

# **Town of Milton Floodplain Management Ordinance**

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## **Town of Milton Floodplain Management Ordinance**

### **SECTION 1 - STATUTORY AUTHORITY AND PURPOSE**

- A. This ordinance adopted pursuant to the authority of RSA 674:16, RSA 674:17, and 674:56, shall be known as the Town of Milton Floodplain Management Ordinance (“Ordinance”). The regulations in this Ordinance shall overlay and supplement the regulations in the Town of Milton Zoning Ordinance and shall be considered part of the Zoning Ordinance for purposes of administration and appeals under state law.
- B. The purpose of this Ordinance is to promote the public health, safety, and general welfare; minimize hazards to persons and property from flooding; to protect watercourses from encroachment; and to maintain the capability of floodplains to retain and carry off floodwaters.
- C. The following regulations in this 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 Milton, NH” together with the associated Flood Insurance Rate Maps, and Flood Boundary & Floodway Maps of the Town dated May 17, 2005 and as amended by the most recently approved FEMA Flood Insurance Rate Map (FIRM) which are declared to be a part of this ordinance, and are hereby incorporated by reference.

### **SECTION 2 - FINDINGS OF FACT AND APPLICABILITY**

- A. Certain areas of the Town of Milton are subject to periodic flooding, causing serious damages 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 Milton has chosen to become a participating community in the National Flood Insurance Program (NFIP) and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as detailed in this Ordinance.
- B. The following regulations in this Ordinance shall apply to all flood-prone areas.
- C. This Ordinance establishes a permit system and review procedure for development in flood-prone areas of the Town of Milton.

### **SECTION 3 - ADMINISTRATIVE PROVISIONS**

- A. If any provision of this Ordinance differs or appears in conflict with any other ordinance or regulation, the provision imposing the greater restriction or more stringent standard shall be controlling.
- B. Should any section or provision of this Ordinance be declared by the courts to be

unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

- C. In accordance with RSA 676, the Floodplain Administrator, as defined below, shall enforce, and administer the provisions of this Ordinance.
- D. The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes. Larger floods can and will occur, and flood heights may be increased by man-made or natural causes. This Ordinance does not imply that land outside of areas determined to be flood-prone or uses that are permitted within such areas will be free from flooding or flood damage.

**SECTION 4 – FLOODPLAIN ADMINISTRATOR DUTIES AND RESPONSIBILITIES**

- A. The Code Enforcement Officer is hereby appointed to administer and implement these regulations and is referred to herein as the “Floodplain Administrator.”
- B. The duties and responsibilities of the Floodplain Administrator shall include, but are not limited to:
  - 1. Ensure that permits are obtained for all proposed development to determine whether the development is proposed in a flood-prone area.
  - 2. Review all development permit applications to assure that sites are reasonably safe from flooding and all pertinent development standards described in this Ordinance have been or will be met.
  - 3. Review applications, and other supporting documentation, for completeness and accuracy, and coordinate with applicant for corrections as needed.
  - 4. Review application for proposed development to assure that all necessary permits have been obtained from those federal, state, or local government agencies from which prior approval is required.
  - 5. Issue or deny a permit based on review of the permit application and any required accompanying documentation.
  - 6. Notify the applicant in writing of either compliance or non-compliance with the provisions of this Ordinance.
  - 7. Ensure the administrative and enforcement procedures detailed in RSA 676 are followed for any violations of this Ordinance.
  - 8. Maintain and permanently keep and make available for public inspection all records that are necessary for the administration of these regulations, including: local permit documents.
  - 9. Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, inspectors, or other community officials as needed.

**SECTION 5 – FLOODPLAIN PERMITTING REQUIREMENTS**

- A. All proposed development, including placement of manufactured homes, new construction, and substantial improvements, shall require a permit to determine

whether such construction or development is proposed within a flood-prone area. Development includes any man-made change to improved or unimproved real estate, including but not limited to, structures, the placement of manufactured homes, mining, dredging, filling, grading, paving, excavating, or drilling operation or storage of equipment or materials.

- B. To obtain a permit, the applicant shall first file an application in writing on a form furnished by the community for that purpose.
- C. Review proposed development to assure that all necessary permits have been obtained from those federal, state, or local government agencies from which prior approval is required.

## **SECTION 6 –FLOODPLAIN DEVELOPMENT REQUIREMENTS**

- A. All development in a flood-prone area shall be:
  - 1. Reasonably safe from flooding;
  - 2. Designed and constructed with methods and practices that minimize flood damage;
  - 3. Designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement (including structures and above ground gas or liquid storage tanks);
  - 4. Constructed with flood damage-resistant materials;
  - 5. 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;
  - 6. Adequately drained to reduce exposure to flood hazards;

## **SECTION 7 - WATER SUPPLY AND SEWAGE DISPOSAL SYSTEMS**

- A. The following standards shall apply to all water supply, sanitary sewage, and on-site waste disposal systems located in a flood-prone area:
  - 1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems;
  - 2. New and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the systems and discharges from the system into flood waters; and
  - 3. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

## **SECTION 8 - VARIANCES AND APPEALS**

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

B. 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 variance standards under state law that:

1. The variance will not result in increased flood heights of any magnitude, additional threats to public safety, fraud on or victimization of the public; or extraordinary public expense;
2. The issuance of the variance will not conflict with other State, Federal or local laws or Ordinances; and
3. The variance is the minimum necessary, considering the flood hazard, to afford relief.

C. The Zoning Board of Adjustment shall notify the applicant in writing that:

1. The issuance of a variance to construct below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
2. Such construction below the base flood elevation increases risks to life and property.

Such notification shall be maintained with a record of all variance actions.

D. The community shall:

1. Maintain a record of all variance actions, including their justification for their issuance; and
2. Report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

## **SECTION 9 - DEFINITIONS**

The following definitions shall apply only to this Floodplain Management Ordinance and shall not be affected by the provisions of any other Ordinance.

**Base Flood Elevation (BFE)** means the elevation of the base (one-percent annual chance) flood referenced to a specified vertical datum (National Geodetic Vertical Datum of 1929 or North American Vertical Datum of 1988).

**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.

**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:

- a. the overflow of inland or tidal waters, or
- b. the unusual and rapid accumulation or runoff of surface waters from any source.

**Floodplain or Flood-prone Area** means any land area susceptible to being inundated by water from any source (see definition of "Flooding").

**Floodplain Administrator** means a person responsible for administering and implementing the community's local floodplain ordinance and ensuring that the community is complying with minimum NFIP standards and enforcing any locally imposed higher standards.

**Flood Damage-Resistant Materials** means any building product (material, component, or system) capable of withstanding direct and prolonged contact with floodwaters without sustaining significant damage. See FEMA Technical Bulletin 2, *Flood Damage-Resistant Materials Requirements*.

**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.

**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.

**National Flood Insurance Program (NFIP)** means the program created by the Congress of the United States in 1968 through the National Flood Insurance Act of 1968 (P.L. 90-448). The program enables property owners in participating communities to purchase insurance protection, administered by the government, against losses from flooding.

**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.

**Reasonably Safe from Flooding** means flood waters will not inundate the land or damage structures.

**Structure** means a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

**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. The market value of the structure should equal the appraised value of the structure prior to the damage occurring.

**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.”

**Variance** means a grant of relief by a community from the terms of a floodplain management regulation.

**Violation** means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations.