



MEMORANDUM

Town of Nags Head

Planning & Development Department

To: Board of Commissioners and Planning Board

From: Holly B. White, Principal Planner
Michael Zehner, Director of Planning & Development
Kelly Wyatt, Deputy Director of Planning & Development

Date: February 13, 2020

Subject: Joint Discussion with Board of Commissioners to Review Draft Flood Damage Prevention Ordinance Amendments

OVERVIEW

The Planning Board and Board of Commissioners received a packet of information on Wednesday, February 5th in preparation for this Joint Meeting. This memo will highlight relevant information identified since the packet was distributed.

The main objective for discussion at this joint meeting will be to review and discuss the draft Flood Damage Prevention Ordinance. In order to remain on schedule for adoption of the Flood Maps and Flood Damage Prevention Ordinance before June 19, 2020, it will be important that staff incorporate in any needed changes into the draft and bring back the draft Ordinance for consideration at the March 10th Planning Board Meeting. In order for the Town to remain in the National Flood Insurance Program, which offers federally backed flood insurance to homeowners and disaster assistance to the Town, the Town has to adopt the Preliminary Flood Maps.

Specific items for discussion at the meeting include:

- Development of a local elevation standard (LES)
- LES and Regulatory Flood Protection Elevations (RFPE)
 - Section 11.42.3.
- Optional language (noted in the draft Flood Damage Prevention Ordinance)

POLICY CONSIDERATIONS

The Comprehensive Plan has several policies and actions that are supportive of protecting the health and safety of the Town from hazards. These include:

- LU-3 Recognize a low-density pattern of development for the oceanfront that is characterized by small scale, adaptable structures.
 - LU-3a: Develop incentives or regulations that limit individual building sizes to 5,000 square feet and 35 feet in height for new oceanfront development.

- Any new town regulations should not preclude existing structures greater than 5,000 square feet from making improvements, renovations, or repairs.
- LU-3b: Regulate accessory structures in the active, oceanfront environment where frequent damage occurs to protect private property and limit storm damage and debris. This may include additional regulations applicable to oceanfront pools, dune decks, walkovers, and gazebos.
 - LU-3c: Maintain current regulations regarding free of obstruction and the prohibition of ground floor enclosures along the oceanfront.
- NR-10 Protect the public health and safety of the town from natural and manmade hazards through proactive planning and mitigation efforts.
 - NR-11 Ensure that the town is a disaster resilient community that can survive, recover from, and thrive after a natural or man-made disaster event.
 - NR-11i: Explore resilient construction techniques and higher regulatory standards to protect existing and future development from frequent localized flooding events.
 - NR-11j: Monitor areas of frequent flooding during regular and major storm events. Maintain and utilize this information to ensure accurate floodplain mapping, educational efforts, and the application of higher regulatory standards (if needed).
 - NR-13 Support the town's continued participation in the National Flood Insurance Program (NFIP) and Community Rating System (CRS). Participation in the NFIP is key in making federally backed flood insurance available within the town and to improve the town's CRS rating.
 - NR-16 Minimize impacts of future sea level rise.

ISSUE AND OPTIONS

Since the distribution of the packet last week the following items have come to light:

- The definition reflected in the draft ordinance for Local Elevation Standard should be updated to allow for flexibility of administration in Nags Head. In addition, this definition may also need to be updated to maximize CRS credits.

Local Elevation Standard means a locally adopted elevation level used as the Regulatory Flood Protection Elevation (RFPE) ~~in Shaded X and X zones~~ or used in conjunction with the BFE and freeboard standard to mitigate flood hazards in the ~~Shaded X, X, AE, AO, VE~~, as depicted on the FIRMs for Nags Head.

- The definition in Appendix A for Regulatory Flood Protection was intended to be the same as that language referenced in 11.42.3. Establishment of Regulatory Flood Protection Elevation (RFPE). For the final draft, this will be amended.

- Addition of language to allow for the creation of the Local Elevation Standard. Suggest adding as 11.42.3. The language would be as follows:

*Establishment of a Local Elevation Standard for Shaded X and X Zones.
A locally adopted elevation standards shall apply to any Shaded X or X zone as identified on the effective DFIRMs for Dare County. These areas may be vulnerable to flooding from storm surge, wind-driven tides, and excessive rainfall associated with storm systems. Many of these areas have flooded during past storm events and continue to remain at risk to flooding. Therefore, an elevation standard and other floodplain development standards have been determined by the Town of Nags Head to be appropriate for these Shaded X and X zones as defined in Appendix A Definitions. All development activities in any Shaded X or X zone shall conform to the provisions set forth in this Article.*

- Amend the definition of Coastal High Hazard Area (CHHA) as follows:

“Coastal High Hazard Area (CHHA)” means a Special Flood Hazard Area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM, or other adopted flood map as determined in Section 11.42.2. Basis for Establishing the Special Flood Hazard Areas of this ordinance, as Zone VE, or any property containing a structure or proposed structure east of NC 12 or SR 1243.

- Instead of referencing the regulations for Section 11.44.3 as Properties East of NC 12 and SR 1243, reference this as the Coastal High Hazard Area.
- Strike language in the draft ordinance for the following sections. These are not necessary model ordinance language as there are no LiMWA, floodways, or non-encroachment areas within the Town.
 - 11.44.4 Standards for Coastal A Zones (Zone CAZ) LiMWA
 - Section E. Standards for riverine floodplains with base flood elevations but without established floodways or non-encroachment areas.
 - Section F. Floodways and non-encroachment areas.

NEXT STEPS

Following the joint meeting, consistent with the tentative schedule, Staff will incorporate any suggested changes in the draft Flood Damage Prevention Ordinance, a community informational meeting will be held in early March, and the text amendment will officially be presented to the Planning Board at their March 17, 2020 meeting.

