

Article 02 Flood Plain District

Are you in favor of the adoption of Warrant Article 02 as proposed by the Planning Board for the Town Zoning Ordinance as follows: amend Article XIX. FLOOD PLAIN DISTRICT as necessary to comply with requirements of the National Flood Insurance Program?

South Hampton currently participates in FEMA's National Flood Insurance Program. This gives residents the opportunity to purchase flood damage coverage, which is not typically included in homeowners insurance. To remain eligible for the program, participating towns must routinely revise applicable zoning ordinances to conform to national standards. This warrant article represents compulsory changes to our Flood Plain District zoning ordinance (Article XIX) to meet these standards and continue participating in the program. Though FEMA is in the process of updating the flood risk maps, acceptance of new maps is not included in this warrant article. The Board of Selectmen and Planning Board unanimously support passage of this warrant article.

(~~Strikethrough text~~ means delete text; **highlighted text** means add text.)

Article XIX. FLOOD PLAIN DISTRICT

This ordinance adopted pursuant to the authority of RSA 674:26, shall be known as the Town of South Hampton Flood Plain Development Ordinance. The regulations in this ordinance shall overlay and supplement the regulations of the Town of South Hampton Zoning Ordinance and shall be considered part of the Zoning Ordinance for purposes of administration and appeals under State law. If any provision of this ordinance differs or appears to be in conflict with any provision of the Zoning Ordinance or other ordinance or regulation, the provision imposing the greater restriction of more stringent standard shall be controlling. The following regulations in 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 Rockingham County, New Hampshire" dated January 29, 2021 or as amended, together with the associated Flood Insurance Rate Map Panels numbered 33015C0420F, 33015C0395E, 0413E, 0420F, 0585E, 0601E and 0602E for the Town of South Hampton. (Amended 2021)

A. Definition of Terms:

"Area of shallow flooding" means a designated AO, AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of special flood hazard" is the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. **This area is designated as Zone A and AE on the Town of South Hampton's Flood Insurance Rate Map.** ~~The area may be designated as Zone A on the FFBM. After detailed rate making has been completed in preparation for~~

~~publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1, A30, A, A99, VO, or V1_30, VE, or V.~~

"Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

"Base Flood Elevation" (BFE) means the elevation of surface water resulting from the "base flood."

"Basement" means any area of the building having its floor sub grade (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.

"FEMA" means the Federal Emergency Management Agency. (Added 3/12/97)

"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 or runoff of surface waters from any source.

~~"Flood Boundary and Floodway Map" (FLOODWAY) is an official map of the community, on which the Federal Emergency Management Agency has delineated the "Regulatory Floodway". This map should not be used to determine the correct flood hazard zone or base flood elevation, the Flood Insurance Rate Map (FIRM) will be used to make determinations of flood hazard zones and base flood elevations.~~

"Flood **Insurance 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 Hazard Boundary Map" (FHBM) means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the flood, mudslide (i.e., mudflow) related erosion areas having special hazards have been designated as Zones A, M, and/or E.~~

"Flood Insurance Rate Map" (FIRM) means an official map of a community, on which the Federal Emergency Management Agency has delineated both the special hazard areas and the risk premium zones applicable to the community.

~~"Flood Insurance Study" see "flood elevation study".~~

"Flood Opening" means an opening in a foundation or enclosure wall that allows automatic entry and exit of floodwaters. See FEMA "Technical Bulletin 1, Openings in Foundation Walls and Walls of Enclosures."

"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 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:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminary determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historic significance of a registered Historic District or a district preliminarily determined by the Secretary to qualify as a registered Historic District.

3. 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

4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

- (i) by an approved state program as determined by the Secretary of the Interior, or
 - (ii) directly by the Secretary of the Interior in states without approved programs.

- ~~i. Individually listed on the State of New Hampshire's inventory of historic places.~~

- ~~ii. Individually listed on a local inventory of historic places in communities with historic programs that has been certified by the State of New Hampshire.~~
(Added 3/12/97)

"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, **North American Vertical Datum of 1988**, 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 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. **This includes manufactured homes located in a manufactured home park or subdivision.** ~~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".~~

"New construction" means, for the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, *new construction* means structures for which the *start of construction* commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

"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 tow able by a light duty truck; and (d) 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 **a designated height.** ~~one foot at any point. These areas are designated as floodways on the Flood Boundary and Floodway Maps.~~

"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 an FHBM or FIRM as Zone A, AO, A1_30, AE, A99, AH, VO, V1_30, VE, V, M or E.~~ (See Area of Special Flood Hazard).

