

**Proposed Zoning Ordinance Amendments  
Flood Plain District  
June 28, 2019**

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That the Ordinances of the City of Portsmouth, Chapter 10 — Zoning Ordinance, Article 6 – Overlay Districts, Section 10.620 – Flood Plain District, be amended as follows (deletions from existing language ~~stricken~~; additions to existing language **bolded**; remaining language unchanged from existing):

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- A. In Section 10.622.20 – Terms Defined for the Flood Plain District, delete the definitions for “100-year Flood” and “Breakaway Wall”, and insert the following new terms and definitions in alphabetical order:

**Area of special flood hazard**

**The land in the floodplain within the City of Portsmouth subject to a one percent or greater possibility of flooding in any given year. The area is designated on the FIRM as Zones A and AE.**

**Extended flood hazard area**

**Any contiguous area of land adjacent to a special flood hazard area and less than two feet above the base flood elevation in that special flood hazard area.**

**Historic structure**

**Any structure that is:**

- a. **Listed individually in the National Register of Historic Places<sup>1</sup> 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 the New Hampshire State Register of Historic Places<sup>2</sup>; or**

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<sup>1</sup> Deleted the words “(a listing maintained by the Department of Interior)”.

<sup>2</sup> Used this specific reference instead of “a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior”.

- 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.<sup>3</sup>

**Manufactured home park or subdivision**

**For the purposes of the Flood Plain District,<sup>4</sup> a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.**

**Recreational vehicle**

A vehicle that is:

- (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.

**Violation**

The failure of a structure or other development to be fully compliant with the flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required under this ordinance is presumed to be in violation until such time as that documentation is provided.

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- B. In Section 10.622.20 – Terms Defined for the Flood Plain District, make the following changes to existing definitions:

**Base flood elevation**

The water surface elevation having a one percent possibility of being equaled or exceeded in any given year, **as defined on the flood insurance rate map (FIRM) currently in effect.**

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<sup>3</sup> This does not apply to Portsmouth (no certified local inventory of historic places) – can this be deleted?

<sup>4</sup> Added this phrase because “manufactured housing park” has a different definition in Article 15.

Also, note that the definition of “manufactured home” in Article 6 differs from the definition of “manufactured housing” in Article 15. The Article 15 definition cannot be changed.

#### 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 operation **or storage of equipment or materials.**

#### 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, ~~including.~~ **For floodplain management purposes the term “manufactured home” includes park trailers, travel trailers, and other similar vehicles placed on site for greater than 180 days. This includes manufactured homes located in a manufactured home park or subdivision.**

#### Mean sea level

The National Geodetic Vertical Datum (NGVD) of 1929, **North American Vertical Datum (NAVD) of 1988**, or other datum, to which base flood elevations (BFE) shown on a community's FIRM are referenced.

#### New construction

A structure for which the start of construction commenced on or after the effective date of this flood plain management regulation and includes any subsequent improvements to such structure **and 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.**

#### 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 a designated height.** ~~These areas are designated as floodways on the Flood Boundary and Floodway Map.~~

#### Special flood hazard area (SFHA)

~~The land in the flood plain within the City of Portsmouth subject to a one percent or greater possibility of flooding in any given year. The area is designated on the FIRM as Zones A, AE, AO, AH, AR, A99, V and VE.~~  
**See “Area of special flood hazard”.**

#### Substantial damage

Damage ~~by flood~~ **of any origin** sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed ~~50~~ **[30 or 40]**<sup>5</sup> percent of the market value of the structure before the damage occurred.

#### Substantial improvement

Any combination of repairs, reconstruction, additions, rehabilitation, alterations, or improvements to a structure in which the cumulative cost equals or exceeds ~~50~~ **[30 or 40]**<sup>6</sup> 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 which 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.

#### Water surface elevation

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 flood plains.

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- C. In Section 10.625 – Flood Information, paragraph 10.625.10, delete the words “Zones A, A1, A30, AO or AH” and insert in their place the words “Zones A or AE”.
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<sup>5</sup> Lower threshold for “substantial damage”. This reflects the increasing values of properties in Portsmouth, particularly in areas close to major water bodies.

