



New Hampshire Office of Strategic Initiatives Floodplain Management Program

Menu of Higher Floodplain Regulation Standards

For

New Hampshire Communities

November 2018

Menu of Higher Floodplain Regulation Standards for New Hampshire Communities

This Menu of Higher Floodplain Regulation Standards is provided to assist communities in New Hampshire with incorporating regulations that exceed the minimum federal regulations required to participate in the National Flood Insurance Program (NFIP). This Menu provides a sample of higher regulations, some of which have already been adopted by New Hampshire communities. Communities are encouraged to review the resources provided throughout this Menu to learn more about additional higher standards.

Communities have the option of incorporating one or more standards from this menu into their floodplain management ordinance. Adopting higher regulatory standards can improve a community's resiliency to future floods by reducing potential: loss of human life; property and environmental damage; displacement of residents; disruption of businesses; and the burden on community infrastructure, services and staff.

Communities are encouraged to review the <u>list and map of New Hampshire communities</u> that have adopted higher floodplain standards which was completed by the NH Office of Strategic Initiatives (OSI).

In this Menu, each higher regulatory standard includes the following information:

- **Description and Benefit of Higher Standard** provides a brief overview of the higher standard and summarizes the key benefits of adopting the higher standard.
- Sample Ordinance Language provides sample language or guidance that communities can use to incorporate the higher regulatory standard into their floodplain ordinance and in some cases example language from a New Hampshire community that has adopted the higher standard.
- **Community Rating System (CRS)** indicates whether CRS credit is available for the activity and if so, the maximum number of points available for the activity. More details about CRS can be found on NH OSI's Community Rating System web page.
- **Resources** section provides website links to resources that provide further detail about the higher standard.

Prior to adopting any higher standard, it is strongly recommended that any proposed amendments be reviewed by the municipality's attorney. In addition, communities should submit a draft of higher standard amendments to the Floodplain Management Program staff at OSI (see contact information below) for review and comment prior to adoption.

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1A - Critical Facilities

DESCRIPTION AND BENEFIT OF HIGHER STANDARD

Critical Facilities (e.g., hospitals, police stations, schools) and their access routes should be located and elevated to prevent damage and inaccessibility to these facilities during a flood event. A critical facility provides services and functions essential to a community, especially during and after a disaster. For a critical facility to function, building systems and equipment must remain operational. Therefore, if at all possible, critical facilities should be located outside all high-risk special flood hazard areas, including Zones A, AE, AO, and VE. If a critical facility must be located in a special flood hazard area, it should be designed to higher protection standards and have flood evacuation plans.

SAMPLE ORDINANCE LANGUAGE:

Add a new section in the ordinance in regards to critical facilities and include a definition of critical facilities in the definitions section. Sample language and definition from Vermont's model flood hazard bylaws are provided below.

All new critical facilities are prohibited within a special flood hazard area (or within a special flood hazard area and the 0.2 percent annual chance floodplain). Critical facilities that are to be replaced, substantially improved, or meet the definition of substantial damage shall be constructed so that the lowest floor, including basement, shall be elevated or dry-floodproofed at least one foot above the elevation of the 0.2% annual flood height (500-year floodplain), or three feet above the base flood elevation, whichever is higher. A critical facility shall have at least one access road connected to land outside the 0.2% annual chance floodplain that is capable of accommodating emergency services vehicles. The top of the access road shall be no lower than six inches below the elevation of the 0.2% annual chance flood event.

"Critical facilities" means facilities that are vital to public health and safety, including police stations, fire and rescue facilities, hospitals, shelters, schools, nursing homes, and water supply and waste treatment facilities.

