

**TOWN OF FARMINGTON
FLOOD PLAIN DEVELOPMENT ORDINANCE**

Adopted September 1988

Amended March 8, 1994

Amended March 14, 2001

Amended May 17, 2005

All development within a flood plain shall conform to the provisions of this ordinance. This ordinance shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its "Flood Insurance Study for the County of Strafford, NH dated May 17, 2005 or as amended, together with the associated Flood Insurance Rate Maps dated May 17, 2005 or as amended, which are declared to be a part of this ordinance and are hereby incorporated by reference.

ITEM I. Definition of Terms:

"Area of special flood hazard" is the land in the flood plain within The Town of Farmington subject to a one percent (1%) or greater chance of flooding in any given year. The area is designated on the Flood Insurance Rate Maps (FIRM) as Zones A or AE.

"Base Flood" means the flood having a one percent (1%) chance of being equalled or exceeded in any given year.

"Basement" means any area of the building having its floor subgrade (below ground level) on all sides.

"Building" ----- see **"Structure"**

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

"Flood" or "Flooding" means: A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters.
- (2) The unusual and rapid accumulation of runoff of surface waters from any source.

"Flood elevation study" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood related erosion hazards.

"Flood Insurance Rate Map" (FIRM) means the official map incorporated with this ordinance on which the Federal Emergency Management Agency (FEMA) has delineated

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both the special flood hazard areas and the risk premium zones applicable to the community.

"Flood Insurance Study" see **"Flood elevation study."**

"Flood Plain" or **"Flood prone area"** means any land area susceptible to being inundated by water from any source (see definition of **"Flooding"**).

"Flood proofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

"Floodway" ---- see **"Regulatory floodway."**

"Functional dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

"Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

"Historic Structure" means any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 1. by an approved state program as determined by the Secretary of the Interior, or
 2. directly by the Secretary of the Interior in states without approved programs."

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"Lowest Floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor: Provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

"Mean sea level" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"Manufactured Home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes the term **"Manufactured Home"** also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term **"Manufactured Home"** does not include park trailers, travel trailers, and other similar vehicles.

"Manufactured Home Park or Subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"100-year Flood" see **"Base Flood."**

"Recreational Vehicle" means a vehicle which is (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) designed to be self propelled or permanently towable by a light duty truck; and (3) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

"Regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point. These areas are designated as floodways on the Flood Insurance Rate Maps (FIRM).

"Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

"Special flood hazard area" means an area having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards, and shown on the Flood Insurance Rate Maps (FIRM) as Zone A or AE. (See Area of Special Flood Hazard).

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"Structure" means for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

"Start of Construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

"Substantial Damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred."

"Substantial improvement" means any combination or repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds fifty percent of the market value of the structure. The market value of the structure should be (1) the appraised value of the structure prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. For the purposes of this definition, **"Substantial improvement"** is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a structure listed on the National Register of Historic Places, provided that the alteration will not preclude the structure's continued designation as a **"Historic Structure."**

"Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains.

ITEM II.

All proposed development in any special flood hazard areas shall require a permit.

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ITEM III.

The Code Enforcement Officer shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites

will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall (I) be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, (II) be constructed with materials resistant to flood damage, (III) be constructed by methods and practices that minimize flood damage, and (IV) be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

ITEM IV.

Where new and replacement water and sewer systems (including onsite systems) are proposed in flood prone areas the applicant shall provide the Code Enforcement Officer with assurance that these systems will be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems will be located to avoid impairment to them or contamination from them during periods of flooding.

ITEM V.

The Code Enforcement Officer shall maintain for public inspection, and furnish upon request, any certification of flood-proofing and the as built elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and include whether or not such structures contain a basement. If the structure has been flood proofed, the as built elevation (in relation to mean sea level) to which the structure was flood proofed. This information must be furnished by the applicant.

ITEM VI.

The Code Enforcement Officer shall review proposed developments to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334. It shall be the responsibility of the applicant to certify these assurances to the Code Enforcement Officer prior to the granting of a building permit.

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ITEM VII.

In riverine situations, prior to the alteration or relocation of a watercourse, the applicant for such authorization shall notify the Wetlands Board of the New Hampshire Environmental Services Department and submit copies of such notification to the Code Enforcement Officer, in addition to the copies required by RSA 482-A:3. Further, the

applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Code Enforcement Officer.

Within the altered or relocated portion of any watercourse, the applicant shall submit to the Code Enforcement Officer, certification provided by a registered professional engineer assuring that the flood carrying capacity of the watercourse can and will be maintained.

Along watercourses that have a designated Regulatory Floodway no encroachments, including fill, new construction, substantial improvements, and other development, are allowed within the designated Regulatory Floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed encroachment would not result in any increase in flood levels within the community during the base flood discharge. In Zone A the Code Enforcement Officer shall obtain, review, and reasonably utilize any floodway data available from a Federal, State, or other source as criteria for requiring that development meet the floodway requirements of this section.

Along watercourses that have not had a regulatory floodway designated, no new construction, substantial improvements or other development (including fill) shall be permitted within Zones AE on the FIRM, unless it is demonstrated by the applicant that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

ITEM VIII.

1. In special flood hazard areas the Code Enforcement Officer shall determine the 100-year flood elevation in the following order of precedence according to the data available:
 - a. In Zones AE, refer to the elevation provided in the communities Flood Insurance Study and accompanying FIRM.
 - b. In unnumbered A zones the Code Enforcement Officer shall obtain, review, and reasonably utilize any 100-year flood elevation data available from Federal, State,

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development proposals submitted to the community (example sub-divisions, site approvals, etc.) or other source.

2. The Code Enforcement Officer's 100-year flood elevation determination will be used as criteria for requiring in Zones AE and A that:
 - a. All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to or above the 100-year flood level;
 - b. that all new construction and substantial improvements of non-residential structures have the lowest floor (including basement) elevated to or above the 100-year flood level; or together with attendant utility and sanitary facilities shall:
 1. be flood proofed so that below the 100-year flood elevation the structure is watertight with walls substantially impermeable to the passage of water;
 2. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
 3. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section;
 - c. Recreational vehicles placed on sites within Zones AE shall either (I) be on the site for fewer than one hundred eighty (180) consecutive days; (II) be fully licensed and ready for highway use, or (III) meet all standards of Section 60.3 (b) (1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for "manufactured homes" in Paragraph (c) (6) of Section 60.3.
 - d. All manufactured homes to be placed or substantially improved within special flood hazard areas shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood level; and be securely anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces;
 - e. for all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted providing the enclosed areas meet the following requirements: (1) the enclosed area is unfinished or flood resistant, useable solely for parking of vehicles, building access or storage;

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(2) the area is not a basement; (3) shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

ITEM IX. Variances and Appeals

1. Any order, requirement, decision or determination of the Code Enforcement Officer made under this ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.
2. If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, I (b), the applicant shall have the burden of showing in addition to the usual variance standards under state law that:
 - a. The variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense.
 - b. If the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result.
 - c. The variance is the minimum necessary, considering the flood hazard, to afford relief.
3. The Zoning Board of Adjustment shall notify the applicant in writing that:
 - a. The issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
 - b. Such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions.
4. The community shall:
 - a. Maintain a record of all variance actions, including their justification for their issuance; and,
 - b. Report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator."

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*Kathy L. Server
Town Clerk*