 75 gallons ³² of rainwater harvested, up to a maximum reduction of 5 feet
Removal of curbing to route stormwater into vegetated areas	Maximum impervious surface 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 impervious surface 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 impervious surface coverage may be increased by the area of the underground SCM, up to a maximum increase of 5%

³² 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.

Improvement	Incentive
Full compliance with Chapter 54	For developments subject to Site Plan Review, final approval may be granted during a joint meeting between the BOC and Planning Board

M. Increased Construction Standards.³³

1. *Applicability.* This Section establishes incentives for development that incorporates one or more increased construction standard in new development or in 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.
2. *Incentives.* Each development that incorporates one of more of the techniques specified in Table 2.7.3-7: Increased Construction Standards may use the incentive specified for that technique. Incentives are cumulative.

Table 2.7.3-7: Increased Construction Standards

Element	Description	Incentive
Freeboard [1]	Principal structure is elevated above the regulatory flood protection elevation (RPFE) ³⁴	Maximum height may be increased by 1 foot for each 1 foot the structure is elevated above the RPFE, up to a maximum of 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 ³⁵	Maximum impervious surface coverage may be increased by up to 2%

³³ 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.

³⁴ UDO Article 12 will include the Flood Damage Prevention Ordinance's current definition of RPFE.

³⁵ 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.

Element	Description	Incentive
Roof	Principal structure uses a hipped roof form	Maximum impervious surface coverage may be increased by up to 2%
Openings	At least 75% of the windows and doors on the principal structure are impact-resistant ³⁶	Maximum impervious surface 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	Maximum impervious surface 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	Maximum impervious surface 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	Maximum impervious surface coverage may be increased by up to 1.5%
Generators	Principal structure is wired to accommodate a generator	Maximum impervious surface coverage may be increased by up to 1%

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

³⁶ 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.