Activity 432f - Protection of Critical Facilities (PCF) (Up to 80 points available). Regulations that either prohibit critical facilities in the 0.2 percent annual chance floodplain or set higher standards for protecting them from flood damage. Full credit is for a prohibition on new critical facilities in the 0.2 percent annual chance floodplain. RESOURCES: A Guide for Higher Standards in Floodplain Management (ASFPM) Critical Facilities and Higher Standards Fact Sheet NFIP CRS Coordinator's Manual Surging Seas CRS Guide

1B - Elevation of Structures (Freeboard)

DESCRIPTION AND BENEFIT OF HIGHER STANDARD:

Freeboard is a nautical term that is used to describe the elevation requirement of a structure's lowest floor above the base flood elevation. Freeboard is the single most effective means for reducing flood risk to a structure in the floodplain. The additional height above the base flood elevation provides not only additional protection to the structure's lowest floor but also provides the property owner with savings on their flood insurance policy. Other benefits include less flood damage in the community, less suffering, less business interruption, quicker recovery, and higher property values.

SAMPLE ORDINANCE LANGUAGE:

Revise existing language for new construction or substantial improvements of residential and non-residential structures and manufactured homes by inserting the number of feet above the base flood elevation. Sample language from the Model Ordinances is provided below. Communities with Zone VE should consider revising Section 10 for Zones A, AE, and AO and Section 11 for Zone VE of the Model Ordinances with the higher standard.

Revise Section 10 of Model Ordinances: New construction of a structure or an existing structure to be substantially improved or replaced, or that has incurred substantial damage, or the placement or substantial improvement of a manufactured home located in Zones A, AE, and AO shall have the lowest floor elevated at least [Insert either: one foot, two feet, or three feet above] the base flood elevation.

Revise Section 11 of Model Ordinance for Communities with Zone VE: New construction of a structure or an existing structure to be substantially improved or replaced, or that incurred substantial damage, or the placement or substantial improvement of a manufactured home located in Zone VE shall be elevated on pilings and columns such that the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated at least [Insert either: one foot, two feet, or three feet above] the base flood elevation.

COMMUNITY RATING SYSTEM (CRS):

Activity 432b - Freeboard (FRB) (*Up to 500 points available*). Freeboard must be applied to the elevation of the lowest floor (or lowest horizontal structural member in V Zones) of the building or to the elevation to which a non-residential building is dry floodproofed, and to all components of the building, including all utilities, ductwork, and attached garages. More points are provided if the community prohibits buildings on fill (e.g., they must be constructed on piers, pilings, or flow-through crawlspaces) or requires compensatory storage if filling is used.

RESOURCES:

A Guide for Higher Standards in Floodplain Management (ASFPM)

NFIP CRS Coordinator's Manual

The Costs and Benefits of Building Higher

1C - Elevation of Utilities & Mechanicals

DESCRIPTION AND BENEFIT OF HIGHER STANDARD:

The elevation of utilities and mechanicals to the same level required for the lowest floor provides an added measure of safety and flood damage reduction for structures. The NFIP regulations require that electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities "are located and constructed to minimize or eliminate flood damage." Adding language that specifically requires elevation of these components provides an added measure of safety and flood damage reduction for structures.

SAMPLE ORDINANCE LANGUAGE:

Revise the ordinance language to require that utilities and mechanicals be elevated at or above the base flood elevation. Sample language is provided below with the revised language in red text and underlined.

Revise Section 9 of the Model Ordinances: Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that <u>must be elevated at or above the base flood elevation</u>.

COMMUNITY RATING SYSTEM (CRS):	RESOURCES:
No CRS points are available solely for this activity but to receive CRS credit points for Activity 432b - Freeboard this requirement must be also included in the ordinance.	A Guide for Higher Standards in Floodplain Management (ASFPM) FEMA P-348, Protecting Building Utility Systems From Flood Damage

2A – Compensatory Storage

DESCRIPTION AND BENEFIT OF HIGHER STANDARD:

Compensatory Storage requires compensation for the loss of floodplain storage caused by filling in the floodplain. Communities that require compensatory storage can preserve areas of the floodplain that can store flood water and minimize increases in flood heights due to development. Floodplains provide the critical and beneficial functions of flood storage, natural habitat, and water quality. The placement of fill impairs these functions and should be avoided. Where some placement of fill is unavoidable, requiring compensatory storage can mitigate some of the negative impacts of floodplain fill.