<sup>6</sup> Lower threshold for “substantial improvement” – see previous footnote.

D. In Section 10.626 – Watercourse Alteration, Relocation or Encroachment, make the following changes:

(1) In paragraph 10.626.10, change both occurrences of the words “Wetlands Board” to “Wetlands Bureau”.

(2) Delete the existing paragraph 10.626.20 and insert the following in its place:

**10.626.30 The Code Official shall obtain, review, and reasonably utilize any floodway data available from Federal, State, or other sources as criteria for requiring that all development located in Zone A meet the following floodway requirement:**

**“No encroachments, including fill, new construction, substantial improvements, and other development are allowed within the floodway that would result in any increase in flood levels within the community during the base flood discharge.”**

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F. In Section 10.627 – Determination of Base Flood Elevation, make the following changes:

(1) In paragraph 10.627.12, change the words “an unnumbered A zone” to “Zone A”.

(2) Delete paragraph 10.627.13 and insert the following in its place:

**10.627.13 In Zone A where a base flood elevation is not available, the base flood elevation shall be at least two feet above the highest adjacent grade.**

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G. In Section 10.628 – Construction Standards in Special Flood Hazard Areas, make the following changes:

(1) In the section title, change the words “Special Flood Hazard Areas” to “Special Flood Hazard Areas and Extended Flood Hazard Areas”.

(2) In paragraph 10.628.10, delete the words “Zones A, AH, AO and A99” and insert in their place the words “Zones A and AE”.

(3) Amend paragraphs 10.628.20, 10.628.30 and 10.628.40 as follows:

Note: The changes in the following paragraphs (a) add a 2-foot freeboard requirement to address sea level rise, and (b) expand the flood plain construction requirements to a new extended flood hazard area.

- 10.628.20 Any new construction or substantial improvement of a residential structure shall have the lowest floor (including basement) elevated to ~~or~~ **at least two (2) feet** above the base flood elevation **if in Zone A or AE, and to at least two (2) feet above the base flood elevation of the adjacent special flood hazard area if in an extended flood hazard area.**
- 10.628.30 Any new construction or substantial improvement of a nonresidential structure shall have the lowest floor (including basement) elevated to ~~or~~ **at least two (2) feet** above the base flood elevation **if in Zone A or AE, and to at least two (2) feet above the base flood elevation of the adjacent special flood hazard area if in an extended flood hazard area;** or together with attendant utility and sanitary facilities, shall:
- (a) be floodproofed so that below **two (2) feet above** the base flood elevation **in Zone A or AE, or below two (2) feet above the base flood elevation of the adjacent special flood hazard area in an extended flood hazard area,** 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 section.
- 10.628.40 Any manufactured home to be placed or substantially improved within a special flood hazard area shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is ~~at or~~ **at least two (2) feet** above the base flood elevation; 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. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces;

(4) Delete existing paragraph 10.628.60 in its entirety.

(5) Amend existing paragraph 10.628.70 (to be renumbered as 10.628.60) as follows:

10.628.60 Any recreational vehicle placed on a site within Zones ~~AH~~, **A** and AE for 180 or more consecutive days shall either:

(a) be fully licensed and ready for highway use, or

(b) meet all standards of ~~Section 60.3(b)(1) of the National Flood Insurance Program Regulations~~ **Section 10.623.10 of this ordinance** and the elevation and anchoring requirements for manufactured homes in ~~Section 60.3(c)(6) of the Regulations~~ **Section 10.628.40 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 not permanently attached additions.**

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The City Clerk shall properly alphabetize and/or re-number the ordinances as necessary in accordance with this amendment.

All ordinances or parts of ordinances inconsistent herewith are hereby deleted.

This ordinance shall take effect upon its passage.

APPROVED:

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Jack Blalock, Mayor

ADOPTED BY COUNCIL:

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Kelli L. Barnaby, City Clerk