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**SECTION 4.**

**COMMUNITY CAPABILITY ASSESSMENT**

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## INTRODUCTION

This section of the HMP is intended to analyze each regional jurisdiction's capacity to address the threats that natural hazards pose to them. In order to provide a thorough review of each entity involved in this planning effort, this section of the plan provides a detailed overview of capability with regards to Brunswick, New Hanover, and Pender Counties, as well as each municipal jurisdiction.

This section of the HMP will identify those areas in which the participating jurisdictions are already undertaking positive hazard mitigation efforts that should be supported or enhanced and may also identify areas where their current policies may be worsening hazard risks. In order to achieve these goals, this section contains the following sections:

- 1) Agency/Organizational Review
- 2) Existing Policies and Program Review
- 3) Community Capability Assessment
- 4) Legal Capability Review
- 5) Fiscal Capability Review
- 6) Political Acceptability Review

Elements 1 and 2 noted above are further broken down by County and subsequently by each participating municipal jurisdiction within each County. Under the Agency/Organizational Review section, the review of each municipality is provided in a summary format. This plan denotes the programs and policies in place within each jurisdiction; however, further information relating to these documents is available through each respective government's administration.

## AGENCY/ORGANIZATIONAL REVIEW

The purpose of this subsection of the HMP is to list and describe all local government departments, agencies and organizations that have a direct (or indirect) impact on hazard mitigation and/or hazard control through specific responsibilities in these areas or through seemingly unrelated responsibilities (e.g., site selection for school facilities), and to describe these responsibilities.

### *Brunswick County*

The Brunswick County Government Offices are located at 30 Government Center Drive NE, in Bolivia, NC. The County operates under a Board of Commissioners-Manager form of government. Table 4-1 provides an overview of offices, organizations, and agencies responsible for hazard control and hazard mitigation activities in the County. The table provides a summary of each departments' function, as well as each respective departments' relative impact on mitigation issues. Table 4-2 provides an overview of capability for each participating municipal jurisdiction within Brunswick County.

**Table 4-1. Agency/Organizational Review for Brunswick County**

| <b>County Department</b> | <b>Applicable to Mitigation</b> | <b>Contact</b>  |
|--------------------------|---------------------------------|---|
| Agricultural Extension   | X                               | Phone: 910/253-2610<br>URL: <a href="http://brunswick.ces.ncsu.edu/">http://brunswick.ces.ncsu.edu/</a>                                     |
| Animal Control           | X                               | Phone: 910/754-8204<br>URL: <a href="http://aps.brunswicksheriff.com/">http://aps.brunswicksheriff.com/</a>                                 |
| Building Inspections     | X                               | Phone: 910/253-2200<br>URL: <a href="http://www.brunswickcountync.gov/code/">http://www.brunswickcountync.gov/code/</a>                     |
| Co-op Extension Service  | X                               | Phone: 910/253-2610<br>URL: <a href="http://brunswick.ces.ncsu.edu/">http://brunswick.ces.ncsu.edu/</a>                                     |
| County Manager's Office  | X                               | Phone: 910/253-2016<br>URL: <a href="http://www.brunswickcountync.gov/manager/about/">www.brunswickcountync.gov/manager/about/</a>          |
| Emergency Management     | X                               | Phone: 910/253-5383<br>URL: <a href="http://www.brunswickes.com/">www.brunswickes.com/</a>  |
| Farm Bureau              | X                               | Phone: 800/789-2565<br>URL: <a href="http://www.ncfb.org">www.ncfb.org</a>  |
| Finance Office           | X                               | Phone: 910/253-2829<br>URL: <a href="http://www.brunswickcountync.gov/finance/budget/">http://www.brunswickcountync.gov/finance/budget/</a> |
| Food Stamp Program       |                                 | Phone: 910/253-2177<br>URL: <a href="http://www.brunswickcountync.gov/hhs/">www.brunswickcountync.gov/hhs/</a>                              |
| Health Department        | X                               | Phone: 910/253-2250<br>URL: <a href="http://www.brunswickcountync.gov/health/">www.brunswickcountync.gov/health/</a>                        |
| Housing Authority        |                                 | Phone: 910/253-2222<br>URL: <a href="http://www.brunswickcountync.gov/housing/">www.brunswickcountync.gov/housing/</a>                      |
| Mental Health Center     |                                 | Phone: 910/253-2077<br>URL: <a href="http://www.brunswickcountync.gov/dss/">www.brunswickcountync.gov/dss/</a>                              |
| Parks and Recreation     | X                               | Phone: 910/253-2670<br>URL: <a href="http://www.brunswickcountync.gov/parks/">www.brunswickcountync.gov/parks/</a>                          |
| Planning Department      | X                               | Phone: 910/253-2025<br>URL: <a href="http://www.brunswickcountync.gov/planning/">www.brunswickcountync.gov/planning/</a>                    |
| Public Works             | X                               | Phone: 910/253-2655<br>URL: <a href="http://www.brunswickcountync.gov/utilities/">www.brunswickcountync.gov/utilities/</a>                  |
| Sheriff's Office         | X                               | Phone: 910/754-8204<br>URL: <a href="http://www.brunswicksheriff.com/">http://www.brunswicksheriff.com/</a>                                 |
| Social Services          | X                               | Phone: 910/253-2077<br>URL: <a href="http://www.brunswickcountync.gov/dss/">www.brunswickcountync.gov/dss/</a>                              |
| Solid Waste              |                                 | Phone: 910/253-4177<br>URL: <a href="http://www.brunswickcountync.gov/solidwaste/">www.brunswickcountync.gov/solidwaste/</a>                |
| State Forest Service     | X                               | Phone: 910/253-2160<br>URL: <a href="http://brunswick.ces.ncsu.edu/">http://brunswick.ces.ncsu.edu/</a>                                     |
| Tax Office               | X                               | Phone: 910/253-2811<br>URL: <a href="http://www.brunswickcountync.gov/tax/">www.brunswickcountync.gov/tax/</a>                              |