SAMPLE ORDINANCE LANGUAGE:

Add language to the ordinance regarding the requirements of compensatory storage. Below is sample language.

Fill shall result in no net loss of natural floodplain storage, or increase in water surface elevations during the base flood. The volume of the loss of floodwater storage due to filling in the special flood hazard area shall be offset by providing an equal volume of flood storage by excavation or other compensatory measures at, or adjacent to, the development site.

Below is the Town of Salem's compensatory storage language:

Any encroachment, including fill, new construction, substantial improvement, or other development, within a special flood hazard area shall provide compensatory floodplain storage equal to twice the amount of encroachment. All parking areas located within a special flood hazard area shall be tiered, sloped, or otherwise designed to flood during a base flood event. A licensed professional engineer shall prepare the floodplain storage site plan and/or certify that the proposed compensatory floodplain storage is properly designed and that the floodplain storage capacity is of adequate volume to accommodate the water displaced by the proposed development. After construction of the approved compensatory site, an as-built plan shall be certified by a professional engineer and submitted to the Town for inclusion in the project file.

COMMUNITY RATING SYSTEM (CRS):	RESOURCES:
Activity 432a Compensatory Storage (DL1b) (<i>Up to 195 points available</i>). Credit is provided for regulations that require new developments to provide compensatory storage at hydrologically equivalent sites up to a ratio of 1.5 to 1.	A Guide for Higher Standards in Floodplain Management (ASFPM) NFIP CRS Coordinator's Manual

2B – Floodplain Development Limitations

DESCRIPTION AND BENEFIT OF HIGHER STANDARD:

Floodplain Development Limitations prohibit and permit certain uses and/or buildings in the floodway or the entire special flood hazard area. Examples include the following:

- Prohibiting construction of new buildings (such as residential and non-residential), placement of manufactured homes, or placement of fill.
- Permitting only certain uses (such as agricultural or recreational uses).
- Prohibiting storage or processing of hazardous, flammable, or explosive materials.

Prohibiting fill and other ground-altering measures in special flood hazard areas can protect existing development and habitat, improve water quality, and maintain the flood attenuating benefits of natural areas. Restricting uses of the floodplain which can be dangerous to health, safety or property in times of flood, or which increase flood heights will make the community safer and more resilient to future floods.

SAMPLE ORDINANCE LANGUAGE:

Add to ordinance what uses are permitted and prohibited in special flood hazard areas and/or floodways. Below are examples of what several communities choose to permit and prohibit in a special flood hazard area. See NH OSI's Community Higher Standards list for links to ordinances.

The Town of Allenstown limits the permitted uses in a special flood hazard area and prohibits uses such as new buildings or other structures except as allowed by Special Exception, filling, and storage of floatable, or toxic, hazardous, or regulated substances.

The Town of Bath prohibits all development in special flood hazard areas and only permits substantial improvements to existing structures.

The Towns of Deerfield and Hooksett prohibit senior housing developments in special flood hazard areas.

The Town of Hancock prohibits development in the floodway and only permits certain uses in the remaining portions of special flood hazard areas.

COMMUNITY RATING SYSTEM (CRS):	RESOURCES:
 Activity 432a Development Limitations (DL): Prohibition of all fill (DL1a) – (Up to 280 points). Prohibition of buildings (DL2) – (Up to 1,000 points). Prohibitions on storage of materials (DL3) – (Up to 50 points). 	A Guide for Higher Standards in Floodplain Management (ASFPM) CRS for Community Resilience Green Guide (ASFPM) NFIP CRS Coordinator's Manual

2C – Open Space Preservation

DESCRIPTION AND BENEFIT OF HIGHER STANDARD:

Open Space Preservation regulations help keep areas open and undeveloped. Specific types of open space preservation regulations include but are not limited to: buffers or setback rules; deed restrictions; cluster development requirements; and low density zoning. Preserving floodplain areas as open space allows these areas to function the way nature intended, which includes the conveyance and storage of flood waters. Keeping the floodplain free of development will also reduce the potential for flood damage to buildings and infrastructure, and allow the community to return to normal more quickly after a flood happens. These areas can also serve as habitat for wildlife and recreational opportunities (e.g. parks, bike paths) for people.

