CURRENT ORDINANCE

"Building Code Ordinance"

For Developments within Flood Prone Areas

BUILDING CODE ORDINANCE

TOWN OF LANCASTER
NEW HAMPSHIRE

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ARTICLE I— PURPOSES AND AUTHORITY

In accordance with New Hampshire Revised Annotated, Chapter 156-A, as amended, the Town of Lancaster hereby adopts the following regulations as the Building Code, for the purposes of preserving the public health, safety, welfare, and convenience and insuring that any proposed building site is reasonably safe from flood hazard.

ARTICLE II— DEFINITIONS

Applicant - means any individual, group of individuals, corporation, partnership, association, or any other organization of persons including State and local governments and agencies thereof desiring to construct, assemble, or erect any structure (including prefabricated or mobile homes) for residential, commercial, agricultural, religious or other purpose, anywhere within the Town of Lancaster.

Area of Special Flood Hazard - is the land in the floodplain within the Town of Lancaster 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.

Base Flood - means the flood having a one-percent possibility of being equaled or exceeded in any given year.

Basement - means any area of a building having its floor subgrade on all sides.

Building Inspector - shall be an officer appointed by the Selectmen to fulfill the duties as outlined

herein, including inspection of buildings and building sites and issuance of building permits subject to final approval of the Planning Board.

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, excavating or drilling operation or storage of equipment or materials.

Flood or Flooding - means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of streams, rivers, or other inland water.

Flood Insurance Rate Map (FIRM) - means the official map incorporated with this ordinance, on which FEMA has delineated both the special flood hazard areas and the risk premium zones applicable to the Town of Lancaster. .

Flood Insurance Study (FIS) - 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.

Flood Plain or Flood-prone Area - means a land area adjoining a river, stream, watercourse, ocean, bay, or lake, which is likely to be flooded.

Flood Plain Management - means the operation of an overall program of corrective and preventative measures for reducing flood damage, including, but not limited to, emergency preparedness plans, flood works, and land use and control measures.

Floodproofing - means any combination of structural and nonstructural additions, changes or adjustments to properties and structures which reduce or eliminate flood damage to lands, water and sanitary structures which reduce or eliminate flood damage to lands, water and sanitary facilities, structures, and contents of buildings.

Historic Structure - means any structure that is:

a. 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;

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 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:

   (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.

Land Use and Control Measures - means zoning ordinances, subdivision regulations, building codes, health regulations, and other applications and extensions of the normal police power, to provide standards and effective enforcement provisions for the prudent use and occupancy of flood-prone and mudslide areas.

Lowest Floor - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable 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 an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

Manufactured Home - 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 connected 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.

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.

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 Maps are referenced.

Mudslide - means a general and temporary movement down a slope of a mass of rock or soil, artificial fill, or a combination of these materials, caused or precipitated by the accumulation of water on or under the ground.

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.

100-Year Flood - means the highest level of flooding that, on the average, is likely to occur once every 100 years (i.e., that has a one percent chance of occurring each year).

Recreational Vehicle - means a vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projections; (iii) designed to be self propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

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.

Special flood hazard area - see "Area of Special Flood Hazard"

Start of Construction - includes substantial improvements, 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 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 erection 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 part of the main structure.

Structure - means a building, which is used for residential, business, agricultural, or religious purposes, or which, is occupied by a private nonprofit organization, or which is owned by a State or local government or an agency thereof. The term includes a building which in the course of construction, alteration, or repair, unless such material or supplies are within a enclosed building on the premises. 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.

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.

Substantial Improvement - means any repair, reconstruction, or improvement of a structure, the cumulative cost of which equals or exceeds 25 percent of the actual cash value of the structure either (a) before the improvement is started, or (b) if the structure has been damaged and is being restored, before the damage occurred. Substantial improvement is started when the first alteration of any 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".

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 under Article III, Article IV(2)(b), or Article IV(5)(6) of this ordinance is presumed to be in violation until such time as that documentation is provided.

ARTICLE III — GENERAL BUILDING REGISTRATION & PERMIT APPLICATION PROCEDURE

Upon passage of this Code, it shall be unlawful to start any construction in the Town of Lancaster

without first obtaining from the Building Inspector either a Building Permit or a Flood Hazard Area Building Permit, according to the following procedure:

1. Applicant supplies Building Inspector with the location of building site, type of construction contemplated, and with proposed starting date.

2. Applicant is informed within two weeks if his proposed site is located in the Flood Hazard Area or not.

3. If proposed building site is not within the Flood Hazard Area, the Building Inspector will proceed with the normal application/permitting process upon receipt of the completed application and the required fee.