**Table 4-2. Brunswick County Municipalities Overview of Capability**

| Municipality         | Type of Government    | Fire/EMS | Police | Planning | Public Works |
|----------------------|-----------------------|----------|--------|----------|--------------|
| Bald Head Island     | Council-Manager       | X        | X      | X        | X            |
| Belville             | Council-Manager       |          | X      | X        | X            |
| Boiling Spring Lakes | Council-Manager       | X        | X      |          | X            |
| Bolivia              | Mayor-Council         |          |        |          | X            |
| Calabash             | Council-Manager       | X        | X      | X        | X            |
| Carolina Shores      | Council-Administrator | X        |        | X        | X            |
| Caswell Beach        | Council-Administrator |          |        | X        | X            |
| Holden Beach         | Council-Manager       | X        | X      | X        | X            |
| Leland               | Council-Manager       | X        | X      | X        | X            |
| Navassa              | Council-Manager       | X        | X      | X        | X            |
| Northwest            | Council-Manager       | X        | X      | X        | X            |
| Oak Island           | Council-Manager       | X        | X      | X        | X            |
| Ocean Isle Beach     | Council-Manager       | X        | X      | X        | X            |
| Sandy Creek          | Mayor-Council         |          |        |          |              |
| Shalotte             | Council-Manager       | X        | X      | X        | X            |
| Southport            | Council-Manager       | X        | X      | X        | X            |
| St. James            | Council-Administrator | X        |        | X        | X            |
| Sunset Beach         | Council-Manager       | X        | X      | X        | X            |
| Varnamtown           | Mayor-Council         |          |        |          |              |

### *New Hanover County*

The New Hanover County Government Complex is located at 230 Government Center Drive in Wilmington, NC. The County operates under a Board of Commissioners-Manager form of government. Table 4-3 provides an overview of offices, organizations, and agencies responsible for hazard control and hazard mitigation activities in the County. The table provides a summary of each departments' function, as well as each respective departments' relative impact on mitigation issues. Table 4-4 provides an overview of capability for each participating municipal jurisdiction within New Hanover County.

**Table 4-3. Agency/Organizational Review for New Hanover County**

| County Department      | Applicable to Mitigation | Contact  |
|------------------------|--------------------------|--|
| Agricultural Extension | X                        | Phone: 910/798-7660<br>URL: <a href="http://www.arboretum.nhcgov.com/">www.arboretum.nhcgov.com/</a>   |
| Animal Control         | X                        | Phone: 910/798-7500<br>URL: <a href="http://www.newhanoversheriff.com/animal-services-unit/">www.newhanoversheriff.com/animal-services-unit/</a> |
| Building Inspections   | X                        | Phone: 910/798-7175<br>URL: <a href="http://planningdevelopment.nhcgov.com/">http://planningdevelopment.nhcgov.com/</a>                          |