SAMPLE ORDINANCE LANGUAGE:

Below are examples of open space regulations currently being enforced in New Hampshire communities. See NH OSI's Community Higher Standards list for links to ordinances.

The Town of Albany requires cluster developments with 60 percent of total parcel remaining as open space.

The Town of Piermont requires all new structures (including manufactured homes) to be set back at least 75 feet from the special flood hazard area boundary.

The Town of Plainfield requires all structures to be set back at least 100 feet from the ordinary high watermark of the Connecticut River.

The Town of Windham enforces a wetland buffer, which prohibits the erection of any permanent building within various setbacks from the community's waterbodies, which includes most of the community's special flood hazard areas.

COMMUNITY RATING SYSTEM (CRS):	RESOURCES:
Activity 420 – Open Space Preservation (Up to 2,870 points). o 422a - Open space preservation o 422b - Deed restrictions o 422c - Natural functions open space o 422d - Special flood-related hazards open space o 422e - Coastal erosion open space o 422f - Open space incentives o 422g – Low-density zoning o 422h – Natural shoreline protection	A Guide for Higher Standards in Floodplain Management (ASFPM) CRS for Community Resilience Green Guide (ASFPM) NFIP CRS Coordinator's Manual

3A - Cumulative Substantial Improvement

DESCRIPTION AND BENEFIT OF HIGHER STANDARD:

Cumulative Substantial Improvement requires improvements and repairs to a building to be tracked cumulatively over a certain time period (e.g., 3, 5, or 10 years) to ensure that flood regulations are triggered given enough reinvestment in the building. Adding this requirement prevents property owners from avoiding triggering the floodplain development regulations that apply to substantially improved buildings by performing multiple projects over time, each under the 50 percent threshold.

A community must have a good system for recording and accessing records to administer a cumulative substantial improvement and damage requirement. The community should also have administrative procedures in order to track improvements and repairs.

SAMPLE ORDINANCE LANGUAGE:

Update the definition of Substantial Improvement with the underlined red text below to require that improvements, modifications, and additions or repairs to existing buildings are counted cumulatively for a set amount of time (e.g., at least three years, five years, or ten years). Communities should carefully consider the period of time to specify.

"Substantial improvement" means any <u>combination</u> of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure <u>taking place during [insert period of time selected by the community]</u> the cost of which equals or exceeds fifty percent of the market value of the structure before the work is started. This term includes structures that have incurred 'substantial damage,' regardless of the actual repair work performed.

COMMUNITY RATING SYSTEM (CRS):	RESOURCES:
Activity 432d - Cumulative Substantial Improvements (CSI) (Up to 90 points available).	A Guide for Higher Standards in Floodplain Management (ASFPM)
EITHER: (a) 40 points, if the regulations require that improvements, modifications, and additions to existing buildings are counted cumulatively for at least 10 years OR (b) 20 points, if the regulations require that improvements, modifications, and additions to existing buildings are counted cumulatively for at least 5 years	NFIP CRS Coordinator's Manual Substantial Improvement/Substantial Damage Desk Reference (FEMA P-758)

3B – Cumulative Substantial Damage

DESCRIPTION AND BENEFIT OF HIGHER STANDARD:

Cumulative Substantial Damage requires counting repairs cumulatively by adding the cost of each successive repair over a period of time. Under this requirement, the structure will be brought into compliance with the floodplain regulations sooner. Under some circumstances, the property owner's NFIP flood insurance policy may pay a portion of the cost of bringing a substantially flood-damaged building into compliance with the community's ordinance (known as Increased Cost of Compliance coverage).

SAMPLE ORDINANCE LANGUAGE:

Adopt the following definition:

"Repetitive loss" means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

THEN...

