

FLOOD PRONE AREA ORDINANCE
FOR THE TOWN OF HAVERHILL, NEW HAMPSHIRE

**ARTICLE I
PREAMBLE AND TITLE**

Pursuant to the Authority conferred by the New Hampshire Revised Statutes Annotated [RSA] 674: 16-17, 1988 as amended, and for the purpose of promoting the health, safety, morals and general welfare of the Town of Haverhill, New Hampshire, the following Ordinance is hereby enacted by the voters of the Town of Haverhill, New Hampshire. This Ordinance shall be known and cited as the Town of Haverhill Flood Prone Area Ordinance – hereinafter referred to as “this ordinance.”

**ARTICLE II
PURPOSE**

This Ordinance is designed to promote the health, safety and general welfare of the inhabitants of Haverhill, to protect the value of property, to protect the integrity of the Town’s natural resources, to facilitate the adequate provision of public services and to comply with the requirements of the National Flood Insurance Program.

**ARTICLE III
DEFINITIONS**

Unless otherwise stated, words shall, for the purpose of this Ordinance, have the meaning indicated in this Article. Words used in the present tense include the future. The singular includes the plural and the plural singular. The word “person” includes a corporation, partnership or incorporated association of persons. The word “shall” is mandatory, not directory.

Area of Special Flood Hazard is the land in the flood plain within the Town of Haverhill subject to a 1 percent or greater chance of flooding in any given year. The area is designated as Zones A and AE on the Flood Insurance Rate Map and is designated on the FIRM as zones A and AE.

Base Flood means the flood having a one-percent possibility of being equaled or exceeded in any given year.

Basement means any area of a building having its floor subgrade on all sides.

Building - See Structure

Building Inspector – The Haverhill Board of Selectmen or their agent.

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 operation or storage of equipment or materials.

FEMA means the Federal Emergency Management Agency

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 Elevation Study means an examination, evaluation, and determination of flood hazards and if appropriate, corresponding water surface elevations, or an examination and determination of mudslide or flood-related erosion hazards.

Flood Insurance Rate Map [FIRM] means an official map incorporated with this Ordinance, on which FEMA has delineated both the special flood hazard areas and the risk premium zones applicable to the Town of Haverhill.

Flood Insurance Study – See **Flood Elevation Study**.

Floodplain or Flood-prone area means any land area susceptible to being inundated with water from any source [see definition of “Flooding.”]

Flood Proofing means any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures and their contents.

Floodway – See **Regulatory Floodway**.

Functionally 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 and port facilities that are necessary for the loading/unloading of cargo or passengers, and ship building/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 the 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 program 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 of states without approved programs.

Lowest Floor means the lowest floor of the lowest enclosed area [including basement]. An unfinished or flood resistant enclosure, usable solely for the 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 an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of the Ordinance.

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 attached to the required utilities. For floodplain management purposes the term "manufactured home" includes park trailers, travel trailers, and other similar vehicles placed on site for greater than 180 consecutive days. This includes manufactured homes located in a manufactured home park or subdivision.

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.

Mean Sea Level means 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.

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.

100 -Year Flood – see **Base Flood**

Permitted Use – a use of property which is allowed by right in Haverhill.

Recreational Vehicle is defined as:

- 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
- 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.

Special Flood Hazard Area 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 improvements, 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 or permanent construction of a structure on 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 manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; not does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; not does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or 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 conditions 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 costs equal or exceed fifty percent of the market value of the structure. The market value of the structure should equal [1] the appraised value 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 structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures which have incurred substantial damage, regardless of the actual repairwork performed. 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 will not preclude the structure's continued designation as a "historic structure."

Variance is a permit authorizing a use of property which is contrary to the Ordinance. Variances may be granted by the Board of Adjustment in accordance with RSA 674:33 in cases where, owing to the specific conditions, a literal enforcement of the provisions of the Ordinance would result in unnecessary hardship and so that the spirit of the Ordinance shall be observed and substantial justice done.

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 floodplains.

ARTICLE IV FLOODPLAIN DEVELOPMENT DISTRICT

The regulations in this Ordinance shall be considered part of NH RSA 674 for purposes of administration and appeals under state law. If any provision of this Ordinance differs or appears to conflict with any provision of any other ordinance or regulation, the provision, imposing the greater restriction or more stringent standard shall be controlling.

The following regulations in the 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 Town of Haverhill, New Hampshire" together with the associated Flood Insurance Rate Maps dated _____, which are declared to be a part of this Ordinance and are hereby incorporated by reference.