   If proposed Building site is located within a Flood Hazard Area, the Building Inspector will furnish the applicant with a copy of the provisions of this Building Code and await completion of a full Flood Hazard Area Building Permit Application (see Article IV).

ARTICLE IV — GENERAL PROVISIONS FOR FLOOD HAZARD AREA BUILDING PERMIT

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 the County of Coos, N.H." dated February 20, 2013, together with the associated Flood Insurance Rate Maps dated February 20, 2013, which are declared to be a part of this ordinance and are hereby incorporated by reference.

No building permit shall be issued by the Building Inspector for any development, new construction or substantial improvement (including prefabricated and mobile homes) on any proposed building site which lies within the special flood hazard area delineated on the "Flood Insurance Rate Map" (FIRM) of the Town of Lancaster, unless such construction or substantial improvement:

1. is designed (or modified) and anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

2. uses construction material and utility equipment which are resistant to flood damage; and

3. uses construction methods and practices which will minimize flood damage

In addition, these General Provisions for Flood Hazard Area Buildings shall:

1. Require new construction or substantial improvements of residential structures within the area of special flood hazards to have the lowest floor (including basement) elevated to or above the level of the 100-year flood;

2. Require new construction or substantial improvements of non-residential structures within the area of special flood hazards to have the lowest floor (including basement) elevated to or above the level of the 1 00-year flood or, together with attendant utility and sanitary facilities

to be floodproofed up to the level of the 100-year flood; and

(i) be floodproofed 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.

3. 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 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.

4. The applicant shall submit to the Building Inspector, certification provided by a registered professional engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.

5. Until a Regulatory Floodway is designated along watercourses, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zone AE on the FIRM, unless it is demonstrated by the applicant that the cumulative effect of the proposed development, when combined with all 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.

6. Along watercourses with a designated Regulatory Floodway no encroachments, including fill, new construction, substantial improvements, and other development are allowed within the floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed encroachment would not result in any increase in flood levels within the community during the base flood discharge.

7. 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:

   a. "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."

8. Recreational Vehicles placed on sites within Zones A and AE shall be either

   (i) be on the site for fewer than 180 consecutive days,

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

(iii) meet all standards of Section 60.3 (b) (i) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for "manufactured homes" in paragraph (c) (6) of Section 60.3.

9. 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 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.

10. 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: 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.

11. For all new or substantially improved structures located in Zones A and AE the applicant shall furnish the following information to the Building Inspector:

    a. the as-built elevation (in relation to NGVD) of the lowest floor (including basement) and include whether or not such structures contain a basement.

    b. if the structure has been floodproofed, the as-built elevation (in relation to NGVD) to which the structure was floodproofed.

    c. any certification of floodproofing.

    The Building Inspector shall maintain the aforementioned information for public inspection, and shall furnish such information upon request.

12. The Building Inspector shall not grant a building permit until the applicant certifies that all necessary permits have been received from those governmental agencies from 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.

ARTICLE V — APPLICATION PROCEDURE

The following information, as well as any other information the Building Inspector may require, shall be submitted with the application for a building permit, prior to any new construction or substantial improvements to any structure within the Flood Hazard Area:

A. Existing Site Information

1. A plan bearing the seal of an engineer or surveyor registered with State of New Hampshire, which accurately locates the proposed building site with respect to the Flood Insurance Rate Map (FIRM).

2. Contours, elevations, or profiles, which show the proposed building site and the corresponding elevations of the 100-year flood elevation for that particular area.

3. Location of existing structures, streets, utility lines, fill areas, drainage ways and other pertinent data.

B. Construction Plans

1. A plan showing the finished grades and elevations of the proposed building site, as well as the location, levels, and elevations or the lowest floor of any building including basement and any proposed fill areas. if the lowest floor is below grade on one or more sides, the elevation above mean sea level of the floor immediately above must also be recorded on the plans.

2. Plans showing the location and elevation of proposed streets or driveways, utility lines, drainage ways, water supply, and sewage disposal facilities, and

3. Specifications for building construction and site improvement including: materials, landscaping, proposed method of water supply and sewage disposal, and floodproofing measures.

C. Decision

The Building Inspector shall, within 45 days of receipt of a completed Flood Hazard Area Building Permit Application, with the consultation of the Planning Board, review such application and either issue or refuse to issue a Building Permit to the applicant. In the case of refusal to issue a permit, the Building Inspector shall return reasons for such refusal and may include suggestions for future compliance with provisions of this Code.