Modify the "Substantial Improvement" definition as follows:

"Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred "repetitive loss" or "substantial damage," regardless of the actual repair work performed.

OR . . .

Modify the "Substantial Damage" definition as follows:

"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 damage also means flood related damage sustained by a structure on two (2) separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

COMMUNITY RATING SYSTEM (CRS): RESOURCES: Activity 432d - Cumulative Substantial NFIP CRS Coordinator's Manual **Improvements (CSI)** (*Up to 90 points available*). **EITHER:** NFIP Increased Cost of Compliance Coverage (a) 40 points, if the regulations require that (FEMA 301) reconstruction and repairs to damaged buildings are counted cumulatively for at least 10 years Substantial Improvement/Substantial Damage Desk Reference (FEMA P-758) (b) 20 points, if the regulations require that reconstruction and repairs to damaged buildings are counted cumulatively for at least 5 years

3C - Lower Substantial Improvement and Damage Threshold

DESCRIPTION AND BENEFIT OF HIGHER STANDARD:

Lower Substantial Improvement and Substantial Damage Threshold triggers the requirement for buildings to be brought into compliance at a lower threshold than the minimum of 50 percent to ensure that older buildings are brought into compliance more quickly. Adopting a lower threshold, such as 40 percent or 30 percent, is perhaps the easiest way to exceed the NFIP minimum requirement. The concept is simple – compliance is required when the ratio of costs compared to market value equals or exceeds the lower percentage specified in the community's regulations. Communities should make certain that they uniformly apply the lower threshold to all buildings in special flood hazard areas, even after events that cause damage to many buildings, regardless of the cause of the damage.

SAMPLE ORDINANCE LANGUAGE:

Update the definitions of Substantial Improvement and Substantial Damage with a number below 50:

"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 (xx) percent of the market value of the structure before the damage occurred.

"Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds (xx) percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage," regardless of the actual repair work performed.

COMMUNITY RATING SYSTEM (CRS):	RESOURCES:
Activity 432e - Lower Substantial Improvements Threshold (LSI)	NFIP CRS Coordinator's Manual
(Up to 20 points available). Full credit is provided for a lower threshold that applies to both improvements and repairs to damaged buildings. Half credit is provided when a lower threshold applies to either improvements or repairs.	Substantial Improvement/Substantial Damage Desk Reference (FEMA P-758)

4A – Dry Land Access

DESCRIPTION AND BENEFIT OF HIGHER STANDARD:

Dry Land Access requires that new development proposals be designed so that building sites, walkways, driveways, and roadways are located on land with a natural grade with an elevation above the base flood elevation or higher. Requiring dry land access provides safe egress for residents and property owners and reduces risk to first responders that may need to access the location during a flood emergency.

SAMPLE ORDINANCE LANGUAGE:

Below is an example of dry land access regulations currently being enforced in a New Hampshire community. See NH OSI's Community Higher Standards list for link to ordinance.

The Town of Newport's floodplain ordinance states: *All new residential structures or residential developments and all new non-residential structures and non-residential developments shall have all driveways and/or all road access or streets constructed with the driving surface at or above the base flood elevation in order to ensure safe ingress and egress during a 100-year flood.*

Below is sample language that communities can include in their floodplain regulations:

New development proposals shall be designed, to the maximum extent practicable, so that building sites, walkways, driveways, and roadways are located on land with a natural grade with an elevation at least [Insert either: at, one foot, two feet, or three feet above] the base flood elevation.

COMMUNITY RATING SYSTEM (CRS):	RESOURCES:
Activity 4320 - Other Higher Standards (OHS) (Up to 100 points available). Credits points have been given for requiring all new multi-family and commercial buildings to provide access to dry land.	A Guide for Higher Standards in Floodplain Management (ASFPM) NFIP CRS Coordinator's Manual

4B – Enclosure Limits

DESCRIPTION AND BENEFIT OF HIGHER STANDARD:

Regulations to limit enclosures below the base flood elevation have two objectives. First, they protect the structural integrity of the building from wave action or hydrostatic pressure. Second, they discourage property owners from finishing the area below the base flood elevation and storing valuable or hazardous items in that area. These regulations are particularly useful in Zone VE and other coastal areas subject to wave damage.

