

Ashland Planning Board
Public Hearing – January 4 and January 25, 2023
Amendments to the Ashland Zoning Ordinance

The following changes proposed by the Ashland Planning Board to Article 4.10 Flood Hazard Areas, of the Ashland Zoning Ordinance, will ensure that Ashland has compliant regulations to remain eligible to participate in the National Flood Insurance Program (NFIP).

Along with the indicated additions and deletions of text, the numbering or lettering system of sections and sub-sections of Article 4.10 will be corrected to be consistent throughout the article. This will not change any other text.

~~strikethrough~~ means delete text

highlighted and underlined means add text

ASHLAND ZONING ORDINANCE

4.10 Flood Hazard Areas This ordinance, adopted pursuant to the authority of RSA 674:16 shall be known as the Town of Ashland Floodplain Development Ordinance. The regulations in this Ordinance shall overlay and supplement the regulations in the Town of Ashland Zoning Ordinance, and shall be considered part of the Zoning Ordinance for purposes of administration and appeals under state law. If any provision of this ordinance differs or appears to conflict with any provision of the Zoning Ordinance or other ordinance or regulation, the provision imposing the greater restriction or more stringent standard shall be controlling. 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 Grafton County, NH” dated February 20, 2008, together with the associated** Flood Insurance Rate Maps dated ~~April 2, 1986~~ **February 20, 2008**, which are declared to be a part of this ordinance and are hereby incorporated by reference.

4.10.1 Definition of Terms The following definitions shall apply to this Floodplain Development Ordinance, and shall not be affected by the provisions of any other ordinance of the Town of Ashland:

- **Base Flood Elevation (BFE) means the elevation of surface water resulting from the “base flood.”**
- **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.”**
- ~~Functionally dependent use means a use, which 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~~

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~~or related manufacturing facilities.~~

- 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.
- ~~100-year Flood see base flood~~
- **Special Flood Hazard Area [See: Area of Special Flood Hazard]** [Amended March 13, 2007]
- 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:**
 - **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**
 - **Any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”**

~~any condition of repairs, reconstruction, alteration or improvements to a structure in which the cumulative cost equals or exceeds 50% of the market value of the structure. The market value of the structure should equal: [1] the appraised value prior to the start of the initial repair or improvement, or [2] 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. The term includes structures, which 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 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.

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- Violation means the failure of a structure or other development to be fully compliant with the community’s floodplain 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), (e)(4) or (e)(5) is presumed to be in violation until such time as that documentation is provided.~~ [Added March 13, 2007]

4.10.5 For all new or substantially improved structures located in special flood hazard areas, the Applicant shall furnish the following information to the Building Inspector:

- The as-built elevation [in relation to **NGVD mean sea level**] of the lowest floor [including basement] and include whether or not such structures contain a basement.
- If the structure has been flood proofed, the as-built elevation [in relation to **NGVD mean sea level**] to which the structure was flood proofed; and

4.10.8

- A. In special flood hazard areas, the Building Inspector shall determine the **100-year flood 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 Building Inspector shall obtain, review, and reasonably utilize any **100-year flood base flood** elevation data available from any federal, state or other source including data submitted for development proposals submitted to the community (i.e. subdivisions, 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.** [Amended March 13, 2007]
- B. The Building Inspector’s **100-year flood base flood** elevation determination will be used as criteria for requiring in Zone A and AE that:
- a. All new construction or substantial improvement of residential structures have the lowest floor (including basement) elevated to or above the **100-year flood base flood** elevation.
 - b. That all new construction or substantial improvements of non-residential structures have the lowest floor (including basement) elevated to or above the **100-year flood base flood** level; or together with attendant utility and sanitary facilities, shall:
 - i. Be flood proofed so that below the **100-year flood base flood** elevation that structure is water tight with walls substantially impermeable to the passage of water;

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- C. All manufactured homes to be placed or substantially improved within special flood hazard area shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the ~~100-year flood~~ **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.
- D. All recreational vehicles placed on sites within Zones A and AE shall either:
- a. Be on site for fewer than 180 consecutive days;
 - b. Be fully licensed, ~~and ready for highway use~~ **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
 - c. Meet all standards of **this ordinance** ~~section 60.3(b)(1) of the National Flood Insurance Program Regulations~~ and the elevation and anchoring requirements for manufactured homes in **this ordinance** ~~Paragraph (c)(6) of Section 60.3.~~ [Amended March 13, 2007]
- E. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted provided they meet the following requirements:
- a. The enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage;
 - b. The area is not a basement;
 - c. Shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. 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:
 - i. 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.

4.10.9 Variance and Appeals

- 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 usual variance standards under state law: