

**TOWN OF PORTSMOUTH, RI**

**ORDINANCE # 2013-08-26 A**

**PORTSMOUTH ZONING ORDINANCE – ARTICLE III**

**Section F: FLOOD HAZARD AREAS**

**1. PURPOSE**

A.) The purpose of this ordinance is to ensure public safety, to 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. The Town of Portsmouth elects to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).

B.) The provisions herein governing the development and use of inland and tidal land subject to flood hazards shall be minimum provisions, shall take precedence over any other conflicting laws, ordinances, or codes, shall not impair or remove the necessity of compliance with any other applicable laws, ordinances, or codes and shall consider any flood plain management programs in neighboring municipalities.

**2. APPLICABILITY**

A.) All lands determined by the Building Official to be within Special Flood Hazard Areas and flood fringe lands shall be subject to the procedures and regulations established in this section.

B.) The Special Flood Hazard Areas are herein established as a floodplain overlay district. The District includes all special flood hazard areas within the Town of Portsmouth designated as Zone A, AE, V, or VE on the Newport County Flood Insurance Rate Map (FIRM) and Digital FIRM issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Newport County FIRM that are wholly or partially within the Town of Portsmouth are panel numbers 11, 12, 13, 14, 18, 19, 38, 39, 76, 77, 79, 81, 82, 83, 84, 86, 91, 101, 103, 111 and 113 dated September 4, 2013. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Newport County Flood Insurance Study (FIS) report dated September 4, 2013. The office of the Portsmouth Building Official is responsible for floodplain management. The FIRM and FIS report and any revisions thereto are incorporated herein by reference and are on file with the Building Official.

### **3. ADMINISTRATION**

A.) Provisions of this section of the ordinance, including plan review for compliance, record keeping, enforcement and coordination with State and Federal agencies are administered by the Portsmouth Building Official or his/her designee in reference to RIGL § 23-27.3-108.1.

B.) Violations of flood hazard regulations are administered per ARTICLE XVI of this ordinance in reference to RIGL § 23-27.3-122.3.

C.) All proposed construction or other development within a Special Flood Hazard Area shall require a permit.

D.) The National Flood Insurance Program Special Flood Hazard Area requires permits for all projects that meet the definition of development, not just "building" projects. Development projects include any filling, grading, excavation, mining, drilling, storage of materials, temporary stream crossings. If the construction or other development within a Special Flood Hazard Area is not covered by a building permit, all other non-structural activities shall be permitted by either the Rhode Island Coastal Resources Management Council and/or the Rhode Island Department of Environmental Management as applicable. Therefore if another State agency issues a permit, the local building official must have the opportunity for input and keep a copy of the respective permit in their files.

E.) If the construction or other development within a Special Flood Hazard Area is not covered by a building permit or other approved permit application, a flood hazard development permit shall be required. The application for a flood hazard development permit shall be submitted to the Portsmouth Building Official and shall include:

- 1) The name and address of the applicant;
- 2) An address or a map indicating the location of the construction site;
- 3) A site plan showing location of existing and proposed structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and the dimensions of the lot;
- 4) A statement of the intended use of the structure;
- 5) A statement as to the type of sewage system proposed;
- 6) Specification of dimensions of the proposed structures;
- 7) The specific datum used for all elevations;
- 8) The elevation (in relation to mean sea level) of the lowest floor, including basement, and if the lowest floor is below grade on one or more sides, the elevation of the floor immediately above;
- 9) Base flood elevation data for all new, relocated or substantially improved structures;

10) The elevation (in relation to mean sea level) to which the structure will be floodproofed;

11) The description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.

F.) Prior to the issuance of a building or development permit, the applicant shall submit evidence that all necessary permits and approvals have been received from all government agencies from which approval is required by Federal or State law.

G.) All permit applications for construction or other development within a Special Flood Hazard Area shall be reviewed to determine whether the proposed site will be reasonably safe from flooding. All new construction and substantial improvements shall:

- 1) 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;
- 2) be constructed with materials resistant to flood damage;
- 3) be constructed by methods and practices that minimize flood damages, and;
- 4) 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.

H.) All new subdivision proposals, including new manufactured home parks, shall be reviewed to determine whether the proposed site will be reasonably safe from flooding. All such proposals shall be reviewed to assure that:

- 1) they are consistent with the need to minimize flood damage within the flood-prone area,
- 2) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage,
- 3) adequate drainage is provided to reduce exposure to flood hazards.