**SECTION 4. COMMUNITY CAPABILITY ASSESSMENT**

| <b>County Department</b> | <b>Applicable to Mitigation</b> | <b>Contact</b>  |
|--------------------------|---------------------------------|---|
| Co-op Extension Service  | X                               | Phone: 910/798-7660<br>URL: <a href="http://www.arboretum.nhcgov.com/">www.arboretum.nhcgov.com/</a>  |
| County Manager's Office  | X                               | Phone: 910/798-7184<br>URL: <a href="http://www.nhcgov.com/administration/">http://www.nhcgov.com/administration/</a>   |
| Emergency Management     | X                               | Phone: 910/452-6120<br>URL: <a href="http://em911.nhcgov.com/">http://em911.nhcgov.com/</a>   |
| Farm Bureau              | X                               | Phone: 800/789-2565<br>URL: <a href="http://www.ncfb.org">www.ncfb.org</a>  |
| Finance Office           | X                               | Phone: 910/798-7300<br>URL: <a href="http://www.tax.nhcgov.com/">www.tax.nhcgov.com/</a>  |
| Food Stamp Program       |                                 | Phone: 910/798-3712<br>URL: <a href="http://www.socialservices.nhcgov.com/">www.socialservices.nhcgov.com/</a>  |
| Health Department        | X                               | Phone: 910/798-6500<br>URL: <a href="http://www.health.nhcgov.com/">www.health.nhcgov.com/</a>  |
| Housing Authority        |                                 | Phone: 910/341-7700<br>URL: <a href="http://www.wha.net/">www.wha.net/</a>  |
| Mental Health Center     |                                 | Phone: 910/343-7000<br>URL: <a href="http://www.nhrmc.org/services/behavioral">www.nhrmc.org/services/behavioral</a>  |
| Parks and Recreation     | X                               | Phone: 910/798-7275<br>URL: <a href="http://www.parks.nhcgov.com/">www.parks.nhcgov.com/</a>  |
| Planning Department      | X                               | Phone: 910/798-7175<br>URL: <a href="http://planningdevelopment.nhcgov.com/">http://planningdevelopment.nhcgov.com/</a>   |
| Public Works             | X                               | Phone: 910/798-7175<br>URL: <a href="http://planningdevelopment.nhcgov.com/">http://planningdevelopment.nhcgov.com/</a><br>Cape Fear Public Utility Authority<br>Phone: 910/332-6550<br>URL: <a href="http://www.cfpua.org">www.cfpua.org</a> |
| Sheriff's Office         | X                               | Phone: 910/798-7500<br>URL: <a href="http://www.newhanoversheriff.com/">www.newhanoversheriff.com/</a>  |
| Social Services          | X                               | Phone: 910/798-3712<br>URL: <a href="http://www.socialservices.nhcgov.com/">www.socialservices.nhcgov.com/</a>  |
| Solid Waste              |                                 | Phone: 910/798-4400<br>URL: <a href="http://www.recycling.nhcgov.com/">www.recycling.nhcgov.com/</a>  |
| State Forest Service     | X                               | Phone: 910/798-7660<br>URL: <a href="http://www.arboretum.nhcgov.com/">www.arboretum.nhcgov.com/</a>  |
| Tax Office               | X                               | Phone: 910/798-7300<br>URL: <a href="http://www.tax.nhcgov.com/">www.tax.nhcgov.com/</a>  |

**Table 4-4. New Hanover County Municipalities Overview of Capability**

| <b>Municipality</b> | <b>Type of Government</b> | <b>Fire/EMS</b> | <b>Police</b> | <b>Planning</b> | <b>Public Works</b> |
|---------------------|---------------------------|-----------------|---------------|-----------------|---------------------|
| Carolina Beach      | Council-Manager           | X               | X             | X               | X                   |
| Kure Beach          | Mayor-Council             | X               | X             | X               | X                   |
| Wilmington          | Council-Manager           | X               | X             | X               | X                   |
| Wrightsville Beach  | Council-Manager           | X               | X             | X               | X                   |

*Pender County*

The Pender County Administration Building is located at 805 S. Walker Street, Burgaw, NC. The County operates under a Board of Commissioners-Manager form of government. Table 4-5 provides an overview of offices, organizations, and agencies responsible for hazard control and hazard mitigation activities in the County. The table provides a summary of each departments' function, as well as each respective departments' relative impact on mitigation issues. Table 4-6 provides an overview of capability for each participating municipal jurisdiction within Pender County.

| <b>County Department</b> | <b>Applicable to Mitigation</b> | <b>Contact</b>  |
|--------------------------|---------------------------------|---|
| Agricultural Extension   | X                               | Phone: 910/259-1235<br>URL: <a href="https://pender.ces.ncsu.edu/">https://pender.ces.ncsu.edu/</a>   |
| Animal Control           | X                               | Phone: 910/259-1484<br>URL: <a href="http://www.pendercountync.gov/Government/Offices/LocationDirectory/AnimalShelter.aspx">http://www.pendercountync.gov/Government/Offices/LocationDirectory/AnimalShelter.aspx</a>                           |
| Building Inspections     | X                               | Phone: 910/259-1202<br>URL: <a href="http://www.pendercountync.gov/Government/Departments/PlanningCommunityDevelopment/Inspections.aspx">http://www.pendercountync.gov/Government/Departments/PlanningCommunityDevelopment/Inspections.aspx</a> |
| Co-op Extension Service  | X                               | Phone: 910/259-1235<br>URL: <a href="https://pender.ces.ncsu.edu/">https://pender.ces.ncsu.edu/</a>   |
| County Manager's Office  | X                               | Phone: 910/259-1200<br>URL: <a href="http://pendercountync.gov/Government/Departments/CountyManager.aspx">pendercountync.gov/Government/Departments/CountyManager.aspx</a>  |
| Emergency Management     | X                               | Phone: 910/259-1202<br>URL: <a href="http://www.penderem.com/">www.penderem.com/</a>  |
| Farm Bureau              | X                               | Phone: 800/789-2565<br>URL: <a href="http://www.ncfb.org">www.ncfb.org</a>  |
| Finance Office           | X                               | Phone: 910/259-1282<br>URL: <a href="http://pendercountync.gov/Government/Departments/Finance.aspx">http://pendercountync.gov/Government/Departments/Finance.aspx</a>   |
| Food Stamp Program       |                                 | Phone: 910/259-1240<br>URL: <a href="http://pendercountync.gov/government/departments/socialservices/Services/FoodandNutrition.aspx">http://pendercountync.gov/government/departments/socialservices/Services/FoodandNutrition.aspx</a>         |
| Health Department        | X                               | Phone: 910/259-1230<br>URL: <a href="http://health.pendercountync.gov/">http://health.pendercountync.gov/</a>   |
| Housing Authority        |                                 | Phone: 910/259-1208<br>URL: <a href="http://pendercountync.gov/Government/Departments/HousingAuthority.aspx">http://pendercountync.gov/Government/Departments/HousingAuthority.aspx</a>   |
| Mental Health Center     |                                 | Phone: 910/259-1230<br>URL: <a href="http://health.pendercountync.gov/Programs.aspx">http://health.pendercountync.gov/Programs.aspx</a>   |
| Parks and Recreation     | X                               | Phone: 910/259-1330<br>URL: <a href="http://pendercountync.gov/Government/Departments/ParksRecreation.aspx">http://pendercountync.gov/Government/Departments/ParksRecreation.aspx</a>   |
| Planning Department      | X                               | Phone: 910/259-1484<br>URL: <a href="http://pendercountync.gov/Government/Departments/PlanningCommunityDevelopment.aspx">http://pendercountync.gov/Government/Departments/PlanningCommunityDevelopment.aspx</a>                                 |