- 4.1 All proposed development in any special flood hazard areas shall require a permit.
- 4.2 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 located in a special flood hazard area, all new construction or 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 damages,
 - [iii] be constructed by methods and practices that minimize flood damages,
 - [iv] be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that re designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- 4.3 Where new or replacement water and sewer systems [including on-site systems] are proposed in a special flood hazard area the applicant shall provide the Building Inspector with assurance that these systems will be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems unto flood waters, and on-site waste disposal systems will be located to avoid impairment to them or contamination from them during period of flooding.
- 4.4 For all new or substantially improved structures located in Zones A and AE, the applicant shall furnish the following information to the building inspector:
- [a] the as-built elevation [in relation to NGVD] of the lowest floor [including basement] and include whether or not such structures contain a basement.
 - [b] if the structure has been floodproofed, the as-built elevation [in relation to NGVD] to which the structure was floodproofed.
 - [c] any certification of floodproofing.

The Building Inspector shall maintain for public inspection, and shall furnish such information upon request.

4.5 The Building Inspector shall not grant a building permit until the applicant certifies 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.

4.6 Wetlands in the Flood Hazard Area

1. In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the Wetlands Bureau of the New Hampshire Department of Environmental Services 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 Board and the Haverhill Conservation Commission.
2. The applicant shall submit to the Building Inspector, certification provided by a registered professional engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.
3. The Building Inspector shall obtain, review, and reasonably utilize and floodway data available from Federal, State, or other sources as criteria for requiring that all development located in Zone A meet the following floodway requirement:

"No encroachments including fill, new construction, substantial improvements, and other development are allowed within the floodway that would result in an increase in flood levels within the community during the base flood discharge."

4. Until a Regulatory Floodway is designated along watercourses, no new construction, substantial improvements, or other development [including fill] shall be permitted within Zone AE on the FIRM, unless it is demonstrated by the applicant that the cumulative effect of the proposed development, when combined with all 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.

4.7

1. In special flood hazard areas the Building Inspector shall determine the 100 year flood elevation in the following order of precedence according to date available:

- a. In Zones AE refer to the elevation data provided in the community's Flood Insurance Study and accompanying FIRM.
 - b. In Zone A the Building Inspector shall obtain, review, and reasonably utilize any 100 year flood elevation data available from any federal, state or other source including data submitted or development proposals submitted to the community [i.e., - subdivisions, site approvals].
2. The Building Inspector's 100 year flood elevation determination will be used as criteria for requiring in zones Zones A and AE:
- a. all new construction or substantial improvement of residential structures have the lowest floor [including basement] elevated to or above the 100 year flood level.
 - b. all new construction or 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:
 - [i] be floodproofed so that below the 100 - year 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 provided they meet the following requirements: [1] the enclosed area is for the 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 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 floodwater.

- e. all recreational vehicles placed on sites within Zones A and AE shall either:
 - [i] be on the site for fewer than 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.

4.8 Variances and Appeals:

1. Any order, requirement, decision or determination made under this Ordinance may be appealed to the 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:
 - [a] that the variance will not result in increased flood heights, additional threats to the 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 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 [i] maintain a record of all variance actions, including their justification for their issuance, and [ii] report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

ARTICLE V NON-CONFORMING USE

5.1 If, at the time of the adoption of the Flood Prone Area Ordinance, any land, building or structure is being used in a lawful manner, except that such use is not in conformity with the provisions of this Ordinance, such a non-conforming use of said land, building or structure may be continued. No interruption of such a non-conforming use shall prevent its continuance except as hereinafter provided.

5.2 Any non-conforming use permitted in paragraph 5.1 may be expanded upon only by the approval of the Board of Adjustment, which shall first ascertain that [a] such an expansion does not create a greater nuisance or detriment and [b] the expanded use meets the requirements of this Ordinance.

ARTICLE VI
ENFORCEMENT AND ADMINISTRATION

- 6.1 It shall be the duty of the Board of Selectmen, and the Board is hereby given the power and authority to enforce the provisions of this Ordinance. After the passage of this Ordinance, and in conjunction with the prevailing building permit system it shall be unlawful to construct a new building without first obtaining a permit from the Board of Selectmen or their designee. Permits must be posted on site and easily visible.

ARTICLE VII
BOARD OF ADJUSTMENT

- 7.1 Within thirty days after the adoption of this Ordinance, the Board of Selectmen shall make an appointment to the Board of Adjustment of five members conforming in duties to the provisions of NH RSA 674:33. The Board of Selectmen shall be responsible for filling vacancies and maintaining full membership on the Board of Adjustment. The Board of Adjustment shall conform in membership and term of office to the provisions of RSA 673:3 and RSA 73: 5-6.

ARTICLE VIII
AMENDMENTS

- 8.1 This Ordinance may be amended by a majority vote of any legal Town Meeting as provided by RSA 674:16.

ARTICLE IX
PENALTY

- 9.1 Any person, firm or corporation violating any of the provisions of the Ordinance shall be fined not more than one hundred dollars [\$100] upon conviction, for each day such violation exists.

ARTICLE X
SEPARABILITY CLAUSE

- 10.1 The invalidity of any provisions of this Ordinance shall not affect the validity of any other provision.