D. Resubmission

Applicants may resubmit refused applications, which have been revised to conform to this Code's provisions.

E. Fee

A fee of ten ($10) dollars shall accompany all submissions and resubmissions to the Building Inspector of applications for Flood Hazard Area Building Permits.

ARTICLE VI — FLOODPROOFING MEASURES

The following floodproofing measures may be required of all new construction or substantial modification on any building site within the Flood Hazard Area:

Floodproofing measures:

1. Structures shall have the first floor or basement floor constructed at or above the 100-year flood level, if known.

2. Structures will be situated on the building site to offer the minimum obstruction to flood waters.

3. Structures will be firmly anchored to resist flotation and lateral movement.

4. Reinforcement of walls to resist water pressures and use of paints, membranes or mortars to reduce seepage of water through walls.

5. Require new or replacement water supply systems and/or sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters, and require on-site waste disposal systems to be located so as to avoid impairment of them or contamination from them during flooding.

6. Installation of pumps to lower water levels in structures and to relieve external foundation wall flood pressures.

7. Installation of valves or controls on sanitary drains to prevent backup into structure.

8. Location of all electrical equipment, circuits, and installed electrical appliances in a manner, which will assure they are not subject to flooding.

9. Location of any structural storage facilities for chemicals, flammable liquids, buoyant materials or other toxic materials, which could be hazardous to public health, safety and welfare at or above the 100-year flood level.

10. Fills shall be the minimum amount necessary and shall not be less than one (1) foot below the 100-year flood level, if known.

11. Fill shall be located so as to offer the minimum obstruction of floodwaters.

12. Fill shall be protected against erosion by rip-rap, vegetative cover, or other suitable method of erosion control.

13. That all building proposals are consistent with the need to minimize flood damage; that all public utilities and facilities, such as sewer, gas, electrical, and water systems are located, elevated, and constructed to minimize or eliminate flood damage; and, adequate drainage is provided so as to reduce exposure to flood hazards.

ARTICLE VII — ADMINISTRATION

A. Responsibility
The Building Inspector shall not issue Flood Hazard Area Building Permits without the review of the Planning Board.

B. Penalty and Enforcement

The Board of Selectmen is hereby given power and authority to enforce the provision of this Ordinance. There shall be an inspector of Buildings who shall administer the provisions of the Ordinance. He/she shall be appointed and removed by the Board of Selectmen, and shall receive such compensation as fixed by said Board. The Building Inspector shall issue any and all building permits requested when such permit is in accordance with the provisions of this Ordinance. Permits must be posted on site and be easily visible.

It shall be unlawful to erect any building or substantially alter the bulk of any building or relocate any building in any district without first obtaining a building permit from the Building Inspector. No permit shall be required for remodeling or repairing where the total cost of such work as follows:

1. All interior and exterior building improvements for building located in a flood hazard area or with a change in outside building dimensions or a new building erection, with a fair market value of $1,000 or greater shall obtain a building Permit.

2. Buildings not located in a flood hazard area or with no change in exterior building dimensions shall obtain a building permit for all interior and exterior improvements, with a fair market value greater than $2,500.

Upon any well-founded information that this Ordinance is being violated, the Selectmen shall take immediate steps to enforce the provisions of this Ordinance, by seeking an injunction in the Superior Court or by any other legal action.

Any person, firm, or corporation violating any of the provisions of this Ordinance shall be fined not more than one hundred dollars ($100) upon conviction, for each day such violation may exist.

C. Amendments

This code may be amended in accordance with the provisions of Chapter 156, New Hampshire Revised Statutes Annotated.

D. Validity

If any article, section, sub-section, sentence, clause or phrase of this Code is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Code.

E. Conflict with Other Regulations

Whenever the requirements of this Code conflict with any other duly adopted rules, regulations, or ordinances, the more restrictive shall govern.

F. Appeal

Any person aggrieved by a decision of the Building Inspector may appeal such decision to the Board of Adjustment, as provided in the Town's Zoning Ordinance and prescribed by New Hampshire Revised Statutes Annotated Chapter 36, sections 31-34. The following is also required for any appeal or variance.

1. 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.

   c. the variance is the minimum necessary, considering the flood hazard, to afford relief.

2. 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.

3. The community shall:

   a. maintain a record of all variance actions, including the justification for their issuance, and

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

ARTICLE VIII — EFFECTIVE DATE

This Code shall take effect upon its passage.

Effective: April 28, 1976

Amended: March 9, 1993
March 8, 1994
March 14, 1995
March 13, 2012
December 17, 2012