

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

MAY 4, 2021

7:00 PM

To Join Zoom meeting: <https://us02web.zoom.us/j/84472856913?pwd=TTMvdk1majBPODBSRTBM YmtqK3d Ydz09>  
Meeting ID: 844 7285 6913 Passcode: 999999

To Join by Telephone: 1-929-205-6099 Meeting ID: 844 7285 6913 Passcode: 999999

If there is a problem with the audio, please dial 603-821-2049 to advise.

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**PUBLIC HEARING**

**O-21-058  
AMENDING THE FLOODPLAIN MANAGEMENT LAND USE ORDINANCES**

ROLL CALL

TESTIMONY

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**REGULAR MEETING**

ROLL CALL

PUBLIC COMMENT

DISCUSSION

COMMUNICATIONS

From: Deb Chisholm, Waterways Manager  
Re: Proposed modification to Land Use Code 190 Article VII Floodplain Management

From: Matt Sullivan, Planning Department Manager  
Re: Referral from the Board of Aldermen on O-21-058, amending the Floodplain Management Land Use Ordinance

UNFINISHED BUSINESS

NEW BUSINESS – RESOLUTIONS

NEW BUSINESS – ORDINANCES

**O-21-058**

Endorsers: Mayor Jim Donchess  
Alderman-at-Large Michael B. O'Brien, Sr.  
Alderman Jan Schmidt  
Alderman Linda Harriott-Gathright  
Alderman Patricia Klee

**AMENDING THE FLOODPLAIN MANAGEMENT LAND USE ORDINANCES**

TABLED IN COMMITTEE

GENERAL DISCUSSION

PUBLIC COMMENT

REMARKS BY THE ALDERMEN

POSSIBLE NON-PUBLIC SESSION

ADJOURNMENT



# City of Nashua

## Community Development Division

City Hall, 229 Main Street, PO Box 2019  
Nashua, New Hampshire 03061-2019  
[www.nashuanh.gov](http://www.nashuanh.gov)

|                         |          |
|-------------------------|----------|
| Community Development   | 589-3095 |
| Planning and Zoning     | 589-3090 |
| Building Safety         | 589-3080 |
| Code Enforcement        | 589-3100 |
| Urban Programs          | 589-3085 |
| Conservation Commission | 589-3105 |
| Transportation          | 880-0100 |
| FAX                     | 589-3119 |

Date: March 13, 2021

To: Lori Wilshire, Board of Aldermen President  
Jim Donchess, Mayor

From: Deb Chisholm, Waterways Manager

Re: Proposed modification to Land Use Code 190 Article VII Floodplain Management

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The Community Rating System (CRS) is a voluntary program for communities like Nashua that participate in the National Flood Insurance Program (NFIP). The CRS offers NFIP policy holders premium discounts in communities that develop and execute extra measures beyond minimum floodplain management requirements to provide protection from flooding. The City has been participating in the CRS program since 2016. Based on our floodplain management efforts, the City has been assigned a classification of 8 on a scale of 1 to 10. As a result, a premium discount is available for eligible flood insurance policies. In 2021, Federal Emergency Management Agency (FEMA) issued new prerequisites to the floodplain management requirements. In order to maintain our current classification in the CRS program, our Floodplain Management Ordinance needs to be modified to reflect enhanced flood protection for development in the special flood hazard area (SFHA). To that end the Floodplain Management Ordinance must be revised to require at least one foot of freeboard for residential buildings in the SFHA.

Within the City's Land Use Code, under NRO 190, the City adopted Article VII Floodplain Management §190-59 through §190-70 to apply to lands designated as special flood hazard areas as determined by FEMA. The code currently describes the construction requirements for development within a special flood hazard area. The primary focus of this proposed ordinance is to modify §190-63 Construction requirements such that all residential development including new construction, placement of new manufactured homes, and Substantial Improvements, be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are located at least 1 foot above base flood elevation so as to prevent water from entering or accumulating within the components during conditions of flooding.

The proposed changes will strengthen the City's land use planning techniques to reduce flood losses, and will support the City's ability to continue providing a reduction in flood insurance premiums to the community.