#### **4. REFERENCE TO EXISTING REGULATIONS**

A.) The Special Flood Hazard Areas are established as a floodplain overlay district. All development in the district, including structural and non-structural activities, whether permitted by right or by special use permit must be in compliance with the following:

- Rhode Island State Building Code (as established under Rhode Island General Law § 23-27.3-100.1)
- Coastal Resources Management Program, Coastal Resource Management Council (RIGL § 46-23)

- Endangered Species Act, Rhode Island Department of Environmental Management (RIGL § 20-1-2)
- Freshwater Wetlands Act, Department of Environmental Management (RIGL § 46-23-6)
- Minimum Standards Related to Individual Sewage Disposal Systems, Department of Environmental Management (RIGL § 46-12)
- Water Quality Regulations, Rhode Island Department of Environmental Management (RIGL § 42-17.1 and 42-17.6 and 46-12)

Any variances from the provisions and requirements of the above referenced State regulations may only be granted in accordance with the required variance procedures of these State regulations.

B.) All new and replacement water supply systems proposed for installation in a Special Flood Hazard Area are to be designed to minimize or eliminate infiltration of flood waters into the systems.

C.) All new and replacement waste water treatment systems proposed for installation in a Special Flood Hazard Area are to be designed to minimize or eliminate infiltration of flood waters into such systems and discharge from such systems into flood waters. New or replacement onsite waste water treatment systems are to be located to avoid impairment to them or contamination from them during flooding. The provisions of this paragraph are reviewed and administered by the Rhode Island Department of Environmental Management (RIDEM).

D.) All manufactured homes to be placed within a Special Flood Hazard Area shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of the Rhode Island Building Code. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

E.) In a riverine situation requiring any alteration or relocation of a watercourse, the carrying capacity of any altered or relocated watercourse shall be maintained. If the watercourse crosses municipal boundaries, the Portsmouth Building Official shall notify the adjacent community, as well as:

NFIP State Coordinator  
 Rhode Island Emergency Management Agency  
 645 New London Avenue  
 Cranston, RI 02920

Risk Analysis Branch  
 Federal Emergency Management Agency, Region I  
 99 High Street, 6th Floor  
 Boston, MA 02110

## **5. BASE FLOOD ELEVATION AND FLOODWAY DATA**

A.) Floodway Data - In Zones A, A1-30 and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

B.) Base Flood Elevations in A Zones - Where BFE data is available, the Building Official shall obtain and maintain records of the lowest floor elevation and height of flood proofing for all new and substantially improved construction.

C.) Base Flood Elevations in A Zones - In the absence of BFE data and floodway data, the best available Federal, State, local, or other BFE or floodway data shall be used as the basis for elevating residential and non-residential structures to or above the base flood level and for flood proofing non-residential structures to or above the base flood level.

D.) Base Flood Elevations in A Zones - BFE data is required for subdivision proposals or other developments greater than fifty (50) lots or 5 acres, whichever is the lesser.

## **6. USE REGULATIONS**

Uses permitted by right or by Special Use Permit pursuant to Article V of this ordinance and located in Special Flood Hazard Areas (not including flood fringe lands) shall be subject to the following provisions:

### **A.) A AND AE ZONES:**

1.) Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A and AE, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

2.) All new construction and substantial improvements of residential structures within Zones A and AE shall have the lowest floor (including basement) elevated to or above the Base Flood Elevation.

3.) All new construction and substantial improvements of non-residential structures within Zones A and AE:

- a) shall have the lowest floor (including basement) elevated to or above the base flood level OR,
- b) together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

4.) Where a non-residential structure is intended to be made watertight below the base flood level:

- a) a registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of paragraph 7.C(2) above and,
- b) a record of such certificates which includes the specific elevation (in relation to mean sea level) to which such structures are flood proofed shall be maintained with the Portsmouth Building Official.

5.) For all new construction and substantial improvements in the A and AE Zones, fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or limited storage in an area other than a basement and which are subject to flooding 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 meet or exceed the following minimum criteria:

- a) 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.
- b) The bottom of all openings shall be no higher than one foot above grade.
- c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

6.) All manufactured homes that are placed or substantially improved upon within Zones A and AE on sites:

- a) outside of a manufactured home park or subdivision,
- b) in a new manufactured home park or subdivision,
- c) in an expansion to an existing manufactured home park or subdivision, or

d) in an existing manufactured home park or subdivision in which a manufactured home has incurred substantial damage as the result of a flood,

shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist floatation collapse and lateral movement.

7.) All manufactured homes to be placed or substantially improved upon in an existing manufactured home park or subdivision within Zones A and AE that are not subject to the provisions of paragraph 6.A(6) above shall be elevated so that either:

a) The lowest floor of the manufactured home is at or above the Base Flood Elevation, OR,

b) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement.

