

TOWN OF SALISBURY

BUILDING CODE

(As amended through March 11, 2008)

ARTICLE VII. FLOODPLAIN DEVELOPMENT REGULATIONS (Amended 3/13/90)

The following regulations 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 County of Merrimack, N.H." dated (**Insert Final Map/Study Effective Date**) or as amended, together with the associated Flood Insurance Rate Maps (FIRM) dated (**Insert Final Map/Study Effective Date**) or as amended, which are declared to be part of this Ordinance and hereby incorporated by reference.

A. DEFINITIONS.

1. Area of Special Flood Hazard. The land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. The area is designated as Zone A on the FIRM.
2. Base Flood. The flood having a one percent chance of being equaled or exceeded in any given year.
3. Basement. Any area of the building having its floor sub grade (below ground level) on all sides.
4. Building. See Structure.
5. 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 or storage of equipment or materials.
6. 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.
7. Flood Insurance Rate Map (FIRM). 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.
8. Flood Insurance Study. See Flood Elevation Study.

9. Flood Plain/Flood-Prone Area. Any land area susceptible to being inundated by water from any source.
10. Flood Proofing. 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 sanitary facilities, structures and their contents.
11. Floodway. See Regulatory Floodway.
12. Highest Adjacent Grade. The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
13. Historic Structure.
 1. 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 State 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 historical 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 which have been certified either:
 - a. By an approved State program as determined by the Secretary of the Interior, or;
 - b. Directly by the Secretary of the Interior in States without approved programs.
14. 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 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.
15. 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.

16. **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 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. For insurance purposes the term “manufactured home” does not include park trailers, travel trailers, and other similar vehicles. The term “manufactured homes” does not include a “recreational vehicle”. This includes manufactured homes located in a manufactures home park or subdivision.
17. **Manufactured Home Park or Subdivision.** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
18. **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 flood plain management purposes, “new construction” means structures for which the “start of construction” commenced on or after the effective date of a flood plain management regulation adopted by a community and includes any subsequent improvements to such structures.
19. **100 Year Flood.** See Base Flood.
20. **Recreational Vehicle.** A vehicle which is:
 1. built on a single chassis;
 2. 400 square feet or less when measured at the largest horizontal projections;
 3. designed to be self-propelled or permanently towable by a light duty truck; and
 4. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.
21. **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.
22. **Riverine.** Related to, formed by, or resembling a river (including tributaries), stream, brook, etc.
23. See Area of Special Flood Hazard.

24. **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.
25. **Start of Construction.** The date the building permit was issued, (including substantial improvement) provided the actual start of construction, repair, reconstruction, rehabilitation, addition, 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 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 not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
26. **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 percent of the market value of the structure before the damage occurred.
27. **Substantial improvement.** Any reconstruction, rehabilitation, addition, or other improvements of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either (1) 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, (2) any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.
28. **Violation.** The failure of a structure or other development to be fully compliant with the community’ flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in sections F or J(2) is presumed to be in violation until such time as that documentation is provided.
29. **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 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 (1) 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 (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. The Building Inspector shall require that recreational vehicles placed on sites within Zone A on the community's FIRM either (i) be on the site for fewer than 180 consecutive days, (ii) be fully licensed and ready for highway use, or (iii) meet the permanent requirements of Section B of this section and the elevation and anchoring requirements for "manufactured homes" in Section J(3) of this section. 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. Where new and replacement water and sewer systems (including on-site systems) are proposed in floodprone 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 on-site waste disposal systems will be located to avoid impairment to them or contamination from them during periods of flooding.
- F. 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 floodproofed, the as-built elevation (in relation to mean sea level) to which the structure was floodproofed. This information must be furnished by the applicant.
- G. 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.

- H. 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 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 can and will be maintained.

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 following floodway requirements:

No encroachments, including fill, new construction, substantial improvements, and other development are allowed within the designated Regulatory Floodway that would result in any increased in flood levels within the community during the base flood discharge.

- I. In special flood hazard areas the Building Inspector shall determine the 100 year flood elevation in the following manner:

In Zone A, the Building Inspector shall obtain, review, and reasonably utilize the 100 year flood elevation data available from Federal, State, or other source including data submitted for development proposals to the community (example: sub-divisions, site approvals, etc.)

- J. The Building Inspector's 100 year flood elevation determination will be used as criteria for requiring in Zone A that:

1. All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to or above the 100 year flood level).
2. That all new construction and 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:

- a. be floodproofed so that below the 100 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 the 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 action.
3. All manufactured homes 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.
4. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted provided the enclosed areas meet the following requirements: (1) the enclosed area 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 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 floodwaters.

K. VARIANCES AND APPEALS

1. Any order, requirement, decision or determination of the Building Inspector made under this code 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, 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. 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
 - c. 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:
- 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.