

# **Dalton NH Zoning Ordinance-Draft 12/19/19**

## **ARTICLE I**

### **Preamble**

These are the key principles for the future development of Dalton, as spelled out in the Master Plan (2011):

- Dalton is a rural, residential community and should remain so in the future.
- Dalton's essential rural character and quality of life are defined by the town's natural environment (rivers, forests, fields and ridges). Future development should be consistent with and seek to protect Dalton's natural environment.
- Dalton is largely a community of single-family homes and this should be the core of our future development pattern.
- Dalton should continue to encourage forestry, agriculture and recreation/tourist-related activities and businesses. Home-based cottage industries are part of Dalton's heritage and should continue to be encouraged\*.
- Commercial and industrial development may be good for the town, in order to diversify the tax base and reduce taxes on homeowners. However, to protect Dalton's character, the town should identify specific, limited areas for future commercial or industrial development, so that the vast majority of the town remains rural.
- Dalton's town center – the municipal building, town hall, fire station, church and surrounding area – has the potential to become more active and vibrant. It may be appropriate to encourage the development of businesses which preserve and enhance Dalton's New England small town character.
- Dalton property owners must be able to count on full protection of their property rights. Any future land use regulations must fully respect and protect how Dalton's residents and property owners are currently using their land, subject to health and safety considerations.

\*Our community is comprised of independent, self-reliant, capable and entrepreneurial people. Many of us wish to make our living on our property. To support this feature of our community, the town should continue to allow the traditional "cottage businesses" and similar activities in the rural/residential area, with appropriate limitations to preserve our rural character. These "low impact" businesses and activities are part of the rural/residential community the town's people wish to preserve. They can include businesses such as: auto repair, convenience store, agriculture, forestry, welding, hospitality businesses (inns, bed and breakfasts), day care, home-based education and instruction, arts and crafts businesses and in-home professional activities (accounting, technical, etc.).

## **ARTICLE II**

### PURPOSE

In accordance with the provisions of NH RSA 674:16, this Ordinance is designed to guide and protect the development of Dalton in a manner consistent with the wishes of its citizens and in accordance with the Master Plan. The town is described by two districts, **Rural Residential and Floodplain.**

The provisions of these ordinances are intended to regulate the use of land for the purpose of protecting the public health, safety, convenience and general well-being of the residents of Dalton. These ordinances are adopted in order to implement the Master Plan and other policies designed to promote the orderly growth of the Town of Dalton. Among other purposes, these ordinances are specifically adopted to:

- Ensure Life Safety Standards of the state of NH are maintained
- Preserve Air and Water Quality
- Protect Life and Property from Flooding and other Natural Hazards
- Conserve Open Space and Agricultural Resources
- Protect Natural and Scenic Resources from Degradation
- Provide for Recreational Needs
- Preserve Historic Sites and Structures
- Ensure that Development is Commensurate with the Character and Physical Limitations of the Land

NOTE: THIS ZONING ORDINANCE REFERENCES APPLICABLE NH STATE REVISED STATUTES ANNOTATED (RSA) BUT SHOULD NOT BE CONSIDERED A COMPLETE LIST OF RELEVANT STATE OR FEDERAL REGULATIONS. IT IS ASSUMED THAT ANY PERSON OR COMPANY DEVELOPING PROPERTY IN DALTON WILL MAKE THEMSELVES KNOWLEDGEABLE ABOUT, AND WILL ASSUME RESPONSIBILITY FOR AND COMPLIANCE WITH, ALL SPECIFIC STATE OR FEDERAL REGULATIONS WHICH APPLY TO THEIR PARTICULAR DEVELOPMENT.

## **ARTICLE III**

### SECTION 1. EXAMPLES OF, BUT NOT LIMITED TO, USES WHICH DO NOT REQUIRE A PERMIT (NOT AN EXHAUSTIVE LIST)

- A. Shed/outbuilding less than 120ft<sup>2</sup> with no poured concrete foundation
- B. Decks
- C. Fences 8ft tall or less

- D. House/outbuilding exterior repairs (i.e. re-roofing, re-siding, paint, window replacement)
- E. House/outbuilding interior renovations
- F. Driveway grading or paving
- G. Temporary carport, portable shelter or “hoop house” greenhouse
- H. Landscaping
- I. Home-based Business, defined as follows:
  1. The business will clearly be secondary to the use of the property as a residence.
  2. The business must be carried on by an occupant of the dwelling, usually the owner or a member of the occupant’s family.
  3. The business shall not substantially alter the outside appearance of the property.
  4. No objectionable effects result from a Home-Based Business, such as, but not limited to, excessive noise, traffic, dust.