**Table 4-5. Agency/Organizational Review for Pender County**

| County Department    | Applicable to Mitigation | Contact   |
|----------------------|--------------------------|---|
| Public Works         | X                        | Phone: 910/259-1228<br>URL: <a href="http://www.pendercountync.gov/Government/Departments/PublicWorks.aspx">http://www.pendercountync.gov/Government/Departments/PublicWorks.aspx</a>       |
| Sheriff's Office     | X                        | Phone: 910/259-1212<br>URL: <a href="http://www.pendersheriff.com/">www.pendersheriff.com/</a>  |
| Social Services      | X                        | Phone: 910/259-1240<br>URL: <a href="http://www.pendercountync.gov/government/departments/socialservices/">http://www.pendercountync.gov/government/departments/socialservices/</a>         |
| Solid Waste          |                          | Phone: 910/259-1570<br>URL: <a href="http://www.pendercountync.gov/Government/Departments/SolidWaste.aspx">http://www.pendercountync.gov/Government/Departments/SolidWaste.aspx</a>         |
| State Forest Service | X                        | Phone: 910/259-1235<br>URL: <a href="https://pender.ces.ncsu.edu/">https://pender.ces.ncsu.edu/</a>   |
| Tax Office           | X                        | Phone: 910/259-1222<br>URL: <a href="http://www.pendercountync.gov/Government/Departments/TaxCollections.aspx">http://www.pendercountync.gov/Government/Departments/TaxCollections.aspx</a> |

**Table 4-6. Pender County Municipalities Overview of Capability**

| Municipality  | Type of Government | Fire/EMS | Police | Planning | Public Works |
|---------------|--------------------|----------|--------|----------|--------------|
| Atkinson      | Council-Manager    |          | X      | X        | X            |
| Burgaw        | Mayor-Council      | X        | X      | X        | X            |
| St. Helena    | Mayor-Council      |          |        |          | X            |
| Surf City     | Council-Manager    | X        | X      | X        | X            |
| Topsail Beach | Council-Manager    | X        | X      | X        | X            |
| Watha         | Mayor-Council      |          |        |          | X            |

## EXISTING POLICIES AND PROGRAM REVIEW

The purpose of this subsection of the HMP update is to describe the policies, programs, ordinances, and practices that each participating community has in place affecting hazard control and/or hazard mitigation. Whereas many participating communities have similar policies and ordinances, several of the most common of these policies and ordinances will be described generally or generically in the following overview section. Deviations from the “generic” descriptions provided below will be noted, if applicable.

### *Flood Damage and Prevention Ordinance*

Each community that participates in the National Flood Insurance Program (NFIP) must adopt a flood damage prevention ordinance. In general, this ordinance requires the following provisions in all areas of special flood hazard (100-year floodplain) identified by the Federal Emergency Management Agency in its Flood Insurance Rate Map (FIRM):

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure;
2. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damages;
3. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damages;
4. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
5. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
6. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
7. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding; and,
8. Any alteration, repair, reconstruction, or improvements to a structure which is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this ordinance.



In areas designated as floodways, no encroachments, including fill, new construction, substantial improvements, and other developments shall be permitted unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood. Implementation responsibility is typically through the Town/County Planning and/or Building Inspections Department as a condition of a zoning permit.

New FIRMs produced by the State of North Carolina Floodplain Mapping Program and the Federal Emergency Management Agency have been recently adopted throughout Brunswick, New Hanover, and Pender Counties.

### *North Carolina State Building Code*

The North Carolina State Building Codes regulate for fire resistance, in addition to seismic, flooding, and high wind resilience. These codes are reviewed annually and amended as new requirements and materials are introduced. Building codes apply primarily to new construction or buildings undergoing substantial alteration. Enforcement at the local level is provided as indicated in Tables 4-1 to 4-6.

