

Blue Text – Those amendments made at the 2009 Town Meeting

Red Text – Those amendments adopted at the 2012 Town Meeting

APPENDIX B

FLOOD PLAIN CONSERVATION DISTRICT ORDINANCE

Section 1. Purpose and Intent

In the interest of public health, safety and welfare, the regulations of the Flood Plain Conservation District are intended to control and guide the uses of land areas subject to flooding. It is intended that the provisions of this District shall:

1. Promote the general health, safety and welfare of the community through certain restrictions on the use of land located within the flood plain.

2. Prevent the erection of structures in areas unfit for human usage by reason of danger from flooding, unsanitary conditions or other hazards.

3. Reduce the financial burdens imposed on the community, its governmental units and its individuals by frequent and periodic floods and overflow of lands.

4. Permit appropriate uses to be located in the flood plain as herein defined, which will not impede the flow of flood waters, or otherwise cause danger to life and property at or above or below their locations along the floodway.

5. Permit only those uses in the flood plain compatible to the preservation of natural conditions which are conducive to the maintenance of constant rates of water flow throughout the year *(a) withholding rapid water runoff contributing to downstream flooding, and (b) providing area for groundwater absorption for maintenance of the subsurface water supply.

Section 2. District Boundaries

2:01 Definitions

1. "Base Flood" means the flood having a one-percent possibility of being equaled or exceeded in any given year.
2. "Basement" means any area of a building having its floor subgrade on all sides.
3. "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, excavating or drilling operation or storage of equipment or materials.
4. "Flood Insurance Rate Map" (FIRM) means the 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 Hart's Location.

5. "Flood Insurance Study" (FIS) 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.
6. "Flood" or "Flooding" means 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 unusual and rapid accumulation or runoff of surface waters from any source.
7. "Floodplain" or "Floodprone area" means any land area susceptible to being inundated by water from any source (see definition of "Flooding").
8. "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:
 - 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.
9. "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 an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.
10. "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 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.

11. "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.
12. "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.
13. "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.
14. "Special flood hazard area" is the land in the floodplain within the Town of Hart's Location subject to a one-percent or greater possibility of flooding in any given year. The area is designated on the FIRM as Zone AE.
15. "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.
16. "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.
17. "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. The market value of the structure should equal:
 - a. the appraised value prior to the start of the initial repair or improvement, or
 - b. 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. This term includes structures that have incurred substantial damage, regardless of actual repair work 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 of a "historic structure", provided that the alteration will not

preclude the structure's continued designation as a "historic structure".

18. "Variance" means a grant of relief by a community from the terms of a flood plain management regulation.
19. "Violation" means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44CFR § 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

2:02 Establishment of District The limits of the Flood Plain Conservation District is hereby determined to be areas subject to frequent periodic flooding and includes all such areas delineated on the Town Flood Plain Map. The Flood Plain Map is based on the identification of alluvial soils by the Soil Conservation Service, United States Department of Agriculture in data and maps comprising the Soil Survey of Carroll County, dated 1977. Although infrequent floods will exceed the limits of alluvial soils, these alluvial soils represent the areas most often inundated by flood waters and represent the most realistic flood plain for the purpose of this district.

2:03 Adjustment of District Boundaries Insofar as various natural conditions, including the flood plain as herein defined, may change, such change can be validated by detailed on-site survey techniques approved by the Soil Conservation Service, United States Department of Agriculture. delineation of the flood plain boundary as shown on the soil maps can be modified by the Board of adjustment upon receipt of findings of the detailed on-site survey techniques by the petitioner. The Board of Adjustment shall act upon the recommendations of the Planning Board and the validation of the *Soil Conservation Service* and/or other appropriate agencies.

The following is inserted by vote of town meeting on March 14, 1995):

- A. Any lands or parcels of lands located "within the Flood Plain District" upon being considered for building purposes shall have a minimum of one acre of land free of any alluvial soils.
- B. Any right of ways, access roads, driveways, bridges, etc., connecting existing roads to proposed building lots within the Flood Plain District shall be constructed in accordance with state and federal regulations

2:04 Relation to Districts Where the Flood Plain Conservation District is superimposed over another zoning district, the more restrictive regulations shall apply.