**City of Nashua**  
**Planning Department**  
229 Main Street  
Nashua, New Hampshire 03061-2019

Planning & Zoning 603 589-3090  
WEB [www.nashuanh.gov](http://www.nashuanh.gov)

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## MEMORANDUM

Date: April 23, 2021

To: Ald. Lori Wilshire, President, and Board of Aldermen  
Ald. David Tencza, Chair and Planning & Economic Development  
Committee  
Sherry Dutzy, Chair and Nashua Conservation Commission

From: Matt Sullivan, Planning Department Manager

RE: Referral from the Board of Aldermen on O-21-058, amending the Floodplain  
Management Land Use Ordinance.

At the Nashua City Planning Board's specially scheduled meeting of April 22, 2021,  
the Planning Board voted unanimously to make a favorable recommendation on O-  
21-058.

If you have any questions concerning this notification, please contact me at 589-3090  
or via [sullivanm@nashuanh.gov](mailto:sullivanm@nashuanh.gov).

cc: Mayor Jim Donchess  
Donna Graham, Legislative Assistant  
Susan Lovering, City Clerk  
Scott LeClair, Chair, NPCB  
Sarah Marchant, Community Development Division Director



## ORDINANCE

### AMENDING THE FLOODPLAIN MANAGEMENT LAND USE ORDINANCES

### *CITY OF NASHUA*

*In the Year Two Thousand and Twenty-One*

*The City of Nashua ordains* that Part II “General Legislation”, Chapter 190 “Land Use”, Article VII “Floodplain Management” of the Nashua Revised Ordinances, as amended, be hereby further amended by deleting the struck-through language and adding the new underlined language as follows:

#### “ARTICLE VII Floodplain Management

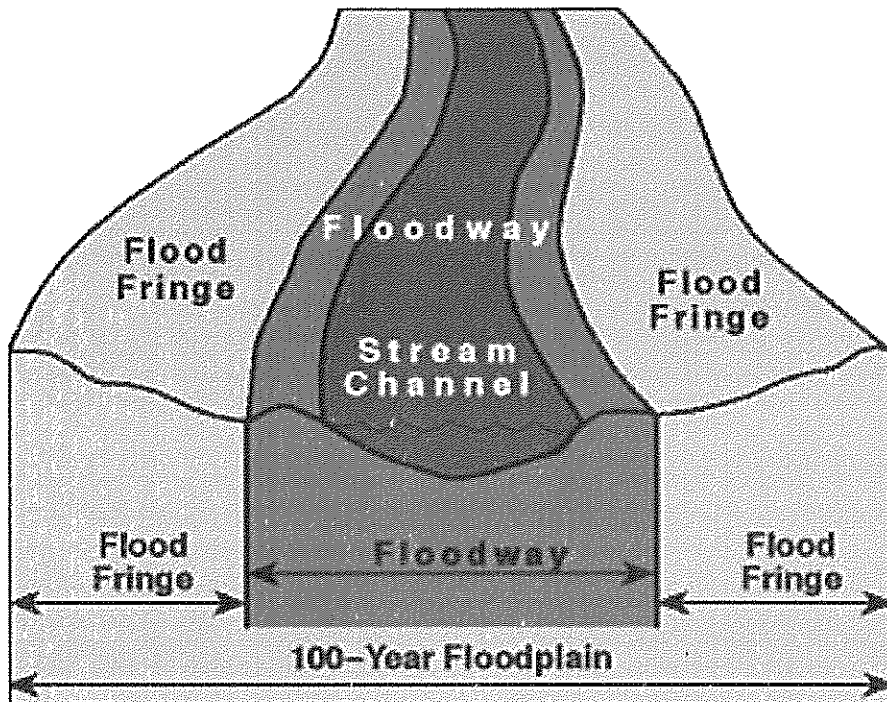
...

#### § 190-62. Definition of terms.

...

**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 increasing the water surface elevation. These areas are designated as floodways on the Flood Insurance Rate Map.

[Delete existing diagram and replace with diagram below:]



...

**§ 190-63. Construction requirements.**

The ~~Building~~ Department of Building Safety shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in a special flood hazard area, all ~~new construction or substantial improvements~~ development shall:

- A. Be designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- B. Be constructed with materials resistant to flood damage;
- C. Be constructed by methods and practices that minimize flood damages; and
- D. All non-residential development ~~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; and
- E. All residential development, including new construction, placements of new manufactured homes, and Substantial Improvements, be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are located at least 1 foot above base flood elevation so

as to prevent water from entering or accumulating within the components during conditions of flooding.