An applicant for a building permit must submit plans to the appropriate inspections department for approval. The inspections department reviews the plans and elects to approve or reject them or to require revisions. Construction cannot begin until local officials confirm that the plans are in accordance with the code.

A building inspector must then visually monitor the construction of the building. The inspector's duty is to make sure that the project follows the plans as approved. Inspectors are empowered to stop work on projects that fail to conform to the plans. Any observed errors must be fixed before work can continue. The inspector must perform a final review before an occupancy permit is issued.

### *Zoning Ordinance*

Zoning is the traditional and nearly ubiquitous tool available to local governments to control the use of land. Broad enabling authority for municipalities in North Carolina to engage in zoning is granted in N.C.G.S. 160A-381. The statutory purpose for the grant of power is to promote health, safety, morals, or the general welfare of the community. Land "uses" controlled by zoning include the type of use (e.g., residential, commercial, industrial) as well as minimum specifications for use such as lot size, building height and set backs, density of population, and the like. The local government is authorized to divide its territorial jurisdiction into districts, and to regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land within those districts. Districts may include general use districts, overlay districts, and special use districts or conditional use districts. Zoning ordinances consist of maps and written text. Communities maintaining zoning regulations are indicated in Tables 4-1 to 4-6.

### *Subdivision Ordinance*

Subdivision regulations control the division of land into parcels for the purpose of building development or sale. Flood-related subdivision controls typically require that subdividers install adequate drainage facilities, and design water and sewer systems to minimize flood damage and contamination. They prohibit the subdivision of land subject to flooding, unless flood hazards are overcome through filling or other measures and prohibit filling of floodway areas. They require that subdivision plans be approved prior to the sale of land. Subdivision regulations are a more limited tool than zoning and only indirectly affect the type of use made of land or minimum specifications for structures.

Broad subdivision control enabling authority for municipalities is granted in N.C.G.S. 160-371. Subdivision is defined as all divisions of a tract or parcel of land into two or more lots and all divisions involving a new street (N.C.G.S. 160A-376). The definition of subdivision does not include the division of land into parcels greater than 10 acres where no street right-of-way dedication is involved.

The community thus possesses great power (in theory, anyway) to prevent unsuitable development in hazard-prone areas. Communities maintaining subdivision regulations are indicated in Tables 4-1 to 4-6.

### *Capital Improvements Plan*

A capital improvements program is a planned schedule of capital expenditures for physical improvements within a local government's jurisdiction, usually over a five-year period, listed according to priority. Not all local governments maintain a CIP; however, establishing one is a strategy defined within this plan.

## **COMMUNITY CAPABILITY ASSESSMENT**

The following tables provide a capability assessment and assessment of existing programs and policies for each participating jurisdiction. A summary table is outlined for each participating county and their respective municipal jurisdictions.

SECTION 4. COMMUNITY CAPABILITY ASSESSMENT

**Table 4-7. Brunswick County Jurisdictional Functions/Capabilities**

|                                      | <b>Brunswick County</b> | <b>Bald Head Island</b> | <b>Belville</b>   | <b>Boiling Spring Lakes</b> | <b>Bolivia</b>     | <b>Calabash</b> | <b>Carolina Shores</b> | <b>Caswell Beach</b> | <b>Holden Beach</b> | <b>Leland</b>     |
|--------------------------------------|-------------------------|-------------------------|-------------------|-----------------------------|--------------------|-----------------|------------------------|----------------------|---------------------|-------------------|
| Comprehensive Land Use Plan (LUP)    | X                       | X                       | X                 | X                           | X                  | X               | X                      | X                    | X                   | X                 |
| Parks and Recreation/Open Space Plan | X                       | X                       | X                 | X                           |                    | X               |                        |                      | X                   | X                 |
| Zoning Ordinance                     | X                       | X                       | X                 | X                           | X                  | X               | X                      | X                    | X                   | X                 |
| Subdivision Ordinance                | X                       | X                       | X                 | X                           | X                  | X               | X                      | X                    | X                   | X                 |
| Stormwater Ordinance                 | X                       | X                       |                   |                             |                    |                 | X                      |                      | X                   | X                 |
| Floodplain Ordinance                 | X                       | X                       | X                 | X                           | X                  | X               | X                      | X                    | X                   | X                 |
| NFIP Participant                     | X                       | X                       | X                 | X                           | X                  | X               | X                      | X                    | X                   | X                 |
| CRS Participant                      | X                       |                         |                   |                             |                    | X               |                        | X                    | X                   |                   |
| Capital Improvements Plan            | X                       | X                       | X                 | X                           |                    | X               |                        |                      |                     | X                 |
| Building Inspections/ Permitting     | X                       | X                       |                   | X                           |                    | X               | X                      |                      | X                   | X                 |
|                                      | <b>Navassa</b>          | <b>Northwest</b>        | <b>Oak Island</b> | <b>Ocean Isle Beach</b>     | <b>Sandy Creek</b> | <b>Shalotte</b> | <b>Southport</b>       | <b>St. James</b>     | <b>Sunset Beach</b> | <b>Varnamtown</b> |
| Comprehensive Land Use Plan (LUP)    | X                       | X                       | X                 | X                           | X                  | X               | X                      | X                    | X                   | X                 |
| Parks and Recreation/Open Space Plan | X                       |                         | X                 | X                           |                    | X               | X                      | X                    | X                   |                   |
| Zoning Ordinance                     | X                       | X                       | X                 | X                           | X                  | X               | X                      | X                    | X                   | X                 |
| Subdivision Ordinance                | X                       | X                       | X                 | X                           | X                  | X               | X                      | X                    | X                   | X                 |
| Stormwater Ordinance                 | X                       |                         | X                 | X                           |                    | X               | X                      |                      | X                   |                   |
| Floodplain Ordinance                 | X                       | X                       | X                 | X                           | X                  | X               | X                      | X                    | X                   | X                 |
| NFIP Participant                     | X                       | X                       | X                 | X                           | X                  | X               | X                      | X                    | X                   | X                 |
| CRS Participant                      |                         |                         | X                 | X                           |                    |                 | X                      |                      | X                   |                   |
| Capital Improvements Plan            |                         |                         | X                 | X                           |                    | X               | X                      | X                    | X                   |                   |
| Building Inspections/ Permitting     | X                       |                         | X                 | X                           |                    | X               | X                      |                      | X                   |                   |