Section 3. Permitted Uses

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

The following uses are permitted in the Flood Plain Conservation

District:

1. Cultivation and harvesting of crops according to recognized soil conservation practices.
2. Pasture, grazing lands.
3. Outdoor plant nursery, orchards.
4. Recreation use such as: park, picnic area, golf course, hunting and fishing, excluding structures.
5. Forestry-Tree Farming, excluding storage and mill structures.
6. Harvesting of any wild crops such as ferns, moss or berries.
7. Wildlife refuge, woodland *preserve*, arboretum.
8. Sealed public water supply wells.
9. Utility transmission lines.

Section 4. Conditional Uses

The following uses shall be permitted in the Flood Plain Conservation District upon approval by the Board of Adjustment as a *special exception*:

1. Residential front, side and/or rear yards and uses customarily incidental thereto, except that no structures shall be permitted. Inclusion of flood plain lands within the residential lots in order to meet minimum lot area or yard requirements *is* contingent upon complying with the purpose and intent of this ordinance and with any other pertinent municipal regulations. If such compliance cannot be shown, the land area within the flood plain conservation district shall not be calculated for purposes of determining lot areas or yard requirements.

2. Non-paved parking areas where required by the regulations for any other district.

3. Front, side and/or rear yards of any other class or district, except that an area so utilized shall not be inconsistent with the purpose and intent of this ordinance.

Section 5. Prohibited Uses

1. All structures and buildings with the exception of flood retention dams, culverts and bridges which are in compliance with other municipal and state regulations.

2. The filling of wetlands, removal of topsoil or damming or relocation of any watercourse except with the appropriate municipal and state approvals.

3. Sanitary landfill, dump, junkyard, outdoor storage of vehicles

and/or materials.

4. On-site sewage disposal systems or designation of any area within the flood plain as the future site of a replacement leach field.

5. Unsealed public or private water supply wells.

Section 6. Municipal Liability

The granting of a zoning permit or approval of a subdivision plan in any flood plain district shall not constitute a representation, guarantee or warranty of any kind by the municipality or by any official or employee thereof, or the practicability or safety of any structure, use or other plan proposed, and shall create no liability" upon, or a cause of action against such public body, official or employee for any damage that may result pursuant thereto.

SECTION 7. Variances and Appeals

1. Any order, requirement, decision or determination of the Board of Selectmen 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 that:

a. the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense.

b. 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:

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.

SECTION 8. Construction Requirements

The Board of Selectmen shall review all building permit applications for substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in a ~~floodprone~~ special flood hazard area, all substantial improvements shall:

- a. be designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy,
- b. be constructed with materials resistant to flood damage,
- c. be constructed by methods and practices that minimize flood damages,
- d. 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.

SECTION 9. Water and Sewer Systems

Where replacement water and sewer systems (including on-site systems) are proposed in a ~~floodprone~~ special flood hazard area the applicant shall provide the Board of Selectmen 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.

Section 10. Certification

For all substantially improved structures located in Zone AE, the applicant shall furnish the following information to the Board of Selectmen:

- 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 Board of Selectmen shall maintain the aforementioned information for public inspection, and shall furnish such information upon request.

Section 10. Watercourses

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 Board of Selectmen, 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 Board of Selectmen, including notice of all scheduled hearings before the Wetlands Bureau.

2. The applicant shall submit to the Board of Selectmen, 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. Along watercourses with a designated Regulatory Floodway no encroachments, including fill, new construction, substantial improvements, and other development are allowed within the 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.

Section 11. Special Flood Hazard Areas

1. In special flood hazard areas the Board of Selectmen shall determine the 100-year flood elevation in the following order of precedence according to the data available:

a. In Zone AE, refer to the elevation data provided in the community's Flood Insurance Study and accompanying FIRM.

2. The Board of Selectmen's 100-year flood elevation determination will be used as criteria for requiring in Zone AE that:

a. All substantial improvement of residential structures have the lowest floor (including basement) elevated to or above the 100-year flood elevation.

b. That all 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 floatation, 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.

d. All recreational vehicles placed on sites within Zone 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 3 of this ordinance and the elevation and anchoring requirements for "manufactured homes" in Section 11 (2) (c) of this ordinance.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

e. For all substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted provided they meet the following requirements:

- i. the enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage;
- ii. the area is not a basement;
- iii. 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.

The following section was adopted in 2009 but I'm not sure where it was placed in the ordinance.

The Board of Selectmen 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.