NOTE: All of the above examples assume the necessary property line setbacks are maintained and no negative impacts will be experienced by abutting properties (such as excessive runoff or erosion)

**SECTION 2. EXAMPLES OF USES REQUIRING A PERMIT FROM THE PLANNING BOARD**

- A. Residential Garage/Barn/Outbuilding/Greenhouse construction (greater than 120Ft<sup>2</sup> and/or on a foundation)
- B. Single home construction (including Mobile Home placement)
- C. House moving (including re-siting of Mobile Home)
- D. Enlargement of the footprint of existing buildings
- E. Change of Use of a building (i.e. residential garage will be converted to a for-profit woodworking shop)

**SECTION 3. PERMITTED USES BY SPECIAL EXCEPTION**

The following additional uses may be permitted by the Zoning Board of Appeals (see Art. VII)

- A. **Small Business/Cottage Industry**, defined as follows:
  1. Business limited to 25 employees or fewer.
  2. No objectionable effects shall result from the business, such as, but not limited to traffic, dust and noise outside the hours of 7am-8pm
  3. A Small Business does not create a big business atmosphere.
  4. A Small Business may include but not be restricted to, a woodworking shop, machine shop, assembly shop, office work, research and development, warehousing.

**B. Accessory Dwelling Unit (ADU)**

See Article VIII for definitions and guidelines of ADUs.

**Conditions may be attached by the Zoning Board of Appeals consistent with the provisions of Article VII Section IC.**

**Any use not specifically described above in Sections 1, 2 or 3 will require review by the Zoning Board of Appeals.**

**NOTE:**

No business, commercial or industrial venture or use shall be permitted which can reasonably be foreseen to cause any undue hazard to health, safety or property values or which is offensive to the public because of noise, vibration, excessive traffic, undue effect on water quality, unsanitary conditions, noxious odor, smoke or other similar reason.

**SECTION 4 APPLICABILITY**

Every use now being made of land, structures or buildings in the Town of Dalton, on the effective date of this Ordinance, may be continued and such use is not affected by the provisions of Article IV.

**SECTION 5 DEFINITIONS**

- Abutter:** The owner of record of a parcel of land that is within 200 feet at any point of the parcel under consideration.
- Barn:** A building used exclusively for sheltering of livestock and/or farm equipment, storage of grain, hay, and other farm related products.
- Building:** Shall mean any combination of materials, whether portable, moveable or fixed, having a roof and enclosed with exterior walls, built to form a structure for shelter.
- Building Site:** Shall mean that portion of a lot, tract or parcel of land upon which a single building is placed or is to be placed.
- Driveway:** A private access from a public way to a lot and/or building.
- Dwelling:** Shall mean any building used for or intended to be used for living, sleeping, cooking, eating and having sanitation interior or exterior. This excludes recreation vehicles.
- Dwelling Unit:** Shall mean any room or rooms used for or intended to be used for living, sleeping, cooking, eating and having sanitation interior or exterior. This excludes recreation vehicles.
- Frontage:** That portion of a lot bordering on a highway, street, or right-of-way.

Height: No dwelling or man-made structure on any lot shall exceed 35 feet or 2.5 stories. The height of the structure is measured from the lowest natural elevation point of the building site to the highest elevation point of the structure.

Exceptions: this restriction shall not apply to churches, farm buildings and chimneys.

Setback:

The approved distance from property lines for the construction of any structure, dwelling, dwelling unit, storage unit, tent whether permanent or temporary.

Storage Unit:

Shall mean a non-livable unit with no septic or sewage hook up, made of various materials, with or without wheels used for the storage of various items.

Structure:

Anything constructed or erected, including, but not limited to, buildings, mobile homes, communication towers, wind mills, sheds and storage bins or tanks, decks, portable car ports, swimming pools, tennis courts and parking lots.

Temporary:

Not to be permanent, lasting no more than 120 days.

## **ARTICLE IV**

### **SECTION 1. LOT SIZE.**

- A. Each single-family dwelling (full time residence, camp or vacation home) shall be placed on a lot of 2 acres or more in area.
- B. Manufactured homes shall be considered as single-family dwellings and shall conform to the same lot size.
- C. Only one dwelling per lot shall be permitted unless an ADU has been approved.

**SECTION 2. SETBACKS.** Primary structures shall be 50ft back from the edge of the right of way, 20ft from the side property lines and 30ft from the rear property line.