- Early March 2020 - Community Information Meeting; information materials made available online
- March 17, 2020 - Planning Board Meeting; consider recommendation
- April 8, 2020 - Board of Commissioners Consent Agenda; request to schedule public hearing

- May 6, 2020 - Board of Commissioners Public Hearing; Final Action (or continued consideration to June 3, 2020 meeting)
- June 19, 2020 - Effective Date (no later than)

Attachment: FAQ for the Local Elevation Standard (LES)



Town of Nags Head
Local Elevation Standard (LES)
 Guidance & FAQ's

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www.nagsheadnc.gov

What is a Local Elevation Standard?

A local elevation standard or LES is a locally adopted elevation level used as the Regulatory Flood Protection Elevation (RFPE) or used in conjunction with the Base Flood Elevation (BFE) and freeboard standard to mitigate flood hazards in Shaded X and X, AE, AO, or VE flood zones as depicted on the FIRMS for Nags Head.

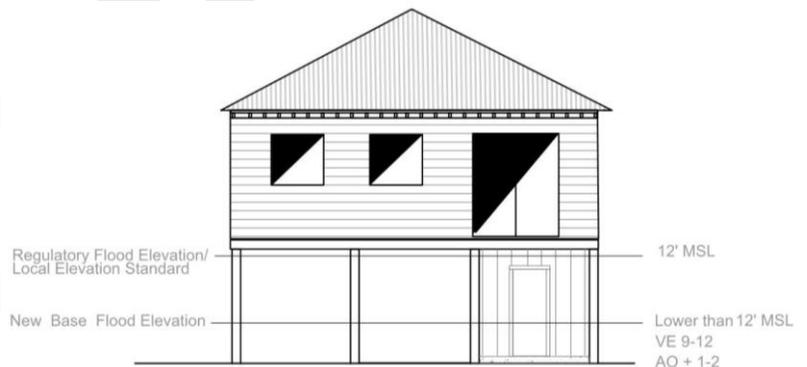
RFPE means the BFE plus the "freeboard". In special flood hazard areas (SFHA) where base flood elevations (BFE) have been determined, this elevation shall be the BFE plus one foot of freeboard or the Local Elevation Standard for those areas where base flood elevations have been determined on the FIRM.

What is the LES in Nags Head?

The LES in Nags Head is defined as:

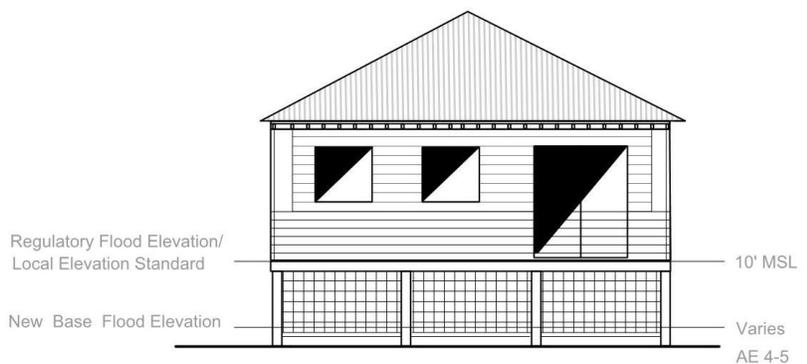
- For properties located east of NC 12 and SR 1243-

Properties located to the east of NC 12 and SR 1243 are located in an active oceanfront environment that is vulnerable to storm surge, erosion, sea level rise, and other hazards. These areas have special flood hazards associated with high velocity waters from storm surges or seismic activity and, therefore, the RFPE is 12 feet NAVD 1988.



Local Elevation Standard East of Hwy 12 and Hwy 1243

- For properties located west of NC 12 and SR 1243- Properties located in flood zones Shaded X, X, or AE, the RFPE is 10 feet NAVD 1988.



Local Elevation Standard West of Hwy 12

How does the LES impact new development?

New development should meet the RFPE and the regulations in Section 11.44 Provisions for Flood Hazard Reduction of the UDO.

How does the LES affect homes that are already constructed?

The local elevation standard was developed to protect human life, safety, and health and minimize damage to property due to flooding in areas known to flood but located in a Shaded X or X flood zone. The regulations in Section 11.44 Provisions for Flood Hazard Reduction of the UDO outline the standards for construction.

For all homes:

- Areas in existing structures shall not be converted for use as conditioned, temperature-controlled space unless the reference level is located to or above the RFPE.

For additions, improvements, or conversions of homes located in Shaded X or X Flood zones:

- The substantial improvement/substantial damage definitions (Appendix A) do not apply.
- Lateral additional (increase in the footprint of the conditioned, temperature-controlled space) to existing structures greater than 10% of the total floor area on the level on which the addition is located shall have the reference level elevated to or above the RFPE.
- Remodeling or renovations of existing habitable area in structures with the reference level located below the current applicable RFPE that do not increase the footprint of the structure may be authorized at the existing reference level or higher.
- Reconstruction of damaged portions of a structure may be authorized at the existing reference level or higher. However, if a structure is entirely demolished, for whatever reason, the replacement structure shall be constructed to or above the RFPE.

If I am in an Shaded X or X flood zone, do I still need flood insurance?

Floods can happen anywhere. Flood maps do not account for rainfall, elevated groundwater levels, or the naturally low topography of the Outer Banks barrier islands. Even properties located in Shaded X or X zones can flood. For more information visit OBXFloodMaps.Com.

**Did you know
that 1 in 4 flood losses
occur in low-risk
X Zones?
Floods can
happen anywhere.**