**§ 190-64. Water and sewer systems.**

Where new or replacement water and sewer systems (including on-site systems) are proposed in a special flood hazard area, the applicant shall provide the Administrative Officer with assurance that these systems will be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters, and on-site waste disposal systems will be located at least 1 foot above the base flood elevation to avoid impairment to them or contamination from them during periods of flooding.

**§ 190-65. Certification.**

- A. For all new or substantially improved structures located in Zones A, AE or AO, the applicant shall furnish the following information to the ~~Building~~ Department of Building Safety:
- (1) The Elevation Certificate stating as-built elevation (in relation to ~~NGVD~~ NAVD88) of the lowest floor (including basement) and include whether or not such structures contain a basement.
  - (2) If the structure has been floodproofed, the as-built elevation (in relation to ~~NGVD~~ NAVD88) to which the structure was floodproofed.
  - (3) Any certification of floodproofing.
- B. The ~~Building~~ Department of Building Safety shall maintain the aforementioned information for public inspection, and shall furnish such information upon request in accordance with NH RSA 91-A.

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**§ 190-68. Special flood hazard areas.**

- A. Determination of flood elevation. In special flood hazard areas, the Administrative Officer shall determine the one-hundred-year flood elevation in the following order of precedence according to the data available:
- (1) In Zone AE, refer to the elevation data provided in the community's Flood Insurance Study and accompanying FIRM.
  - (2) In Zone A, the Administrative Officer shall obtain, review, and reasonably utilize any one-hundred-year 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 one-hundred-year flood elevation is not available or not known, the flood elevation shall be determined to be at least 2 feet above the highest adjacent grade.

- (3) In Zone AO, the flood elevation is determined by adding the elevation of the highest adjacent grade to the depth number specified on the FIRM or, if no depth number is specified on the FIRM, at least two feet.

B. Criteria. The Administrative Officer's one-hundred-year flood elevation determination will be used as criteria for requiring in Zones A, AE and AO that:

- (1) All new construction or substantial improvement of residential structures have the lowest floor (including basement) elevated at least 1 foot ~~to or~~ above the one-hundred-year flood elevation.
- (2) That all new construction or substantial improvements of nonresidential structures have the lowest floor (including basement) elevated at least one or two feet ~~to or~~ above the one-hundred-year flood level depending on the Flood Design Class (one foot for Flood Design Classes 1, 2 and 3 and two feet or the 500-year flood elevation, whichever is higher for Flood Design Class 4) or to the Design Flood Elevation, whichever is higher or, together with attendant utility and sanitary facilities, shall:
  - (a) Be floodproofed so that below the one-hundred-year flood elevation 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.
- (3) 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 least 1 foot ~~at or~~ above the base flood level; 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.

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**§ 109-70. Variances and appeals.**

- A. Appeals. Any order, requirement, decision or determination of the Administrative Officer made under this chapter may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5 and Part 3 of this chapter.
- B. Variances. 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:

...”

All other ordinances or parts of ordinances inconsistent herewith are hereby repealed.

This ordinance shall become effective immediately upon passage.



**LEGISLATIVE YEAR 2021**

**ORDINANCE:** O-21-058  
**PURPOSE:** Amending the floodplain management land use ordinances  
**ENDORSER(S):** Mayor Jim Donchess

**COMMITTEE** Planning and Economic Development Committee  
**ASSIGNMENT:** Nashua Planning Board

**FISCAL NOTE:** No fiscal impact.

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**ANALYSIS**

This legislation updates the Article VII "Floodplain Management" ordinances of the Land Use Code. The Community Development Division indicates that these modifications, particularly in reference to the amount of freeboard required when building in the special flood hazard area, are necessary in order for the City to maintain its current status at Class 8 in the FEMA Community Rating System.

State statute (RSA 675:2, II) and NRO §190-132 require a public hearing and referral to the city planning board. The public hearing is conducted by the aldermanic planning and economic development committee with notice published in a newspaper of general circulation and posted in two public places at least ten calendar days prior to the date of the hearing. (Notice period does not include the day notice is posted or the day of the public hearing. RSA 675:7, I.) The public notice must contain an "adequate statement" describing the amendments and designate the place(s) where the proposal is on file for public review. RSA 675:7, II.

RSA 676:12, I and NRO 105-3 provide that building permits shall be withheld if application is made after first legal notice of a proposed zoning ordinance or building code amendment that would justify denial of the permit. The restriction lapses 120 days after the first legal notice.

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**Approved as to form:** Office of Corporation Counsel

**By:** Dorothy Clarte

**Date:** 7 April 2021