

<b>Topic:</b>	Sea Level Rise Adaptation; Coastal Protection
<b>Resource Type:</b>	Regulations
<b>State:</b>	North Carolina
<b>Jurisdiction Type:</b>	Municipal
<b>Municipality:</b>	Town of Duck
<b>Year (adopted, written, etc.):</b>	2002
<b>Community Type – applicable to:</b>	Suburban; Rural
<b>Title:</b>	Town of Duck Rebuilding & Reconstruction; Damaging Storms Ordinance
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### ***Abstract***

The Town of Duck, on North Carolina’s Outer Banks, is a coastal community that has adapted local regulations implementing the State’s Coastal Areas Management Act of 1974. The Act encourages cooperative land use planning between the state and local governments and is the State’s policy that “adequate plans for post-disaster reconstruction should be prepared by and coordinated between all levels of government prior to the advent of a disaster.” The town of Duck created a short-term building moratorium to allow the community time to assess damage and consider mitigation measures. The Chapter 152 on Rebuilding and Reconstruction sets out procedures for assessing damage, declaring a building moratorium, and defining types of moratoriums that may be declared in the aftermath of a damaging storm. The ordinance is intended to ensure that rebuilding occurs “in an orderly manner,” and with the opportunity to identify “appropriate areas for post-storm change and innovation.”

### ***Resource***

#### **Duck, NC Code of Ordinances**

#### **Title XV Land Use**

#### **Chapter 152: Rebuilding and Reconstruction; Damaging Storms**

#### **§ 152.01: Intent**

(A) Following a damaging storm and enactment of a building moratorium it is the intent of the town to allow rebuilding and reconstruction in an orderly manner.

(B) The town will control the issuance of building permits to manage the location, timing and sequence of reconstruction and repair.

(C) It is further the intent of this chapter that the town establish, prior to the storm, a special reconstruction task force which will oversee the recovery and reconstruction process and serve as an advisory body to the Town Council on recovery/reconstruction issues.

(D) A main responsibility of this body will be to identify opportunities to mitigate future storm damages through the management of reconstruction.

(E) To further the intent of this chapter, the town will make every effort to develop its capacity to identify and orchestrate various post-storm reconstruction resources, while at the same time ensuring maximum local control over the reconstruction process.

(Ord. 02-03, passed 5-1-2002)

#### § 152.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**DESTROYED STRUCTURE.** A structure that is a total loss or damaged to such an extent that repairs are not technically or economically feasible, that is, 50% or more of replacement cost at the time of damage or destruction.

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

**INCIPIENT INLET HIGH HAZARD AREA.** That land area on both sides of an inlet, an incipient inlet, or former inlet which has closed.

**LOCAL DAMAGE ASSESSMENT TEAM.** A damage assessment team, required by the state division of emergency management, whose function is to assess losses to property immediately

**MAJOR DAMAGED STRUCTURE.** A structure that can be made habitable with extensive repairs. Damage may include foundation, roof structure and major structural components. The indicator for this category is if the cost to repair is greater than 10% and less than 50% of the replacement cost at the time of damage.

**MINOR DAMAGED STRUCTURE.** A structure that can be made habitable in a short period of time with minimal repairs. Damage may include doors, windows, floors, furnaces, water heaters and other minor structural damage. An indicator for this category is if the cost to repair is 10% or less of the replacement cost at the time of damage.

**STORM EVENT.**

(1) Any natural weather event causing damage and destruction of property.

(2) A storm event shall include, but not be limited to, hurricanes, northeasters, tornadoes, fire, waterspouts, and ice or snow storms.

(Ord. 02-03, passed 5-1-2002)

#### § 152.03 HURRICANE AND STORM RECONSTRUCTION.

(A) Determination of damage.

(1) A primary task of the local damage assessment team is to identify structures which as a result of the storm event have been damaged.

(2) The local damage assessment team will recommend to the Building Inspector those structures which have:

- (a) Been destroyed;
- (b) Received major damage; or
- (c) Received minor damage.

(3) The Building Inspector will then inspect the damaged structures and place each structure in 1 of the above categories.

(B) Declaration of a building moratorium. The initial post-storm reconstruction moratorium shall be declared in effect upon the occurrence of 1 or more of the following findings:

(1) The town is struck by a hurricane of force equal to or greater than 4 on the Saffir-Simpson scale as determined by the National Weather Service;

(2) The town is declared a disaster area by either the governor of the state or the President of the United States;

(3) One hundred or more structures have received major damage or have been destroyed as determined by the Building Inspector; or

(4) Upon the finding by the Mayor, or in the absence of the Mayor, the Mayor Pro Tem of the town, of the existence of a state of emergency in accordance with G.S. § 14-288, the Mayor or Mayor Pro Tem, as the case may be, shall declare the initial building moratorium, pursuant to G.S. § 160A-174, where the Mayor finds a moratorium is necessary for the protection of lives, safety and property, or due to the inability of the town to maintain acceptable levels of public order and services. The Mayor may, based upon the

above findings, extend the initial moratorium until a time as the state of emergency no longer exists.

