

Article IX- Chapter 170 City Ordinance

FLOODPLAIN MANAGEMENT

[HISTORY: Adopted by the City Council of the City of Franklin 6-1-1987; amended in its entirety 6-1-1998 by Ord. No. 98-2. Amendments noted where applicable.]

GENERAL REFERENCES

Wetlands -- See Ch. 300.

Zoning -- See Ch. 305.

Site plan review -- See Ch. 402.

Subdivision of land -- See Ch. 403.

~ 170-1. Scope.

This chapter, adopted pursuant to the authority of RSA 674:16, shall be known as the "City of Franklin Floodplain Development Ordinance." The regulations in this chapter shall overlay and supplement the regulations in the City of Franklin 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 chapter differs or appears to conflict with any provision of the Zoning Ordinance or other ordinance or regulation, the provision imposing the greater restriction or more stringent standard shall be controlling. The following regulations shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency in its Flood Insurance Study for the City of Franklin, New Hampshire, together with the associated Flood Insurance Rate Maps and Flood Boundary and Floodway Maps of the City of Franklin dated September 28, 1979, which are declared to be part of this chapter.

~ 170-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

AREA OF SHALLOW FLOODING -- 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 -- The land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FIRM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined in to Zones A, AO, AH, A1-30, AE, A99, VO or V1-30, VE or V.

BASE FLOOD -- The flood having a one-percent chance of being equaled or

¹ Editor's Note: See Ch. 305, Zoning.

exceeded in any given year.

BASEMENT -- Any area of the building having its floor subgrade below ground level on all sides.

BUILDING -- See "structure."

BREAKAWAY WALL -- A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation.

DEVELOPMENT -- 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" -- The Federal Emergency Management Agency.

FLOOD or FLOODING -- A general and temporary condition of partial or complete inundation of normally dry land areas from:

- A. The overflow of inland or tidal waters; or
- B. The usual and rapid accumulation or runoff of surface waters from any source.

FLOOD BOUNDARY AND FLOODWAY MAP (FLOODWAY) -- 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 ELEVATION STUDY -- 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) -- An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the flood- and mudslide-related erosion areas having special hazards have been designated as Zones A, M and/or E.

FLOOD INSURANCE RATE MAP (FIRM) -- The 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."

FLOODPLAIN or FLOOD-PRONE AREA -- Any land area susceptible to being

inundated by water from any source (see definition of "flooding").

FLOODPROOFING -- 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 -- 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 -- The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE -- Any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the 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.

LOWEST FLOOR -- 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 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 nonelevation design

requirements of this chapter.

MANUFACTURED HOME -- 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 floodplain 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 -- A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MEAN SEA LEVEL -- 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.

ONE-HUNDRED-YEAR FLOOD -- See "base flood."

RECREATIONAL VEHICLE -- A vehicle which is built on a single chassis; 400 square feet or less when measured at the largest horizontal projection; designed to be self-propelled or permanently towable by a light-duty truck; and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

REGULATORY FLOODWAY -- 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 Boundary and Floodway Maps.

RIVERINE -- Relating to, formed by or resembling a river (including tributaries), stream, brook, etc.

SPECIAL FLOOD HAZARD AREA -- An area having special flood, mudslide and/or flood-related erosion hazards and shown on an FHB 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.")

START OF CONSTRUCTION -- Includes substantial improvement and means the date the building permit was issued, provided that 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, 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.

STRUCTURE -- 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.

SUBSTANTIAL DAMAGE -- 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% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT -- Any combination of repairs, reconstruction or improvements to a structure in which the cumulative cost equals or exceeds 50% of the market value of the structure. The market value of the structure should be the appraised value of the structure prior to the start of the initial repair or improvement or, in the case of damage, the value of the structure prior to 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 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.

WATER SURFACE ELEVATION -- 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 floodplains of coastal or riverine areas.

~ 170-3. Permit required.

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

~ 170-4. Review of applications.

- A. 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 be:
 - (1) 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;
 - (2) Constructed with materials resistant to flood damage;
 - (3) Constructed by methods and practices that minimize flood damages; and
 - (4) 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.

- B. 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.

~ 170-5. Alteration or relocation of watercourse.

- A. 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, Department of Environmental Services, and submit copies of such notification to the Building Inspector. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as necessary, as determined by the Building Inspector.
- B. 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.

~ 170-6. Encroachments within floodway.

Along watercourses that have a designated regulatory floodway, no encroachments, including fill, new construction, substantial improvements or 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 chapter.

~ 170-7. Watercourses without a designated floodway.

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 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.

~ 170-8. Water and sewer systems.

Where new and replacement water and sewer systems (including on-site 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 floodwaters into the systems and discharges from the systems

into floodwaters, and on-site waste disposal systems will be located to avoid impairment to them or contamination from them during periods of flooding.

~ 170-9. Certification of floodproofing and elevation.

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; and, 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.

~ 170-10. Determination of one-hundred-year-flood level.

- A. In special flood hazard areas the Building Inspector shall determine the one-hundred-year-flood elevation in the following order of precedence according to the data available:
 - (1) In Zones AI-30, AH, AE, V1-30 and VE refer to the elevation provided in the community's Flood Insurance Study and accompanying FIRM or FHBM.
 - (2) In unnumbered A Zones the Building inspector shall obtain, review and reasonably utilize any one-hundred-year-flood elevation data available from federal or state agencies, development proposals submitted to the community (e.g., subdivisions, site plans, etc.) or other source.
 - (3) In Zone AO the one-hundred-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.
- B. The Building Inspector's one-hundred-year-flood elevation determination will be used as criteria for requiring, in Zones A1-30, AE, AH, AO and A, that:
 - (1) All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to or above the one-hundred-year-flood level;
 - (2) All new construction and substantial improvements of nonresidential structures have the lowest floor (including basement) elevated to or above the one-hundred-year-flood level or, together with attendant utility and sanitary facilities, shall:
 - (a) Be floodproofed so that below the one-hundred-year-flood elevation, the structure is watertight with walls substantially impermeable to the passage of water;
 - (b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

- (c) 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 subsection.
- (3) 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 the ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
- (4) Recreational vehicles placed on sites within Zones A1-30, AH and AE shall either be on the site for fewer than 120 consecutive days, be fully licensed and ready for highway use or 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.
- (5) For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted, provided that the enclosed areas meet the following requirements: the enclosed area is unfinished or flood resistant, usable solely for parking of vehicles, building access or storage; the area is not a basement; and the area shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting these requirements must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
 - (a) 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.
 - (b) The bottom of all openings shall be no higher than one foot above grade.
 - (c) Openings may be equipped with screens, louvers or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
- (6) Proposed structures to be located on slopes in special flood hazard areas, Zones AH and AD, shall include adequate drainage paths to guide floodwaters around and away from the proposed structures.

~ 170-11. Variances and appeals.

- A. Any order, requirement, decision or determination of the Code Enforcement Officer made under this chapter may be appealed to the Zoning Board of Adjustment as set forth in RSA 676.5.
- B. 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:
 - (1) The variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense.
 - (2) If the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result.
 - (1) The variance is the minimum necessary, considering the flood hazard, to afford relief.
- C. The Zoning Board of Adjustment shall notify the applicant, in writing, that 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 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.
- D. The community shall 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.