**SECTION 3. FRONTAGE.** Any lot shall have a minimum frontage of 200 feet on a Class V or better road.

## **ARTICLE V**

### **GENERAL REGULATIONS**

**SECTION 1. CLUSTER, CONDOMINIUM AND OTHER DEVELOPMENTS.** All multi-dwelling developments including trailer parks are subject to all applicable provisions under this Ordinance, including all area regulations. The developer (original or subsequent) or the homeowner's association of any cluster development shall have the responsibility to develop, maintain and repair all utilities, streets, recreational areas and

amenities until and unless the Town has properly received and accepted the responsibility.

SECTION 2. HEIGHT. No structure erected on any lot shall exceed 35 feet or 2 ½ stories in height (measured from the horizontal grade line), whichever is less; except that this restriction shall not apply to farm buildings.

SECTION 3. POLLUTION. No structure or any portion thereof, including any septic system, leach field or paved area shall be located within 75 feet of a year-round stream or body of water. The 75 feet shall be measured from the near bank of such stream or body of water. In addition, any such area where there is the possibility of any petrochemical or pollutant runoff, shall be provided with adequate safeguards to ensure that no such runoff will enter said streams or bodies of water. Such safeguards may be, but are not limited to, holding tanks or filters approved for such use.

SECTION 4. SITE CONSIDERATIONS. In the interest of public health, safety, and welfare, housing density may have to be decreased, the siting changed, or construction disapproved if:

- A. Soil conditions of floodplain, wet soil, seasonal wet soil, or of other unstable nature are not compatible with the intended use of the land.
- B. The slope of the site when cleared and graded may alter the natural drainage or will promote flooding of neighboring land.
- C. Septic system effluent or other pollutants may leach through non-filtering soil into a known aquifer, water supply or stream.

SECTION 5. SHORELAND PROTECTION. The Town adopts the provisions of the “Shoreland Water Quality Protection Act”, RSA 483-B. This act applies to every permitting decision made with respect to a project within the protected shoreland.

SECTION 6. BUILDING CODE. The Town adopts the provisions of the New Hampshire Building Code (NH RSA 155A).

SECTION 7. FLOODPLAIN DEVELOPMENT ORDINANCE. Certain parts of Dalton are subject to periodic flooding. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968. The town of Dalton is a participating community in the National Flood Insurance Program and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended, 42 USC 4001 et seq.) as detailed in this Floodplain Management Ordinance. This Ordinance establishes a permit system and review procedure for development activities in the designated flood hazard areas of the Town of Dalton, New Hampshire.

This ordinance, adopted pursuant to the authority of RSA 674:16, shall be known as the Dalton Floodplain Development Ordinance and shall be considered part of the Zoning Ordinance for the Town of Dalton for purposes of administration and appeals under state

law. If any provision of this ordinance differs or appears to conflict with any provision of the Zoning Ordinance or other ordinance or regulation, the provision imposing the greater restriction or more stringent standard shall be controlling.

*The 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, NH" dated February 20, 2013 (or more current map), together with the associated Flood Insurance Rate Maps dated February 20, 2013 (or more current map), which are declared to be part of this ordinance and are hereby incorporated by reference*

**See Appendix-Floodplain Regulations for complete information.**

## **ARTICLE VI**

### **ADMINISTRATION AND ENFORCEMENT**

#### **SECTION 1. APPROVALS.**

- A. New construction: To assure compliance with the regulations of Article IV of this ordinance, it is required that a site plan with contours and elevations be submitted and an approval in writing be secured from the Planning Board plus an approval review fee (based on administrative cost) to be paid before any construction is commenced.
- B. Existing construction: Because it was sited prior to the date of this ordinance, a building may already exceed the limitations of Article IV. To assure that these limitations are not further infringed, it is required that any proposed change which would affect setback or height limitations or any change in usage be approved as in A. above before construction is begun.
- C. No approval shall be required for any refurbishing, repairing, renovation or rebuilding of any existing structure which does not, and will not, infringe on the limitations of setback or height as noted in this Ordinance.
- D. Variance: Any application for a building permit, not meeting the provisions of Article IV must, apply for a variance from the Zoning Board of Appeals before submitting the application to the Planning Board for approval.

#### **SECTION 2. ENFORCEMENT:**

This Ordinance shall be administered and enforced by the Planning Board or their designee.

- A. The Planning Board or their designee shall administer this Ordinance literally and shall not have the power to permit any use of land or buildings which is not in conformance with this ordinance. The Zoning Board of Appeals as noted in ARTICLE VII must approve special exceptions and any variances from the terms of this Zoning Ordinance.

