

## WARRANT/BALLOT QUESTION:

Are you in favor of the adoption of Amendment #\_\_\_\_ to the Franconia Zoning Ordinance as proposed by the Planning Board as follows: to replace Article V Additional Provisions, Section 1 Flood Hazard Conservation District with the following updated language provided by the State of NH in order for the Town of Franconia to be in compliance with National Flood Insurance Program requirements.

The Planning Board unanimously approves this amendment.

## SECTION 1 — FLOOD HAZARD CONSERVATION DISTRICT:

**SECTION 1a - PURPOSE AND INTENT:** The Purpose of this district is to promote and protect the health, safety, and general welfare of the Town by providing reasonable regulations governing development and use of floodplain.

Certain areas of the Town of Franconia, New Hampshire, are subject to periodic flooding, causing serious damage to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968. Therefore, the Town of Franconia, New Hampshire has chosen to become a participating community in the National Flood Insurance Program and agrees to comply with the requirement of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as detailed in this Floodplain Management Ordinance.

If any provision of this ordinance differs or appears to conflict with any provision of other ordinance or regulation, the provision imposing the greater restriction or more stringent standard shall be controlling.

**SECTION 1b - DISTRICT BOUNDARIES:** The Floodplain Conservation District is determined to be those areas identified as special flood hazard areas in 2008, the "Flood Insurance Study for Grafton County, N.H." dated February 20, 2008 or as amended, together with the Flood Insurance Rate Maps dated February 20, 2008 for Grafton County, N.H., issued by the Federal Emergency Management Agency.

## SECTION 1c - PERMITTED USES:

The following uses shall be permitted and shall require a permit within this district.

1. Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming, and wild crop harvesting.
2. Residential accessory uses such as lawns, gardens, parking areas, and play areas.
3. Public works activities such as road crossings and utilities.

These uses shall be permitted within the Flood Hazard Conservation District to the extent that they are not prohibited by any other ordinance and provided they do not require structures, fill, or storage of materials or equipment. In addition, these uses shall not adversely affect the efficiency, or unduly restrict the capacity, of the

channels or floodways, raise the level of flood waters during the base flood discharge, or reduce the pooling areas of the flood plain. Any questions of adverse effect shall be determined by the Planning Board.

#### SECTION 1d - SPECIAL PROVISIONS:

1. There shall be no expansion of present non-conforming buildings or septic systems, except to correct malfunctions of septic systems. Where replacement water and sewer systems (including on-site systems) are proposed in a special flood hazard area the applicant shall provide the Board of Selectmen, or their agent, with assurance that these systems will be designed to minimize or eliminate infiltration of flood waters into the system 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.
2. Existing non-conforming buildings within this district which are damaged (more than 50% of their market value) or destroyed, may be repaired, or replaced within 180 days after such damage or destruction provided, they comply with the minimum standards of the National Flood Insurance Program outlined in this ordinance.
3. Any reconstruction, rehabilitation, addition, or other improvement to an existing non-conforming building within this district costing more than 50% of the market value of the structure before the start of construction of the improvement may be permitted provided, they comply with the building standards outlined in this ordinance.
4. 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 Environmental Services Department 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 Building Inspector, including notice of all scheduled hearings before the Wetlands Bureau.

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.

#### SECTION 1e - DATA REQUIRED:

1. In special flood hazard areas, the Board of Selectmen shall review all 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 special flood hazard area, all new construction and substantial improvements shall:
  - a. 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.

