

10.4 General Provisions

1. **Applicability.** These Regulations shall apply to all areas of flood prone zone within the jurisdiction of the Town of Andover.
2. **Basis for Establishing the Special Flood Hazard Areas.**
The areas of special flood hazard identified by the Federal Emergency Management Agency in its Flood Insurance Study of the Town of Andover of August 3, 19981, with accompanying FIRM and floodway maps and other supporting data, and any revision thereto, are adopted by reference and declared to be a part of these Regulations.
3. **Issuance of the Zoning Permit and Certificate of Zoning Compliance.** Neither the zoning permit nor a Certificate of Zoning Compliance shall be issued unless the applicant has successfully demonstrated that the proposed or completed activity is in compliance with the requirements of this Section and other applicable Regulations.
4. **Permit Expiration.** Permits issued under the jurisdiction of Section 10 of these Regulations shall expire if actual construction of a permitted structure does not commence within 180 days of the permit approval date.
5. **Abrogations & Greater Restrictions -** These regulations are not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where these regulations and other ordinances, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
6. **Interpretation -** In the interpretation and application of these regulations all provisions shall be considered as minimum requirements; liberally construed in favor of the governing body; deemed neither to limit nor repeal any other powers granted under state statutes.
7. **Warning and Disclaimer of Liability.** The degree of flood protection required by this ordinance is considered the minimum reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man made or natural causes. This ordinance does not imply that land outside the special flood hazard areas or uses permitted within such areas will be free from flooding or flood damage. This ordinance shall not create liability on the part of the Town of Andover or any officer or employee thereof for any flood damage which may result from reliance on these Regulations or any administrative decision made thereunder.

10.5 **USES IN FLOOD ZONE.** Construction, reconstruction, extension of any building or structure, or any other development, including but not limited to mining, dredging, filling, grading, paving, excavation or drilling operations shall be prohibited in the Special Flood Hazard Area, except in

conformance with these Regulations. Use of land, construction or other activities permitted within this Section shall be subject to approval by all applicable federal or stated agencies.

1. Permitted Uses - subject to the provisions of Section 10 and any other applicable Regulations:
 - A. Agricultural
 - B. Farm, excluding a dwelling, or premises used for the keeping of livestock, when a farm is located in the flood zone.
 - C. Historic Sites
2. Special Permit Uses - subject to review and approval by the Planning & Zoning Commission in accordance with the provisions of Section 23 and any other applicable Regulations:
 - A. Sand & Gravel, sale of
 - B. Parks
 - C. Recreation area, non-profit
 - D. Utility, electric, gas, water
 - E. Bazaars, carnivals, and other temporary recreational uses

10.4.9 Permits Required - No development of any property within the Flood Prone District shall be permitted except in compliance with the terms of these regulations and subject to the terms and conditions of a Special Permit (see Section 23) unless otherwise stated.

10.6 ADMINISTRATION

1. Designation of Administrator. The Zoning Enforcement Official is hereby appointed to administer and implement the provisions of these Regulations.
2. Application.
 1. Permit Procedures. A building permit, zoning permit, special permit and/or variance shall be obtained before construction or development begins within any special flood hazard area. The applicant should review the Zoning Regulations with the Zoning Enforcement Official to determine which permits are required for the use proposed. The applicant shall provide information with the application which would show that any proposed building sites will be reasonably safe from flooding.
 2. Certification of Plans. Where required under this Section, a registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this Section. Such certification must be provided to the Zoning

Enforcement Official.

3. Establishment of Flood Area Boundaries.
 1. When base flood elevation data or floodway data have not been provided, the Zoning Enforcement Official shall obtain, review, and reasonably utilize any base flood elevation or floodway data available from Federal, State, or other source in order to administer these Regulations.
 2. The Zoning Enforcement Official shall make the necessary interpretation, where needed, as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions).
4. Notification of Other Agencies. The Zoning Enforcement Official shall notify adjacent communities and the Connecticut Department of Environmental Protection, Inland Water Resources Division, prior to any alteration or relocation of a watercourse, and evidence of such notification shall be sent to the Federal Emergency Management Agency. Maintenance shall be provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
5. Other Permits to Be Obtained. The Zoning Enforcement Official shall advise applicant that additional Federal or State Permits may be required, and if special Federal or State permit requirements are known, required that copies of such permits be provided and maintained on file with any local permit. Such additional permit requirements may include, but not be limited to: Stream Channel Encroachment Line Permit, Water Diversion Permit, Dam Safety Permit, Corps of Engineers 404 Permit.
6. Records Maintenance. The Zoning Enforcement Official shall record and maintain: (a) the as-built elevation of the lowest floor (including basement) of all new or substantially improved structures; (b) the elevation to which the new or substantially improved structures have been flood-proofed; (c) certification as to floodway heights; d) any and all certifications required under these Regulations; e) all records pertaining to the provisions of this section.

