

**TOWN OF WATERVILLE VALLEY, NEW HAMPSHIRE
FLOODPLAIN MANAGEMENT ORDINANCE**

Amended March 8, 1988
Amended March 8, 1994
Amended March 13, 2007

WATERVILLE VALLEY FLOODPLAIN ORDINANCE

Table of Contents

ARTICLE I	pg 3	- Preamble
ARTICLE II	pg 3	- Scope
ARTICLE III	pg 3	- Definitions
ARTICLE IV	pg 7	- Related Regulations
ARTICLE V	pg 12	- Zoning and Building Code Regulations

**TOWN OF WATERVILLE VALLEY, NEW HAMPSHIRE
FLOOD PLAIN MANAGEMENT ORDINANCE**

ARTICLE I

Preamble

1. **Authority** - In pursuance of authority conferred by Chapters 672-677, N.H. Revised Statutes Annotated, January 1, 1984 and as amended, the following ordinance is hereby enacted by the voters of The Town of Waterville Valley, New Hampshire.
2. **Title** - This Ordinance shall be known and may be cited as the "The Town of Waterville Valley Floodplain Management Ordinance", hereinafter referred to as "this Ordinance".
3. **Purposes** - This Ordinance is enacted for the following purposes:
 - a) To promote the health, safety, and general welfare of the Town.
 - b) To meet the "Regular" requirements of the National Flood Insurance Program.

ARTICLE II

1. **Scope**
 - a) Regulations in this ordinance are applicable to all "Areas of Special Flood Hazard" delineated by the Flood Insurance Rate Maps of the Town of Waterville Valley dated April 2, 1986, as amended, and as prepared by the Federal Emergency Management Agency – Federal Insurance Administration.
 - b) Where these regulations are in conflict with other local ordinances or regulations, the more stringent shall apply.

ARTICLE III

- 1) **Definitions-** Unless specifically defined below, words or phrases used in this document shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this document its most reasonable applications.
 - a) **Area of Special Flood Hazard** – is the land in the flood plain within the Town of Waterville Valley subject to a 1 percent or greater chance of flooding in any given year. The area is designated as Zone A on the Flood Insurance Rate Map.
 - b) **Base Flood** - means the flood having a one percent chance of being equaled or exceeded in any given year.

- c) Building – see “structure”
- d) 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, excavation or drilling operations or storage of equipment or materials.
- e) Flood or Flooding – means a general and temporary condition of partial or complete inundation of normally dry land areas from:
 - (1) The overflow of inland or tidal waters.
 - (2) The unusual and rapid accumulation of runoff of surface waters from any source.
- f) Flood Elevation Study - means an examination evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.
- g) Flood Insurance Rate Map (FIRM) – means an official map of a community, on which the Federal Emergency Management Agency has delineated both the special hazard areas and the risk premium zones applicable to the community.
- h) Flood Insurance Study – see “Flood Evaluation Study”.
- i) Flood Plain or Flood-Prone Area – means any land area susceptible to being inundated by water from any source (see definition of flooding).
- j) Flood Proofing – means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improve real property, water and sanitary facilities, structures and their contents.
- k) Floodway – see “Regulatory Floodway”
- l) Functional 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 facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.
- m) Highest Adjacent Grade – means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- n) Historic Structure means any structure that is:

- 1) 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;
 - 2) 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;
 - 3) 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
 - 4) 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.
- o) Lowest Floor – means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure useable 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 enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.
- p) 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.
- q) Mean Sea Level – means for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community’s Flood Insurance Rate Map are referenced.
- r) Manufactured or Mobile Unit – - 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 attached 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.
- s) New construction - 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. 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.
- t) 100-year flood – See “Base Flood”

- u) Regulatory 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.
- v) Riverine – means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.
- w) Recreational Vehicle – means a vehicle which 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 tow able by a light duty truck; (d) designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel or seasonal use.
- x) Special Flood Hazard Area – See “Area of Special Flood Hazard”
- y) Start of Construction – includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 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 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; or does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such garages or sheds not occupied as dwelling units or not part of the main structure.
- z) 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.
- aa) 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.
- bb) Substantial Improvement - means any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds fifty 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 that 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".

- cc) 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), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.
- dd) Water Surface Elevation – means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

ARTICLE IV

1. Zoning

The Building Inspector 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."

2. Subdivisions

- a) Subdivision and proposals for other developments shall be located and designed to assure that all public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage and adequate drainage is provided to reduce exposure to flood hazards.
- b) Subdivision proposals and other proposed new developments greater than 50 lots or 5 acres, whichever is less, shall include 100 year flood elevation data.
- c) 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 Department of Environmental Services and submit copies of such notification to the Building Inspector, in addition to the copies required by the 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.

Within the altered or relocated portion of any watercourse, the applicant shall submit to the Planning Board certification provided by a registered professional engineer assuring that the flood carrying capacity of the watercourse has been maintained.

- d) Where new replacement water and sewer systems (including on-site systems) are proposed in flood-prone areas the applicant shall provide the Planning Board with assurance that new and replacement sanitary sewage systems are designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and on-site waste disposal systems are located to avoid impairment to them or combination from them during flooding.

