

SECTION 12: AREAS OF SPECIAL FLOOD HAZARD

The following provisions 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 Jackson, N.H.", together with the associated Flood Insurance Rate Maps of the Town of Jackson, dated July 2, 1979, which are declared to be part of this Ordinance and are hereby incorporated by reference, including any additions, amendments or revisions thereto. This Section was adopted pursuant to the authority of RSA 674:16. The Regulations in this Section shall overlay and supplement other regulations in this Zoning Ordinance. If any provision of this Section differs or appears to conflict with any other provision of this Zoning Ordinance or regulation, the provision imposing the greater restriction or more stringent standard shall be controlling.

12.1 Definitions

The following definitions shall apply to this Section.

12.1.1 "Area Of Special Flood Hazard" means the land in the floodplain within the Town of Jackson subject to a one percent (1%) or greater possibility of flooding in any given year. The area is designated on the FIRM as Zones A and AE.

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

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

12.1.4 "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 and materials.

12.1.5 "FEMA" means the Federal Emergency Management Agency.

12.1.6 "FIRM" means the Flood Insurance Rate Map.

12.1.7 "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.

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

- i) the overflow of inland waters, or
- ii) the unusual and rapid accumulation or runoff of surface waters from any source.

12.1.9 "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.

12.1.10 "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 Jackson.

12.1.11 "Floodplain" means any land susceptible to being inundated by water from any source.

12.1.12 "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.

12.1.13 "Functionally Dependent Use" means a use that 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.

12.1.14 "Highest Adjacent Grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

12.1.15 “Historic Structure” means any structure that is:

- i) Listed individually in the National Register of Historic Places or preliminarily determined as meeting the requirements for individual listing on the National Register;
- ii) Certified or preliminarily determined as contributing to the historical significance of a registered historic district;
- iii) Individually listed on a state inventory of historic places; or
- iv) Individually listed on a local inventory of historic places.

12.1.16 “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.

12.1.17 “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 one hundred eighty (180) days. This includes manufactured homes located in a manufactured home park or subdivision.

12.1.18 “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.

12.1.19 “Mean Sea Level” means the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum to which base flood elevations shown on a community's Flood Insurance Rate Maps are referenced.

12.1.20 “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.

12.1.21 “Recreational Vehicle” is defined as: 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 and seasonal use.

12.1.22 “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.

12.1.23 “Special Flood Hazard Area” means an area having Flood, mudslide, and/or Flood-related erosion hazards, and shown on an FHBM or FIRM as zones A1 through A30.

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

12.1.25 “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.

12.1.26 “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: i) the appraised value prior to the start of the initial repair or improvement, or ii) 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 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."

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

12.1.28 "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains.

12.2 All proposed Development, including the placement of manufactured homes, in any Special Flood Hazard Area shall require a permit.

12.3 Where new and replacement water and sewer systems (including on-site systems) are proposed, the applicant shall provide the Board of Selectmen with assurance that the systems are located, designed and will be constructed to minimize infiltration and avoid impairment by Flooding.

12.4 The Board of Selectmen shall review all building permit applications for new construction or Substantial Improvements to determine whether the proposed building will be reasonably safe from Flooding. If a proposed building site is in a location that has a Flood hazard, any proposed new construction or Substantial Improvement (including prefabricated and Manufactured Homes) must

- i) be designed (or modified) and anchored to prevent flotation, collapse, or lateral movement of the structure,
- ii) use construction materials and utility equipment that are resistant to Flood damage,
- iii) use construction methods and practices that will 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.

12.5 The Board of Selectmen shall maintain for public inspection and furnish upon request, for the determination of applicable Flood insurance risk premium rates within all areas having Flood hazards identified on a Flood Insurance Rate Map, any certification of Flood Proofing, and information on the elevation (in relation to mean sea level) of the 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 elevation (in relation to mean sea level) to which the structure was Flood Proofed. This information must be furnished by the applicant.

12.6 The Board of Selectmen shall review proposed developments to assure that all necessary permits have been applied for and/or 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 Board of Selectmen.