(C) Moratoriums.

(1) Initial building moratorium.

(a) Upon the declaration of a building moratorium the initial post-storm moratorium shall be in effect for a minimum period of 48 hours.

(b) No building permits shall be issued during this time period. After expiration of this initial moratorium the following moratoria shall then apply.

(2) Destroyed structure moratorium.

(a) No building permit shall be issued within 30 days following the expiration of the initial moratorium for the replacement of any structure which has been destroyed.

(b) All replacement building shall be subject to meeting all the requirements of the zoning ordinance for the Town of Duck and all applicable town codes, prior to the issuance of a building permit.

(3) Major damaged structure moratorium.

(a) No building permit for repairs of a major damaged structure shall be issued for at least 7 days following the expiration of the initial moratorium.

(b) All repairs to a major damaged structure shall meet the requirements of the Zoning Chapter for the Town of Duck and all applicable town codes, prior to issuance of a building permit.

(4) Minor damaged structure moratorium.

(a) Permits for the repair of minor damaged structures may be issued following the expiration of the initial moratorium.

(b) All repairs to minor damaged structures shall meet the requirements of the Zoning Chapter for the Town of Duck and all applicable town codes, prior to issuance of a building permit.

(5) Incipient inlet moratorium.

(a) The Mayor or Town Council may on their own, or upon recommendation by the reconstruction task force, designate any land area

bordering an incipient inlet, former inlet or potential inlet as an incipient inlet high hazard area.

(b) No building permits shall be issued until a time that the inlet has either closed to such a degree that re-opening is unlikely or that the inlet migration has been stabilized.

(c) The reconstruction task force shall recommend to the Town Council conditions which will allow for repair of existing damaged structures within the incipient inlet high hazard area.

(6) Outstanding building permits moratorium.

(a) All building permits which were issued prior to the storm event shall be revoked and shall not be reissued for a minimum period of 30 days following the expiration of the initial moratorium, unless upon finding by the Chief Building Inspector on a case-by-case basis that sufficient inspection staff is available to adequately inspect the structures should construction begin or resume.

(b) Applications for building permits revoked under this section shall be reissued at no charge.

(7) Site plan review.

(a) Site plans which have been submitted to the town prior to the storm event shall not be reviewed by the staff, Planning Board or Town Council for a period of 30 days following the expiration of the initial moratorium.

(b) All submittal dates and review periods shall be adjusted accordingly to reflect the time period covered by this 30-day moratorium.

(8) Time limit of acceptance of plans.

(a) No new site plans, zoning requests or subdivision plats shall be accepted by the town for a period of 30 days following the expiration of the initial moratorium.

(b) All submittal dates and review periods shall be adjusted accordingly to reflect the time period covered by this 30-day moratorium.

(9) Duration of moratorium. All moratoriums other than the initial moratorium as enacted in division (B)(4) above shall be in effect for the length of time described above and may be canceled or extended by the Mayor or resolution by the Town Council.

(D) Emergency repairs.

(1) While a moratorium is in effect no construction or reconstruction activity may be undertaken, excepting only minor interior repairs and emergency repairs necessary to prevent injury or loss of life or imminent collapse or other substantial additional damage to the structure.

(2) For illustrative purposes only, items that constitute minor repairs may include temporary roof repairs to avoid further water damage, minor repairs to steps and the temporary shoring up of a structure to avoid imminent collapse.

(Ord. 02-03, passed 5-1-2002)

#### § 152.04 RECONSTRUCTION TASK FORCE.

(A) Created.

(1) The reconstruction task force shall be activated and mobilized upon the declaration of the initial building moratorium.

(2) The task force shall be responsible for advising the Town Council on a wide range of post-storm reconstruction issues.

(B) Primary function.

(1) A primary function of the task force is to receive and review damage reports and other analyses of post-storm circumstances and to compare these circumstances with mitigation opportunities identified prior to the storm to discern appropriate areas for post-storm change and innovation.

(2) The reconstruction task force can review in a more specific fashion alternative mechanisms for bringing these changes about and recommend the coordination of internal and external resources for achieving these ends.

(C) Responsibilities.

(1) The reconstruction task force shall have the following responsibilities.

(2) In addition to the responsibilities in division (B) above, the reconstruction task force shall:

(a) Review the nature of damages, identify and evaluate alternate program approaches for repairs and reconstruction, and formulate recommendations for handling community recovery;

(b) Recommend rezoning changes in areas of damage;

(c) Set a calendar of milestones for reconstruction tasks in conjunction with the Town Manager and department heads;

(d) Initiate requests for repairs to critical utilities and facilities;

(e) Recommend the expiration or extension of a moratorium for “major” and “minor” repairs;

(f) Recommend the designation of any land bordering an incipient inlet or inlet as an incipient inlet high hazard area; and

(g) Recommend the lifting or extension of a moratorium for new development;

(Ord. 02-03, passed 5-1-2002)