3. **Site Plan Review**

- a) Site plan proposals, including their utilities and drainage, shall be located and designed to be consistent with the need to minimize flood damage.
- b) All public utilities and facilities, such as sewer, gas, electrical, and water systems shall be located and constructed to minimize or eliminate flood damage.
- c) Adequate drainage shall be provided to reduce exposure to flood hazards.
- d) New replacement water systems (including on-site systems) shall be located, designed and constructed to minimize infiltration and avoid impairment.

New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

- e) 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 Department of Environmental Services and submit copies of such notification to the Building Inspector, in addition to the copies required by the 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.

Within the altered or relocated portion of any watercourse, the applicant shall submit to the Planning Board, certification provided by a registered professional engineer assuring that the flood carrying capacity of the watercourse has been maintained.

- f) Site plan proposals greater than 5 acres, shall include 100 year flood evaluation date.

4. **Building Code**

- a) All proposed development including the placement of manufactured homes shall require a building permit.

- b) In addition to the requirements of this ordinance, the requirements of the Waterville Valley Building Codes, approved supplements, Local Ordinances and Regulations currently in force will apply. These include:
- 1) BOCA National Building Code
 - 2) BOCA National Plumbing Code
 - 3) BOCA National Mechanical Code
 - 4) National Electrical Code
 - 5) Waterville Valley Water and Sewer Regulations
 - 6) Waterville Valley Zoning Ordinance
 - 7) Waterville Valley Site Plan Review Regulations
- c) The Building Inspector shall review all building permit applications for new construction or substantial improvements (meaning any repair, construction, or improvement of a structure, the cost of which equals or exceeds 50 percent 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) to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a location that has a flood hazard, any proposed new construction or substantial improvement (including manufactured homes) must (1) be designed (or modified) and anchored to prevent flotation, collapse, or lateral movement of the structure, (2) use construction materials and utility equipment that are resistant to flood damage, and (3) use construction methods and practices that will minimize flood damage.

The term “substantial improvement” does not include either:

- 1) Any project for improvement of a structure in order 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 “historic structure” provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.
- d) Where new and replacement water and sewer systems (including on-site systems) are proposed in flood-prone areas, the applicant shall provide the Building Inspector with assurance that new and replacement sanitary sewage systems will be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located to avoid impairment to them or contamination from them during flooding.
- e) The Building Inspector shall maintain for public inspection and furnish upon request, any certification of flood-proofing, and information on the elevation (in relation to mean sea level) of the level of the lowest floor (including basement) of all new or substantially improved structures, and include whether or not such structures contain a basement, and if the structure has been flood-proofed, the elevation (in relation to mean sea level) to which the structure was flood-proofed. This information must be furnished by the applicant.

- f) The Building Inspector shall review proposed developments to assure that all necessary permits have been applied for and/or received from those governmental agencies for 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. It shall be the responsibility of the applicant to certify these assurances to the Building Inspector.
- g) 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 Department of Environmental Services and submit copies of such notification to the Building Inspector, in addition to the copies required by the 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.

Within the latered or relocated portion of any watercourse, the applicant shall submit to the Building Inspector, certification provided by a registered professional engineer assuring that the flood carrying capacity of the watercourse has been maintained.

In “Zone A”, as defined on the community’s Flood Insurance Rate Map, the Building Inspector shall obtain, review, and reasonably utilize any 100 year flood elevation date or Floodway Data available from a Federal, State, or other source, until such other data has been provided by the Administrator, as criteria for requiring that (1) all new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to or above the 100 year flood level, and (2) 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 level; or together with attendant utility and sanitary facilities, shall:

- (i) be flood-proofed so that below the 100-year flood elevation the structure is watertight with walls substantially impermeable to the passage of water;
- (ii) have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
- (iii) 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.

Recreational vehicles placed on sites within “Zone A” shall either (1) be on the site for fewer than 180 consecutive days, (2) be fully licensed and ready for highway use, or (3) meet all standards of Section 60.3 (b) (1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements set for “manufactured homes” in Paragraph (c) (6) of Section 60.3.

- h) 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 100-year 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.

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:

- (i) the enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage;
- (ii) the area is not a basement; and
- (iii) 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: 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. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

5) Variations and Appeals

1. Any order, requirement, decision or determination of the Building Inspector 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 (b), the applicant shall have the burden of showing in addition to the usual variance standards under state law that:
 - a. 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; and
 - c. the variance is the minimum necessary, considering the flood hazard, to afford relief.
3. The Zoning Board of Adjustment shall notify the applicant in writing that:
 - a. the issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
 - b. 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.

4. The community shall:
 - a. maintain a record of all variance actions, including their justification for their issuance; and

- b. report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

ARTICLE V

1. **Zoning and Building Code Regulations** – It shall be the responsibility of the Selectmen and their agent, the Building Inspector, to administer and enforce these regulations.
2. **Subdivision and Site Plan Review** – It shall be the responsibility of the Planning Board or its duly authorized representatives, to administer and enforce these regulations.
3. **Enforcement Procedures** – as defined in RSA 676.
4. **Rehearing and Appeal Procedures** – as defined in RSA 677.
5. **Separability** – If any provision herein shall be held to be invalid for any reason by a court, such holding shall not invalidate in any manner any other provisions contained herein.
6. **Effective Date** – The effective date of these regulations shall be March 8, 1988.