12.7 In riverine situations, prior to the alteration or relocation of a watercourse, the applicant for such authorization shall notify the Board of Selectmen and the Wetlands Bureau of the New Hampshire Department of Environmental Services and submit copies of such notification to the Zoning Board of Adjustment, 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 and the Zoning Board of Adjustment.

12.8 The following requirements shall apply in specific zones designated on the Flood Insurance Rate Maps.

12.8.1 In “A” zones, the Board of Selectmen shall obtain, review, and reasonably utilize any Base Flood elevation data available from a Federal, State, or other source, until such other data has been provided by the Administrator, as criteria for requiring that:

- i) all new construction and Substantial Improvements of residential structures have the Lowest Floor (including Basement) elevated to or above the Base Flood level, and
- ii) that all new construction and Substantial Improvement of non-residential structures have the Lowest Floor (including Basement) elevated or Flood Proofed to or above the Base Flood level.

12.8.2 In zones “AE”, for new construction and Substantial Improvements, the Board of Selectmen shall require that:

- i) Residential Structures have the Lowest Floor (including Basement) elevated to or above the Base Flood level.
- ii) Non-residential Structures have the Lowest Floor (including Basement) elevated to or above the Base Flood level; or together with attendant utility and sanitary facilities, be designed so that below the Base Flood level the Structure is water tight with walls substantially impermeable to the passage of water with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

12.8.3 In zones “A” and “AE”, where Flood Proofing of all new construction or substantial improvements of non-residential structures is used in lieu of elevation, a registered professional engineer or architect shall certify to the Board of Selectmen that the Flood Proofing methods used are adequate to withstand the Flood depths, pressures, velocities impact and uplift forces and other factors associated with the Base Flood.

12.8.4 In zones “AE” for Manufactured home placement, the Board of Selectmen shall require that:

- i) Stands or lots are elevated on compacted fill or on pilings so that the Lowest Floor of the Manufactured home will be at or above the Base Flood level.
- ii) Adequate surface drainage and access for a hauler are provided.
- iii) In the instance of elevation on pilings: i) lots are large enough to permit steps, ii) piling foundations are placed in stable soil and are no more than ten feet apart, and iii) reinforcement is provided for pilings that extend more than six feet above the ground level.

12.8.5 In zones “A and AE” Manufactured homes shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that i) over-the-top ties be provided at each of the four corners with two additional ties per side at intermediate locations and Manufactured Homes less than 50 feet long shall require one additional tie per side; ii) frame ties be provided at each corner with five additional ties per side at intermediate points and Manufactured Homes less than 50 feet long shall

require four additional ties per side; iii) all components of the anchoring system shall be capable of carrying a force of 4,800 pounds; and iv) any additions to the Manufactured Home shall be similarly anchored.

12.8.6 Along watercourses with a designated Regulatory Floodway:

- i) The placement of manufactured homes is prohibited within the designated Regulatory Floodway.
- ii) Within the Regulatory Floodway any Development or encroachment (including fill) which would result in any increase in Flood levels during the Base Flood discharge is prohibited.
- iii) Until a Regulatory Floodway is designated along watercourses, 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 existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.

12.9 Recreational vehicles placed on sites with 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, 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. 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.

12.10 For all new construction and Substantial Improvement in areas of Special Flood Hazard below the 100 year Flood elevation, fully enclosed areas below the Lowest Floor that are subject to Flooding are permitted provided they meet the following requirements:

12.10.1 The enclosed area is unfinished or Flood resistant, usable solely for the parking of vehicles, building access or storage,

12.10.2 The enclosed area is not a Basement,

12.10.3 The enclosed area is designed to automatically equalize hydrostatic Flood forces on exterior walls by allowing for the entry and exit of Flood water. 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.

12.11 Variances and Appeals

12.11.1 Any order, requirement, decision or determination made under this ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.

12.11.2 If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, 1 (b), the applicant shall have the burden of showing in addition to the usual variance standards under state law: i) that the variance will not result in increased Flood heights, additional threats to public safety, or extraordinary public expense; ii) 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, and iii) that the variance is the minimum necessary, considering the Flood hazard, to afford relief.

12.11.3 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.