- b. Be constructed with materials resistant to flood damage.
  - c. Be constructed by methods and practices that minimize flood damages; and
  - 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.
2. In special flood hazard areas, the Board of Selectmen or their agent shall determine the Base 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.
  - b. In Zone A, the Board of Selectmen or their agent shall obtain, review, and reasonably utilize any Base Flood Elevation data available from any federal, state, or other source including data submitted for development proposals submitted to the community (i.e., subdivision, site approvals). Where a base flood elevation is not available or not known for Zone A, the base flood elevation shall be determined to be at least 2 feet above the highest adjacent grade.
  - c. The Town of Franconia's base flood elevation determination will be used as criteria for requiring in Zones A and Zone AE that:
  - d. Residential construction. New construction or substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated no lower than one foot above the base flood elevation.
  - e. Nonresidential construction. New construction or substantial improvement of any commercial, industrial, or nonresidential building (or manufactured building) shall:
    - Have the lowest floor, including basement, mechanical and utility equipment, elevated no lower than one foot above the level of the base flood elevation; or
    - Be floodproofed to a level no lower than one foot above the level of the base flood elevation, provided that all areas of the building (including basement, mechanical and utility equipment) below the required elevation are watertight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and

- 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.
- f. Recreational vehicles placed on sites within Zones A and AE shall either:
- Be on the site for fewer than 180 consecutive days.
  - Be fully licensed, on wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or
  - Meet all standards of this ordinance and the elevation and anchoring requirements for manufactured homes in this ordinance.
- g. 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.
- h. 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.
  - 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 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 flood 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 flood openings shall be no higher than one-foot above grade.

Flood openings may be equipped with screens, louvers, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

A licensed professional engineer or architect shall develop or review the structural design, specifications and plans for the foundation of the building and shall certify that the design and methods of construction are in accordance with accepted practices to withstand flotation, collapse, lateral movement, erosion and scour, undermining and the effects of water and wind action simultaneously on all building components during the base flood.

3. For all new or substantially improved structures located in the special flood hazard areas, the applicant shall furnish the following information to the Board of Selectmen or their agent:
  - a. The as-build elevation (in relation to mean sea level) 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-build elevation (in relation to mean sea level) to which the structure was floodproofed.
  - c. Any certification of floodproofing.

The Board of Selectmen or their agent shall maintain the aforementioned information for public inspection and shall furnish such information upon request.

4. The Board of Selectmen or their agent 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.

#### SECTION 1f - VARIANCES AND APPEALS:

1. Any order, requirement, decision, or determination of the Board of Selectmen, or their agent, made under this ordinance 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, 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 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.
  - c. That the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - d. That the variance will only permit uses which are in compliance with the minimum standards of the National Flood Insurance Program Regulations.
3. The Zoning Board of Adjustment shall notify the applicant in writing that: (i) the issuance of a variance may result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage; and (ii) 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.

SECTION 1g — DEFINITIONS: The following definitions shall apply only to this Floodplain Management Ordinance and shall not be affected by the provisions of any other ordinance of the Town of Franconia.

1. "Area of Special Flood Hazard" is the land in the floodplain within the Town of Franconia subject to a one percent or greater possibility of flooding in any given year. The area is designated as Zone A on the FHBM and is designated on the FIRM as Zone(s) A & AE.
2. "Base Flood" means the flood having a one-percent possibility of being equated or exceeded in any given year.
3. "**Base Flood Elevation**" (BFE) means the elevation of surface water resulting from the "base flood."
4. "Basement" means any area of a building having its floor subgrade on all sides.
5. "Building" — see "structure".
6. "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.
7. "FEMA" means the Federal Emergency Management Agency.
8. "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.

9. "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 Franconia.
10. "Flood Insurance 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.
11. Flood Opening means an opening in a foundation or enclosure wall that allows automatic entry and exit of floodwaters. See FEMA "Technical Bulletin 1, Openings in Foundation Walls and Walls of Enclosures."
12. "Floodplain" or "Flood-Prone Area" means any land area susceptible to being inundated by water from any source (see definition of "Flooding").
13. "Flood Proofing" means any combination of structural and non-structural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.
14. "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.
15. "Highest Adjacent Grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
16. "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.
17. "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 build so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

18. "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 Map are referenced.
19. "Special Flood Hazard Area" — see "Area of Special Flood Hazard".
20. "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.
21. "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.
22. "Substantial Improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent 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:
  - a. 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
  - b. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."
23. "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), or (e)(5) is presumed to be in violation until such time as that documentation is provided.
24. "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.