B. If any violation of this ordinance occurs, the Dalton Select Board shall institute in the name of the Town of Dalton, any appropriate action, injunction or other proceeding to prevent, restrain, correct or abate such violation.

**SECTION 3 PENALTIES:**

Any person who violates any provision of this Ordinance shall be subject to a fine of not more than \$100.00 for each day such violation may exist.

**ARTICLE VII**

**Zoning Board of Appeals**

**SECTION 1-BOARD OF APPEALS.**

A five-person Board of Appeals and up to 5 alternate members will be appointed by the Dalton Select Board as provided by NH RSA 673:3 and 674:29, who may upon application:

- A. Hear and decide appeals if it is alleged there is error in any order, requirement decision, or determination made by an administrative official in the enforcement thereof or any ordinance adopted pursuant thereto; and
- B. Authorize upon appeal in specific cases such variance from the terms of the zoning ordinance as will not be contrary to the public interest, if, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done.
- C. May make a special exception, subject to appropriate conditions and safeguards as determined by it in NH 674:33. In acting on an application for a special exception, the Board shall take into consideration:
  - (1) The proposed use shall be one permitted by this Ordinance as a special exception.
  - (2) The specific site is an appropriate location and of adequate size for such use.
  - (3) This use will not adversely affect the adjacent properties
  - (4) The proposed use will be in keeping with the stated purpose of this Ordinance.



## ARTICLE VIII

### Accessory Dwelling Unit (ADU)

#### SECTION 1 - PURPOSE

In accordance with NH RSA 674 71-73, to expand the mix of affordable housing opportunities throughout the Town by permitting the creation of secondary dwelling residences as an accessory use to existing single-family detached dwellings while maintaining the visual and functional character of single-family residential neighborhoods for the following reasons:

#### SECTION 2 – DEFINITIONS

**Accessory Dwelling Unit (ADU):** A subordinate dwelling residence with complete and independent living facilities on the same lot attached to or detached from an existing single-family dwelling is allowable by a Special Exception to the Zoning Ordinance. The town shall not restrict the area of the ADU to less than 750 square feet as per NH RSA 674:72 VII. Every accessory dwelling residence shall be deemed a residence of workforce housing for purposes of satisfying the town's obligation under RSA 674:59.

**Rental Occupancy:** Non-ownership including long-term lease ownership.

#### SECTION 3 – DESIGNATION

One Accessory Dwelling Unit (ADU) shall be permitted only on parcels which meet the following conditions:

- A. Is a legally created lot of record;
- B. Contains one existing single-family detached dwelling which is a conforming use;
- C. Contains no other accessory dwelling unit.

#### SECTION 4 – PROCEDURE

Before any building permit is issued for an accessory dwelling unit (ADU), the property owner must obtain approval from the Dalton Zoning Board of Appeals for a Special Exception. The ADU shall meet the standards contained in Section 5 below.

#### SECTION 5 - STANDARDS

A. New constructions for an accessory dwelling unit shall comply with all the development standards for a single-family detached dwelling including, but not limited to, setbacks and height limits and shall not increase any nonconforming aspect of any existing structure unless otherwise addressed by this article.

B. The following standards shall also apply:

1. The maximum size of an ADU shall not exceed 1000 sq. ft. area.
2. Both the ADU and the primary residence shall comply with the state Building Code and Fire Code regulations for constructions minimum living space, fire exits, and smoke alarms.
3. An interior door shall be provided between the principal dwelling unit and accessory dwelling unit. There is no requirement for said interior door to remain unlocked.
4. There shall be no more than two bedrooms in the accessory dwelling unit.
5. The applicant shall make adequate provisions for water supply and sewage disposal in accordance with NH RSA 485-A:38, which says requirements for septic loading shall be met. However, separate utility connections to the ADU is not required by the town.
6. Only one accessory dwelling unit shall be permitted per primary residence.
7. Sale or ownership of such a unit separate from the primary residence is prohibited.
8. The occupant of either the accessory dwelling unit or the primary residence shall be the owner of the entire property. Only one unit shall be used for rental occupancy.
9. No more than four persons shall occupy an accessory dwelling unit.

## **ARTICLE IX**

### **AMENDMENTS, SAVING CLAUSE & EFFECTIVE DATE**

1. This Ordinance may be amended with the provisions of NH RSA 674 as it is or may be amended.
2. The invalidity of any provision of this ordinance shall not affect the validity of any other provision.
3. This ordinance shall become effective immediately upon its passage.