8.) Detached accessory structures in Zones A, AE, A1-30, AO, and AH (i.e., garages, sheds) do not have to meet the elevation or dry flood-proofing requirement if the following standards are met:

- a.) The structure has a value less than \$1000.
- b.) The structure has unfinished interiors and must not be used for human habitation. An apartment, office or other finished space over a detached garage is considered human habitation and would require the structure to be elevated.
- c.) The structure is not in the floodway.
- d.) The structure is not used for storage of hazardous materials.
- e.) The structure is used solely for parking of vehicles and/or limited storage.
- f.) The accessory must be wet floodproofed and designed to allow for the automatic entry and exit of flood water.
- g.) The accessory structure shall be firmly anchored to prevent flotation, collapse and lateral movement.
- h.) Service facilities such as electrical, mechanical and heating equipment must be elevated or floodproofed to or above the base flood elevation.
- i.) The structure must not increase the flood levels in the floodway.

B.) V and VE Zones (Coastal High Hazard Areas):

1.) All new construction and substantial improvements in within Zones V and VE shall be elevated on pilings and columns so that:

a) The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level, and,

b) The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable State or local building standards. A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of this section.

2.) All new construction and substantial improvements within Zones V and VE shall have the space below the lowest floor:

a.) Free of obstructions as described in FEMA Technical Bulletin 5 "Free of Obstruction Requirements for Buildings Located in Coastal High Hazard Area in Accordance with the National Flood Insurance Program", or

b.) Constructed with open wood lattice-work, or insect screening intended to collapse under wind and water without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting piles or columns; or,

c.) Designed with an enclosed area less than 300 square feet that is constructed with non-supporting breakaway walls that have a design safe loading resistance of not less than 10 or more than 20 pounds per square foot.

Use of break-way walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local or State codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:

a) Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and,

b) The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and non-structural). Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable State or local building standards.

Such enclosed space shall be useable solely for parking of vehicles, building access, or limited storage.

3.) For all new construction and substantial improvements within Zones V and VE, the Portsmouth Building Official shall obtain the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns), determine whether or not such structures contain a basement, and maintain a record of all such information.

4.) All new construction and substantial improvements within Zones V and VE shall be located landward of the reach of mean high tide.

5.) The use of fill for structural support of buildings is prohibited within all V and VE Zones.

6.) The man-made alteration of sand dunes and mangrove stands is prohibited within all V and VE Zones.

7.) All manufactured homes that are placed or substantially improved upon within Zones A and AE on sites:

- a) outside of a manufactured home park or subdivision,
- b) in a new manufactured home park or subdivision,
- c) in an expansion to an existing manufactured home park or subdivision, or
- d) in an existing manufactured home park or subdivision in which a manufactured home has incurred substantial damage as the result of a flood,

shall meet the standards of paragraphs 6.B(1) through (6) of this section.

8.) All manufactured homes to be placed or substantially improved upon in an existing manufactured home park or subdivision within Zones V and VE that are not subject to the provisions of paragraph 6.B(7) shall meet the standards of paragraph 6.A(7).

## **7. RECREATIONAL VEHICLES**

All recreational vehicles placed on sites within Special Flood Hazard Areas shall meet one of the following requirements:

- 1) be on the site for fewer than 180 consecutive days,
- 2) be fully licensed and ready for highway use,
- 3) meet the elevation and anchoring requirements for manufactured homes in paragraph 4.D.

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

## **8. ADDITIONAL CONDITIONS**

A.) For the following uses, additional reasonable conditions dealing solely with flood protection measures may be imposed by the Building Official. Likewise, the Zoning Board of Review may impose similar restrictions as additional conditions in the issuance of a Special Use Permit for the following uses:

### RESIDENTIAL USES

- a) Apartment House
- b) Hotel, Motel, Motor Court, Tourist Home, Rooming House
- c) Manufactured Home Park or Subdivision
- d) Recreation Buildings & Structures (for private use)
- e) Private Garage
- f) Buildings for Customary Home Occupations
- g) Other Accessory Buildings

### PUBLIC, SEMI-PUBLIC AND INSTITUTIONAL USES

- a) Hospitals (other than animals), Sanitaria & Nursing Homes
- b) School (offering standard courses)
- c) Nursery School, Kindergarten
- d) Public Utilities
- e) Public Water Facilities

### AGRICULTURAL USES

- a) Accessory Buildings

### COMMERCIAL AND INDUSTRIAL USES

- a) Banks
- b) Golf Courses, Country Club, Marina
- c) Auction Barns
- d) Open Air Display Lots, Commercial Parking Lots
- e) Storage Warehouses
- f) Lumber, Fuel and Ice Establishments
- g) Research Facilities
- h) Light Industry

- i) Light Manufacturing
- j) Industrial Establishments
- k) Other Industrial Establishments
- l) Gravel Pits, Earth Removal

B.) No person shall change from business/commercial to residential use of any structure or property located in the floodway of a Special Flood Hazard Area so as to result in a use or expansion that could increase the risk to the occupants.