**Table 4-8. New Hanover County Jurisdictional Functions/Capabilities**

|                                      | <b>New Hanover County</b> | <b>Carolina Beach</b> | <b>Kure Beach</b> | <b>Wilmington</b> | <b>Wrightsville Beach</b> |
|--------------------------------------|---------------------------|-----------------------|-------------------|-------------------|---------------------------|
| Comprehensive Land Use Plan (LUP)    | X                         | X                     | X                 | X                 | X                         |
| Parks and Recreation/Open Space Plan | X                         | X                     | X                 | X                 | X                         |
| Zoning Ordinance                     | X                         | X                     | X                 | X                 | X                         |
| Subdivision Ordinance                | X                         | X                     | X                 | X                 | X                         |
| Stormwater Ordinance                 | X                         | X                     | X                 | X                 | X                         |
| Floodplain Ordinance                 | X                         | X                     | X                 | X                 | X                         |
| NFIP Participant                     | X                         | X                     | X                 | X                 | X                         |
| CRS Participant                      | X                         | X                     | X                 |                   | X                         |
| Capital Improvements Plan            | X                         | X                     | X                 | X                 | X                         |
| Building Inspections/ Permitting     | X                         | X                     | X                 | X                 | X                         |

**Table 4-9. Pender County Jurisdictional Functions/Capabilities**

|                                      | <b>Pender County</b> | <b>Atkinson</b> | <b>Burgaw</b> | <b>St. Helena</b> | <b>Surf City</b> | <b>Topsail Beach</b> | <b>Watha</b> |
|--------------------------------------|----------------------|-----------------|---------------|-------------------|------------------|----------------------|--------------|
| Comprehensive Land Use Plan (LUP)    | X                    | X               | X             | X                 | X                | X                    | X            |
| Parks and Recreation/Open Space Plan | X                    |                 | X             |                   | X                | X                    |              |
| Zoning Ordinance                     | X                    | X               | X             | X                 | X                | X                    | X            |
| Subdivision Ordinance                | X                    | X               | X             | X                 | X                | X                    | X            |
| Stormwater Ordinance                 | X                    |                 |               |                   | X                | X                    |              |
| Floodplain Ordinance                 | X                    | X               | X             | X                 | X                | X                    |              |
| NFIP Participant                     | X                    | X               | X             | X                 | X                | X                    |              |
| CRS Participant                      | X                    |                 |               |                   |                  | X                    |              |
| Capital Improvements Plan            | X                    |                 | X             |                   |                  | X                    |              |
| Building Inspections/ Permitting     | X                    |                 | X             |                   | X                | X                    |              |

## LEGAL CAPABILITY REVIEW

The following overview provides an account of the legal mechanisms available to Brunswick, New Hanover, and Pender Counties, as well as their respective municipal jurisdictions to implement policies and practices aimed at furthering mitigation objectives outlined within this plan. These tools are equally available to each community; however, some communities do not have the administrative capacity to effectively make use of all land use management tools available to them through the State's enabling legislation.

As a general rule, local governments have only that legal authority which is granted to them by their home state. This principle, that all power is vested in the State and can only be exercised to the extent it is delegated, is known as "Dillon's Rule," and applies to all North Carolina's political subdivisions. Enabling legislation in North Carolina grants a wide array of powers to its cities, towns, and counties.

Local regulations which are enacted within the bounds of the state's enabling authority do not automatically meet with judicial acceptance. Any restrictions which local governments impose on land use or building practices must follow the procedural requirements of the Fourteenth Amendment, or risk invalidation.

These and other constitutional mandates apply to federal and state governments, and all their political subdivisions. Any mitigation measures that are undertaken by the local government in its regulatory capacity must be worded and enforced carefully within the parameters established by the state and federal Constitutions, even when such measures are authorized by the General Statutes of North Carolina, and even when such measures are enacted in order to protect public health and safety by protecting the community from the impacts of natural hazards.