## APPENDIX-FLOODPLAIN REGULATIONS

### **Item I. Definition of Terms**

The following definitions shall apply only to this Floodplain Development Ordinance and shall not be affected by the provisions of any other ordinance of the Town of Dalton.

“Area of special flood hazard” is the land in the floodplain within the Town of Dalton subject to a one-percent or greater possibility of flooding in any given year. The area is designated - on the FIRM as Zone(s) A, AO, AH, A1-30 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” - see “Structure”

“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 operation or storage of equipment or materials.

“FEMA” means the Federal Emergency Management Agency.

“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 or runoff of surface waters from any source.

“Flood Insurance Rate Map” (FIRM) means an 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 Dalton.

“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.

“Floodplain” or “Flood-prone area” means any land area susceptible to being inundated by water from any source. (see definition of “Flooding”).

“Floodproofing” means any combination of structural and non-structural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures and their contents

“Floodway” - see “Regulatory Floodway”

“Functionally 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 and port facilities that are necessary for the loading/unloading of cargo or passengers, and ship building/repair facilities but does not include long-term storage or related manufacturing facilities.

“Highest adjacent grade”. Means the highest natural elevation of the ground surface prior to construction adjacent to the proposed walls of a structure.

“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:

1) By an approved state program as determined by the Secretary of the Interior, or

2) Directly by the Secretary of the Interior in states without approved programs.

“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.

“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 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 Map are referenced.

“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” - see “base flood”.

“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 towable by a light duty truck; and (d) designed primarily not for use as a permanent dwelling but as a 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 increasing the water surface elevation more than a designated height. “Special flood hazard area” (See - “Area of Special Flood Hazard”)

“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.

“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 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.

“Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its undamaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

“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: (1) the appraised value prior to the start of the initial repair or improvement, or (2) 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, which 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 Item V or Item VIII(2)(b) of this ordinance is presumed to be in violation until such time as that documentation is provided.

"Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988 or other datum (as specified) of floods of various magnitudes and frequencies in the floodplains.

#### **Item II.**

All proposed development in any special flood hazard areas shall require a permit.

#### **Item III.**

The planning board 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 shall:

- (1) 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,
- (2) Be constructed with materials resistant to flood damage,
- (3) Be constructed by methods and practices that minimize flood damages,
- (4) 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.

#### **Item IV.**

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 planning board with assurance that these systems will be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and onsite waste disposal systems will be located to avoid impairment to them or contamination from them during periods of flooding.

#### **Item V.**

For all new or substantially improved structures located in special flood hazard areas, the applicant shall furnish the following information to the planning board:

- (1) The as-built elevation (in relation to NGVD) 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) to which the structure was floodproofed.
- (3) Any certification of floodproofing.

The planning board shall maintain for public inspection and shall furnish such information upon request.

**Item VI.**

The Dalton Planning Board 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.

**Item VII.**

1. 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 Planning Board and Zoning Board of Appeals, 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 Planning Board, including notice of all scheduled hearings before the Wetlands Bureau.
2. The applicant shall submit to the Planning Board certification provided by a professional engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.
3. The Planning Board 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.”

**Item VIII.**

1. In unnumbered A zones the planning board shall obtain, review, and reasonably utilize any 100-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).



2. The planning board's 100-year flood elevation determination will be used as criteria for requiring in zone A that:
  - A. All new construction or substantial improvement of residential structures have the lowest floor (including basement) elevated to or above the 100-year flood elevation;
  - B. 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 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 method of construction are in accordance with accepted standards of practice for meeting the provisions of this section;
  - C. Recreational vehicles placed on sites within Zone A shall either (i) be on the site for fewer than 180 days; (ii) be fully licensed and ready for highway use, or (iii) meet all standards of Section 60.3 (b) (1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for "manufactured homes" in Paragraph (c) (6) of Section 60.3.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.
  - D. 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. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces;
  - E. 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: (1) the enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage; (2) the area is not a basement; and (3) 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.

**Item IX Variances and Appeals:**

1. Any order, requirement, decision or determination of the Planning Board made under this ordinance may be appealed to the Zoning Board of Appeals as set forth in RSA 676:5.
2. If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, 1(b), the applicant shall have the burden of showing in addition to the usual variance standards under state law:
  - (a) That the variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense.
  - (b) that 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) That the variance is necessary, considering the flood hazard, to afford relief.
3. The Zoning Board of Appeals 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.