#### **9. STORAGE OF BULK MATERIALS**

No material shall be stored in Special Flood Hazard Areas or in the flood fringe area which is likely to cause an obstruction, create a fire hazard or pollute the water during flood periods. Such materials includes but is not limited to substantial quantities of lumber and other floatable materials, volatile materials, acids, poisons, liquids other than water and soluble materials.

#### **10. DISCLAIMER OF LIABILITY**

The degree of flood protection required by this ordinance is considered reasonable but does not imply total flood protection.

#### **11. SEVERABILITY**

If any section, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court, the remainder of the ordinance shall not be affected.

#### **12. VARIANCE PROCEDURES**

Variances shall not be issued within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result. The Building Official shall notify the applicant, in writing, that (1) the issuance of a variance to construct a structure below the base flood level will result in increase 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 level increases risks to life and property. Such notification shall be maintained with a record of all variance actions, including justification of their issuance. All such variances issued shall be reported in the Town's Annual Report to the Federal Insurance Administrator.

#### **13. DEFINITIONS**

Words and phrases defined herein pertain to flood plain management and are for the purposes of Article III, Section F of this ordinance only.

**ACCESSORY STRUCTURE** - A structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

**BASE FLOOD** - The flood having a one (1) percent chance of being equaled or exceeded in any given year, also referred to as the one hundred (100) year flood, as published by the Federal Emergency Management Agency (FEMA) as part of a Flood Insurance Study (FIS) and depicted on a Flood Insurance Rate Map (FIRM).

**BASE FLOOD ELEVATION (BFE)** - The elevation of the crest of the base flood or 100-year flood. The height, as established in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum where specified), in relation to mean sea level expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas.

**BASEMENT** - Any area of a building having its floor subgrade (below ground level) on all sides.

**BUILDING** - see definition for "Structure".

**COASTAL A ZONE** - Area within a special flood hazard area, landward of a V Zone or landward of an open coast without mapped V Zones. The principal source of flooding must be astronomical tides, storm surges, seiches, or tsunamis, not riverine flooding. During the base flood conditions, the potential for breaking wave heights shall be greater than or equal to 1.5 feet.

**COASTAL HIGH HAZARD AREA** - The area subject to velocity hazard (wave action) designated on a FIRM as Zone V or VE.

**COST** - As related to substantial improvements, the cost of any reconstruction, rehabilitation, addition, alteration, repair or other improvement of a structure shall be established by a detailed written contractor's estimate. The estimate shall *include*, but not be limited to: the cost of materials (interior finishing elements, structural elements, utility and service equipment); sales tax on materials, building equipment and fixtures, including heating and air conditioning and utility meters; labor; built-in appliances; demolition and site preparation; repairs made to damaged parts of the building worked on at the same time; contractor's overhead; contractor's profit; and grand total. Items to be *excluded* include: cost of plans and specifications, survey costs, permit fees, costs to correct code violations subsequent to a violation notice, outside improvements such as septic systems, water supply wells, landscaping, sidewalks, fences, yard lights, irrigation systems, and detached structures such as garages, sheds, and gazebos.

**DEVELOPMENT** – Any man-made change to improved or unimproved real estate, including but not limited to the construction of buildings or structures; the construction of additions, alterations or substantial improvements to buildings or structures; the placement of buildings or structures; mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment; the storage, deposition, or extraction of materials; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.

**EXISTING MANUFACTURED HOME PARK OR MANUFACTURED HOME SUBDIVISION** – A manufactured home park or manufactured home subdivision for which the construction of facilities for servicing the lots on which the manufactured home are to be affixed (including, as a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

**EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR EXISTING MANUFACTURED HOME SUBDIVISION** – The preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)** - The federal agency that administers the National Flood Insurance Program (NFIP).

**FLOOD OR FLOODING** – A general and temporary condition of partial or complete inundation of normally dry land areas from either the overflow of inland or tidal waters, or the unusual and rapid accumulation or runoff of surface waters from any source.

**FLOOD FRINGE LANDS** - The continuous land area adjacent to and higher than Special Flood Hazard Areas, the elevation of which is no greater than one (1) foot above the adjacent base flood elevation, and for purposes of the flood provisions within this Zoning Ordinance shall be subject only to provisions dealing with storage of bulk materials in flood fringe lands.