In areas where fully enclosed areas below the lowest floor are allowed, property owners may be tempted to convert enclosed areas below the base flood elevation to living space rather than using it solely for parking, building access, or storage as mandated by NFIP requirements. Non-conversion agreements require property owners with enclosures below the base flood elevation that are more than four feet in height to sign a Non-Conversion Agreement verifying that they will use the enclosed area for authorized uses only.

SAMPLE ORDINANCE LANGUAGE:

To require no obstructions in Zone VE, amend ordinance to remove item #3 of Section 11(B) of the Model Ordinance for Communities with Zone VE.

To require a non-conversion agreement, add the following language to the section that applies to enclosed areas below the lowest floor or Section 10(C) of the Model Ordinances:

A Non-Conversion Agreement signed by the applicant shall be recorded on the property deed prior to the issuance of a Certificate of Occupancy if the permit application includes an enclosed area below the lowest floor that is more than four feet in height.

COMMUNITY RATING SYSTEM (CRS):

Activity 432g - Enclosure Limits (ENL) (*Up to 90 points available*). Credit points are available for regulatory standards that prohibit the enclosure of the building's area that lies below the base flood elevation. Credit is also available for communities that execute non-conversion agreements, whereby owners agree not to modify the enclosed area to make it more susceptible to flood damage.

RESOURCES:

Examples of non-conversion agreements

<u>FEMA Technical Bulletin 5 – Free-of-Obstruction</u> <u>Requirements for Buildings Located in Coastal</u> <u>High Hazard Areas in accordance with the NFIP</u>

NFIP CRS Coordinator's Manual

4C – Overlay Districts

DESCRIPTION AND BENEFIT OF HIGHER STANDARD:

Overlay Districts allow communities to enforce regulations and promote flood resiliency in areas outside of special flood hazard areas identified on FEMA's maps. FEMA's maps are good starting points for determining flood-prone areas within a community. However, these maps do not account for other factors, such as but not limited to: additional development that has occurred since the map was completed; flood prone areas that were not mapped as special flood hazard areas when map was completed; events that exceed the 1 percent annual chance flood; and future conditions such as increased future development and increased precipitation and sea-level rise. All of these additional factors can lead to flooding above the base flood elevation and to flooding in areas outside of the mapped special flood hazard areas. It is strongly recommended that communities consider utilizing other sources of mapping and data in addition to FEMA's maps and consider establishing an overlay district that includes regulations for developing in these additional areas.

SAMPLE ORDINANCE LANGUAGE:

Below are examples of overlay districts currently being enforced in New Hampshire communities. See NH OSI's Community Higher Standards list for links to ordinances.

The Town of Campton enforces regulations in a River Corridor Protection Zone, which is delineated using the entire special flood hazard area and any other land within 500 feet of the edge of the normal channel of the Mad, Pemigewassett, and Beebe rivers.

The Town of Durham adopted an Advisory Climate Change Risk Area, which identified areas likely to be at risk to coastal flooding in the future under projections for rising sea-levels associated with global climate change. The ordinance language recommends property owners that wish to build on land within the Advisory Climate Change Risk Area but outside the special flood hazard area review and apply the town's floodplain regulations when completing their proposed development.

The Town of New Hampton enforces regulations in a Flood Hazard District, which includes special flood hazard area and area delineated as alluvial soils by the USDA Natural Resources Conservation Service.

COMMUNITY RATING SYSTEM (CRS):	RESOURCES:
Activity 412d – Higher Study Standards (HSS) Credits the use of study standards higher than those required by FEMA including future- conditions hydrology for land use changes and climate.	NFIP CRS Coordinator's Manual Surging Seas CRS Guide