"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 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, or 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; or 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 shed 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 of 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 before the "start of construction" of the improvement. ~~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 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.~~ This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- b. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

"Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations.

"Water Surface Elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum of 1988, (or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

- B. All proposed development in any special flood hazard areas shall require a permit.
- C. The Building Inspector 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 damages, 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.
- D. Where new and replacement water and sewer systems (including onsite systems) are proposed in flood prone areas the applicant shall provide the Building Inspector with assurance that new and replacement sanitary sewage systems will be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and onsite waste disposal systems will be located to avoid impairment to them or contamination from them during periods of flooding.
- E. The Building Inspector 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. The applicant must furnish this information.
- F. The Building Inspector 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 Building Inspector.
- G. In riverine situations, prior to the alteration or relocation of a watercourse, the applicant for such authorization shall notify the Wetlands Bureau Board of the New Hampshire Environmental Services Department and submit copies of such notification to the Building Inspector 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 Building Inspector including notice of all scheduled hearings before the Wetlands Bureau.

Within the altered or relocated portion of any watercourse, the applicant shall submit to the Building Inspector, certification provided by a registered professional engineer assuring that the flood carrying capacity of the watercourse has been 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 that would result in any increase in flood levels within the community during the base flood discharge. In Zone A the Building Inspector 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 A1_30 and 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.

- H.
1. In special flood hazard areas, the Building Inspector shall determine the **100-year base** flood elevation in the following order of precedence according to the data available:
 - a. In Zones **AE A1_30, AH, AE, V1_30 & VE** refer to the elevation provided in the communities Flood Insurance Study and accompanying FIRM **or FHBM**.
 - b. In **Zone A unnumbered A-zones** the Building Inspector shall obtain, review, and reasonably utilize any **100-year base** flood elevation data available from Federal, state, development proposals submitted to the community (example subdivisions, site approvals, etc.) or other source. **Where the base flood elevation is not available or not known for Zone A, the base flood elevation shall be determined to be at least 2 feet above the highest adjacent grade.**
 - ~~c. In Zone AO the 100-year flood elevation is determined by adding the elevation of the highest adjacent grade to the depth number specified on the FIRM or if no depth number is specified on the FIRM at least two feet.~~
 2. The Building Inspector's **100-year base** flood elevation determination will be used as criteria for requiring in Zones **A and AE A1_30, AE, AH, AO, 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 base** flood level;
 - b. That all new construction and substantial improvements of nonresidential structures have the lowest floor (including basement) elevated to or above the **100-year base** flood level; or together with attendant utility and sanitary facilities, shall:

- (i) be flood proofed so that below the ~~100-year~~ base flood elevation the structure is watertight with walls substantially impermeable to the passage of water;
 - (ii) have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
 - (iii) 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. 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;
- d. 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 areas is unfinished or flood resistant, usable solely for parking of vehicles, building access or storage; 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 floodwaters. 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 flood 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 flood openings shall be no higher than one foot above grade. Flood openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters;
- ~~e. Proposed structures to be located on slopes in Special Flood Hazard Areas, Zones AH and AD, shall include adequate drainage paths to guide flood waters around and away from the proposed structures.~~
- f. Recreational vehicles placed on sites within Zones ~~A A1-30, AH,~~ and AE shall either
 - (1) be on the site for fewer than 180 consecutive days, (ii) be fully licensed and ready for highway use on wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions, or (iii) meet all applicable standards of this ordinance ~~Section 60.3(b)(1) of the National Flood Insurance Program Regulations~~ and the elevation and anchoring requirements for "manufactured homes" of this ordinance ~~in Paragraph (c)-(6) of Section 60.3.~~ (Adopted 3/8/94)

I. Variances and Appeals

1. Any order, requirement, decision or determination of the Building Inspector 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, ~~(b)~~, the applicant shall have the burden of showing in addition to the usual variance standards under State law:
 - a. That the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense.
 - b. That 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. That 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 (i) 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 (ii) 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 report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.