Within the limits of Dillon's Rule and the federal and state Constitutions, local governments in North Carolina have a wide latitude within which to institute mitigation programs, policies, and actions. All local government powers fall into one of four basic groups (although some governmental activities may be classified as more than one type of power): regulation, acquisition, taxation, and spending. Hazard mitigation measures can be carried out under each of the four types of power. Following are a list of these powers and how they may be useful tools for hazard mitigation:

### *Regulations*

#### General Police Power

Local governments in North Carolina have been granted broad regulatory powers in their jurisdictions. North Carolina General Statutes bestow the general police power on local governments, allowing them to enact and enforce ordinances which define, prohibit, regulate, or abate acts, omissions, or conditions detrimental to the health, safety, and welfare of the people, and to define and abate nuisances (including public health nuisances). Since hazard mitigation can be included under the police power (as protection of public health, safety, and welfare), towns, cities, and counties may include requirements for hazard mitigation in local ordinances. Local governments may also use their ordinance-making power to abate "nuisances," which could include, by local definition, any activity or condition making people or property more vulnerable to any hazard.

#### Building Codes and Building Inspections

Many structural mitigation measures involve constructing and retrofitting homes, businesses, and other structures according to standards designed to make the buildings more resilient to the impacts of natural hazards. Many of these standards are imposed through the building code. North Carolina has a state compulsory building code which applies throughout the state (N.C.G.S. 143-138). However, municipalities and counties may adopt codes for the respective areas if approved by the state as providing "adequate minimum standards." Local regulations cannot be less restrictive than the state code.

Local governments in North Carolina are also empowered to carry out building inspection. N.C.G.S. Ch. 160A, Art. 19, Part 5; and Ch. 153A, Art. 18, Part 4 empower cities and counties to create an inspection department, and enumerates its duties and responsibilities, which include enforcing state and local laws relating to the construction of buildings; installation of plumbing, electrical, heating systems, etc.; building maintenance; and other matters.

#### Land Use

Regulatory powers granted by the state to local governments are the most basic manner in which a local government can control the use of land within its jurisdiction. Through various land use regulatory powers, a local government can control the amount, timing, density, quality, and location of new development; all these characteristics of growth can determine the level of vulnerability of the community in the event of a natural hazard. Land use regulatory powers include the power to engage in planning, enact and enforce zoning ordinances, floodplain ordinances, and subdivision controls. Land use controls available to each participating jurisdiction are provided in Tables 4-7 through 4-9.

Zoning: See Existing Policies and Program Review section above.

Floodway Regulation: The North Carolina General Statutes declare that the channel and a portion of the floodplain of all the state's streams will be designated as a floodway, either by the local government or by the state. The legislatively declared purpose of designating these areas as a floodway is to help control and minimize the extent of floods by preventing obstructions which inhibit water flow and increase flood height and damage and other losses (both public and private) in flood hazard areas, and to promote the public health, safety, and welfare of citizens of North Carolina in flood hazard areas.

To carry out this purpose, local governments are empowered to grant permits for the use of the floodways, including the placement of any artificial obstruction in the floodway. No permit is required for certain uses, including agricultural, wildlife and related uses; ground level uses such as parking areas, rotary aircraft ports; lawns, gardens, golf courses, tennis courts, parks, open space, and similar private and public recreational uses. Existing artificial obstructions in the floodway may not be enlarged or replaced without a permit; local governments are empowered to acquire existing obstructions by purchase, exchange, or condemnation if necessary to avoid flood damages.

The procedures that are laid out for issuing permits for floodway use require the local government to consider the dangerous effects a proposed artificial obstruction may create by causing water to be backed up or diverted; or the danger that the obstruction will be swept downstream to the injury of others; and by the injury or damage that may occur at the site of the obstruction itself. Local governments are to take into account anticipated development in the foreseeable future which may be adversely affected by the obstruction, as well as existing development.

Planning: In order to exercise the regulatory powers conferred by the General Statutes, local governments in North Carolina are required to create or designate a planning agency. The planning agency may perform a number of duties, including: make studies of the area; determine objectives; prepare and adopt plans for achieving those objectives; develop and recommend policies, ordinances, and administrative means to implement plans; and perform other related duties. The importance of the planning powers of local governments is emphasized in N.C.G.S. 160A-383, which requires that zoning regulations be made in accordance with a comprehensive plan. While the ordinance itself may provide evidence that zoning is being conducted "in accordance with a plan," the existence of a separate planning document ensures that the government is developing regulations and ordinances that are consistent with the overall goals of the community.

Subdivision Regulation: See Existing Policies and Program Review section above.

### *Acquisition*

The power of acquisition can be a useful tool for pursuing mitigation goals. Local governments may find the most effective method for completely "hazard-proofing" a particular piece of property or area is to acquire the property (either in fee or a lesser interest, such as an easement), thus removing the property from the private market and eliminating or reducing the possibility of inappropriate development occurring. North Carolina legislation empowers cities, towns, and counties to acquire property for public purpose by gift, grant, devise, bequest, exchange, purchase, lease, or eminent domain.