**FLOOD INSURANCE RATE MAP (FIRM)** – The official map of a community on which the Federal Emergency Management Agency (FEMA) has delineated both the special flood hazard areas (100-year floodplain) and the insurance risk premium zones applicable to a community.

**FLOOD INSURANCE STUDY (FIS)** – The official study of a community in which the Federal Emergency Management Agency (FEMA) has conducted a technical engineering evaluation and determination of local flood hazards, flood profiles and water surface elevations. The Flood Insurance Rate Maps (FIRM), which accompany the FIS, provide both flood insurance rate zones and base flood elevations, and may provide the regulatory floodway limits.

**FLOOD PLAIN** - The continuous area bounding a water body or water course, the elevation of which is equal to or lower than the base flood elevation; also, any isolated land of higher elevation with a total area less than the district's minimum residential lot size.

**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.

**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 (1) foot.

**FREEBOARD** - A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

**FUNCTIONALLY DEPENDENT USE OR FACILITY** - A use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities.

**HIGHEST ADJACENT GRADE (HAG)** - The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**HISTORIC STRUCTURE** - Any structure that is: (a) 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 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 historic 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: (1) By an approved state program as determined by the Secretary of the Interior or (2) Directly by the Secretary of the Interior in states without approved programs.

**LIMIT OF MODERATE WAVE ACTION (LIMWA)** - An advisory line indicating the limit of the 1.5-foot wave height during the base flood.

**LOWEST FLOOR** - The lowest floor of the lowest enclosed area (including basement) but excluding any unfinished or flood resistant enclosure that is usable solely for parking of vehicles, building access or limited storage in an area other than a basement, 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.

**MANUFACTURED HOME** - A structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term also includes park trailers, travel trailers, recreational vehicles and other similar vehicles or transportable structures placed on a site for one hundred and eighty (180) consecutive days or longer and intended to be improved property.

**MANUFACTURED HOME PARK OR SUBDIVISION** - A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

**MARKET VALUE** - Market value is the price of a structure that a willing buyer and seller agree upon. This can be determined by an independent appraisal by a professional appraiser; the property's tax assessment, minus land value; the replacement cost minus depreciation of the structure; the structure's Actual Cash Value.

**NEW CONSTRUCTION** - Structures for which the "Start of Construction" (see below) 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 floodplain management purposes, 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.

**NEW MANUFACTURED HOME PARK OR MANUFACTURED HOME SUBDIVISION** - A manufactured home park or manufactured home subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain regulations adopted by the community.

**REGULATORY FLOODWAY** - see definition for "Floodway".

**RECREATIONAL VEHICLE** - A vehicle which is: (a) built on a single chassis; (b) four hundred (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 a temporary living quarters for recreational, camping, travel, or seasonal use.

**SPECIAL FLOOD HAZARD AREA (SFHA)** - The land in the floodplain within a community subject to a one (1) percent or greater chance of flooding in any given year. After detailed ratemaking has been completed in preparation for publication of the flood insurance rate map, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30 ,AR/AE, AR/AO, AR/AH, AR/A, VO, or V1-30, VE or V. For purposes of these regulations, the term "special flood hazard area" is synonymous in meaning with the phrase "area of special flood hazard".

**START OF CONSTRUCTION** - For other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. 97-348), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, substantial improvement or other improvement was within one hundred and eighty (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 the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erections of temporary forms; nor 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.

**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.

For insurance purposes, means:

1. A building with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site;
2. A manufactured home ("a manufactured home," also know as a mobile home, is a structure; built on permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or
3. A travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under the community's floodplain management and building ordinances or laws.

For the latter purpose, "structure" does not mean recreational vehicle or a park trailer or other similar vehicle, except as described in paragraph (3) of this definition, or a gas or liquid storage tank.

**SUBSTANTIAL DAMAGE** - Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT** - any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either, a) before the improvement or repair is started, or b) if the structure has been damaged, and is being restored, before the damage occurred. 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 does not, however, include either 1) any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions or 2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

**VARIANCE** - A grant of relief by a community from the terms of the floodplain management ordinance that allows construction in a manner otherwise prohibited and where specific enforcement would result in unnecessary hardship.

**VIOLATION** - Failure of a structure or other development to be fully compliant with the community's floodplain management ordinance. A structure or other development without required permits, lowest floor elevation documentation, flood-proofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.

APPROVED BY TOWN COUNCIL  
ACTION ON AUGUST 26, 2013.

  
Joanne M. Mower, Town Clerk