10.7 DEVELOPMENT STANDARDS -

The Following standards must be satisfied for any application for development to be approved:

1. General Standards.
 1. New construction and substantial improvements shall be anchored to prevent

flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

2. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
3. New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
4. All new construction and substantial improvements to structures shall be constructed to ensure that electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
5. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
6. New and replacement sanitary sewage systems shall be designed to eliminate infiltration of flood waters into the systems and discharges from the system into flood waters;
7. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
8. In any portion of a watercourse which is altered or re-located the flood carrying capacity shall be maintained.

2. Specific Standards - In all Special Flood Hazard Areas AL 30, AE, and AH zones where base flood elevation data has been provided, the following standards shall apply in addition to the General Standards above:

1. Residential Construction - New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated above the base flood elevation.
2. Manufactured Homes. These shall be elevated so that the lowest floor is above the base flood elevation and placed on a permanent foundation which itself is securely anchored and to which the structure is securely anchored so that it will resist flotation, lateral movement, and hydrostatic and hydrodynamic pressures. Anchoring may include, but not be limited to, the use of over-the-top or frame ties.

3. Non-Residential Construction. New construction or substantial improvement of any commercial, industrial, or non-residential structure located in the A Zone shall have the lowest floor, including basement, elevated above the base flood elevation. Non-residential structures located in all A zones may be flood-proofed in lieu of being elevated provided that together with all attendant utilities and sanitary facilities the areas of the structure below the required elevation are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall review and/or develop structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with acceptable standards of practice for meeting the provisions of this subsection. Such certification shall be provided to the Zoning Enforcement Official.
 4. Floodways. Located within special flood hazard areas are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and have erosion potential, no encroachments, including fill, new construction, substantial improvements and other developments unless certification (with supporting technical data) by a registered professional engineer is provided demonstrating that encroachments shall not result in any (0.00 feet) increase in flood levels during occurrence of the base flood discharge. Fences located in the floodway must be aligned with the flow and be of an open design.
3. Standards for Streams Without Established Base Flood Elevations, Floodways, and/or Flood Mapping
1. The Zoning Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to Section 7.14 of the Andover Subdivision Regulations as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the Community's FIRM meet to standards of these regulations.
 2. In A zones where base flood elevations have been determined but before a floodway is designated, no new construction, substantial improvement, or other development (including fill) shall be permitted which will increase base flood elevations more than one foot at any point along the watercourse when all anticipated development is considered cumulatively with the proposed development.
 3. The Zoning Enforcement Official may request floodway data of an applicant for

watercourses without FEMA- published floodways. When such data is provided by an applicant or whenever such data is available from any other source (in response to the Town's request or not), the Town shall adopt a regulatory floodway based on the principal that the floodway must be able to convey the waters of the base flood without increasing the water surface elevation more than one foot at any point along the watercourse.

10.8 VARIANCE OF SECTION 10

The Zoning Board of Appeals shall hear and decide appeals and requests for variances from the requirements of these regulations. The Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other section of this ordinance and the items listed below. Upon consideration of these factors and the purposes of these Regulations, the ZBA may attach such conditions to the granting of variances as it deems necessary to further the purposes of these Regulations.

The Zoning Enforcement Official shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

1. General Considerations for Granting Variances

1. the danger that materials may be swept onto other lands to the injury of others;
2. the danger to life and property due to flooding or erosion damage;
3. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. the importance of the services provided by the proposed facility to the community;
5. the necessity of the facility to waterfront location, in the case of a functionally dependent facility;
6. the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
7. the compatibility of the proposed use with existing and anticipated development;
8. the relationship of the proposed use to the Comprehensive Plan of Development and floodplain management program for that area;
9. the safety of access to the property in times of flood for ordinary and emergency vehicles;
10. the expected heights, velocity, duration, rate and rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site.
11. the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems and streets and bridges; and

12. potential for pollution of waters or contamination of soils.
2. Floodway Prohibition. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
3. Specific Variance Situations
 1. Historic Structures. Variances may be issued for the reconstruction or restoration of structures on the National Register of Historic Places or the State Inventory of Historic Places without regard to the procedures set forth in the remainder of this section.

No renovations or alterations may be made to an historical structure without due consideration and effort to incorporate design concepts which, while preserving the historical character of the building, will also serve to reduce the potential for future flood damage and threat to human life and property.
 2. Functionally Dependent Uses. Variances may be issued for new construction and substantial improvement and other development necessary for the conduct of a functionally dependent use provided the structure or other development is protected by methods that minimize flood damage, creates no additional threat to public safety and meets the requirements of Section 10.8.4, Criteria for Variances.
4. Criteria for Variances. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and in the instance of a historical building, a determination that the variance is the minimum necessary as not to destroy the historic character and result in the loss of the historic designation of the building. In addition, variances shall only be issued upon:
 1. a showing of good sufficient cause.
 2. a determination that failure to grant the variance would result in exceptional hardship.
 3. a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create a nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or Regulations.
 4. only hardships which are based on unusual physical characteristics of the property in question, characteristics which are not shared by adjacent parcels, shall qualify to meet subsection 2 above. Claims of hardship based on the structure, on economic or on personal circumstances are not sufficient cause for the granting of a variance under these Regulations.