### *Taxation*

Taxation is yet another power granted to local governments by North Carolina law which can be used as a hazard mitigation tool. The power of taxation extends beyond merely the collection of revenue. Many communities set preferential tax rates for areas which are unsuitable for development (e.g., agricultural land, wetlands) and can be used to discourage development in hazardous areas.

Local units of government also have the authority to levy special assessments on property owners for all or part of the costs of acquiring, constructing, reconstructing, extending, or otherwise building or improving beach erosion control or flood and hurricane protection works within a designated area. This can serve to increase the cost of building in such areas, thereby discouraging development.

Because the usual methods of apportionment seem mechanical and arbitrary, and because the tax burden on a particular piece of property is often quite large, the major constraint in using special assessments is political. Special assessments seem to offer little in terms of control over land use in developing areas. They can, however, be used to finance the provision of services a city deems necessary within its boundaries. In addition, they are useful in distributing to the new property owners the costs of the infrastructure required by new development.

### *Spending*

The fourth major power that has been delegated from the North Carolina State General Assembly to local governments is the power to make expenditures in the public interest. Hazard mitigation principles should be made a routine part of all spending decisions made by the local government, including annual budgets and Capital Improvement Plans.

A capital program is usually a timetable by which a city indicates the timing and level of municipal services it intends to provide over a specified duration. Capital programming, by itself, can be used as a growth management technique, with a view to hazard mitigation. By tentatively committing itself to a timetable for the provision of capital to extend municipal services, a community can control its growth to some extent especially where the surrounding area is such that the provision of on-site sewage disposal and water supply are unusually expensive.

In addition to formulating a timetable for the provision of services, a local community can regulate the extension of and access to municipal services.

A capital improvement program (CIP), where applicable, that is coordinated with extension and access policies can provide a significant degree of control over the location and timing of growth. These tools can also influence the cost of growth. If the CIP is effective in directing growth away from environmentally sensitive or high hazard areas, for example, it can reduce environmental costs.

## **FISCAL CAPABILITY REVIEW**

There are many diverse sources of funding available to communities to implement local hazard mitigation plans, including both government and private programs. Often an organization with a particular focus will fund only part of a project. However, with coordination, the community can combine the funding efforts of one program with those of another, thereby serving multiple missions. The grant and loan programs described in this section of the plan are a significant, although certainly not a sole source of funding options available to each of the local government entities participating in this plan.

While federal and national programs carry out the bulk of disaster relief programs that provide funds for mitigation, local governments are encouraged to open the search field as widely as possible, and include alternative funding sources to supplement the local hazard mitigation budget. For instance, local businesses and organizations will frequently support projects that benefit their customers or employees, or which constitute good "PR." Other groups or individuals may be willing to donate "in-kind" services, eliminating the need for cash. Often the in-kind and volunteer services of local community members can be counted toward the local share that is typically needed to match an outside source of funds.

Local governments may also engage in their own "fund-raising" efforts to pay for mitigation programs that benefit the community at-large. In North Carolina, local governments are granted limited powers to raise revenue for public purpose. The General Assembly has conferred upon cities, towns, and counties the power to levy property taxes for various purposes, including: "ambulance services, rescue squads, and other



emergency medical services; beach erosion and natural disasters (including shoreline protection, beach erosion control, and flood and hurricane protection); civil defense; drainage projects or programs; fire protection; hospitals; joint undertakings with other county, city, or political subdivisions; planning; sewage; solid waste; water; water resources; watershed improvement projects" N.C.G.S. §16A-209. These statutorily enumerated purposes make it clear that local governments are empowered to finance certain emergency management activities, including mitigation activities, with property taxes.

Appendix F provides a list and description of several programs which offer funding for hazard mitigation, redevelopment, and post disaster recovery.

## **POLITICAL ACCEPTABILITY REVIEW**

This subsection of the plan is intended to address the participating communities' "political willpower" to address hazards threats in a proactive manner. This "political willpower" is a significant component of a community's capability to implement hazard mitigation. It is, however, a very difficult factor to assess and evaluate as it is constantly changing based on the turnover in elected officials and the (perceived and actual) frequency and severity of natural hazard events.

The following principals of political acceptability are applicable for all of the local governments participating in this plan:

1. Independent of existing regulations that directly address hazard mitigation (e.g., floodplain management ordinance), hazard mitigation is not a goal that should be addressed independent of other goals and objectives of the local government, due to limited local government resources; and
2. Hazard mitigation should be considered and incorporated into policies, procedures, and programs which affect land use and development, such as siting of roadways, siting and building of public facilities, zoning and subdivision ordinances, and extension of infrastructure necessary for growth; and
3. Local revenues are insufficient to support hazard mitigation projects for mitigation of existing hazards at the local level, however, Federal and State grant funds for priority hazard mitigation projects should be pursued when available.
4. One of local government's primary roles in implementing hazard mitigation is educating the public about the risks of natural hazards and how to reduce these risks and/or the costs of these risks.