

PURPOSE

This ordinance, adopted in the year 1972, is designed to promote the health, safety and general welfare of the inhabitants of Lisbon and to protect the value of property, to prevent overcrowding of land, to provide adequate air and light, and to facilitate the adequate provision of the other public requirements.

The environment of the Town of Lisbon is of such diversified nature that residential, agricultural, commercial, industrial, recreational, and conservation-based developments are involved. This ordinance therefore is designed to protect, to preserve and to encourage these many developments.

ARTICLE I

DEFINITIONS: For the purpose of this ordinance, the present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular. The word shall is mandatory, the word may is permissive, the words used or occupied include the words intended, designed, or arranged to be used or occupied, and certain terms or words shall be interpreted as follows:

- 1.01 Building:** Any structure for the shelter or enclosure of persons, animals or property of any kind.
- 1.02 Dwelling:** A structure designed for residential occupancy.
- 1.03 Frontage:** The Length of the Lot bordering on an approved public or improved private road that meets at least minimum state and/or local standards. (March 1985)
- 1.04 Height:** The vertical distance between the mean finished grade at the structure and the highest point of the roof of the structure.
- 1.05 Junk Yard:** Any place of storage or deposit, whether in connection with another business or not, where two (2) or more unregistered, old or second-hand motor vehicles, not longer intended or in condition for legal use of the public highway are held.
- 1.06 Lot:** A parcel of land of at least sufficient size to meet the requirements of this ordinance.
- 1.07 Lot Area:** The area in square feet enclosed by the lot lines of a single lot.
- 1.08 Mobile Home:** A detached residential unit designed for transportation after fabrication on its own wheels or other trailer and which will be used as a dwelling. A travel trailer is not to be considered a mobile home.
- 1.09 Nonconforming Structure:** A structure which is lawfully maintained at the time this ordinance becomes effective but which does not conform with the regulations for the district in which it is located.

- 1.10 Nonconforming Use:** A use which lawfully exists at the time this ordinance becomes effective but which does not conform with the regulations for the district in which it is located.
- 1.11 Parking Space:** An off-street space whether inside or outside of a structure, to be used primarily as a parking area for a vehicle.
- 1.12 Service Stations:** Buildings where gasoline, oil, grease, batteries, tires, and automobile accessories are sold at retail; servicing and repairs are made; and cold drinks, candy, tobacco and similar goods may be sold.
- 1.13 Setback:** The distance between a lot line and the closest point of the nearest building.
- 1.14 Setback-Front:** A setback with a lot line which coincides with a line of a street or public right-of-way.
- 1.15 Travel Trailer:** A vehicular portable structure designed to be used as a temporary dwelling whose floor area is not greater than 168 square feet.
- 1.16 Variance:** A variance is a relaxation of the terms of this ordinance.
- 1.17 Use by Right:** A use which may expand without the approval of the Board of Adjustment and which conforms to the ordinance. (March 1984)
- 1.18 Appurtenant Uses:** Any normal residential uses such as but not limited to garages, utility sheds, and swimming pools. (March 1988)
- 1.19 Personal/Commercial Wireless Communication Facilities:** Shall mean any facility including the antenna, equipment shelter, fall zone, tower and any other facility accessory that provides commercial mobile wireless service, unlicensed wireless services and common carrier wireless exchange services, as described by Section 332 of the Telecommunications Act of 1996. (March 2002)

ARTICLE II

PRESENT USES

- 2.01** Every use being made of land, dwellings or buildings in the Town of Lisbon, on the effective date of this ordinance may be continued.
- 2.02** A nonconforming use may be expanded only upon approval of the Board of Adjustment which shall first find such expansion or extension does not create a greater nuisance or detriment.
- 2.03** Any nonconforming use, which has been discontinued for a period of the two (2) years shall not thereafter be resumed.
- 2.04** A nonconforming use, which has been damaged or destroyed by fire, accident, or other causes may be repaired or reconstructed, provided such work is undertaken and completed within one (1) year after such damage or destruction unless extended by special exception being granted by the Lisbon Zoning Board of Adjustment.

ARTICLE III

FUTURE USE

3.01 Boundaries, Zoning Map, and District Definitions: The locations and boundaries of the zoning districts are shown on “The Zoning Map of the Town of Lisbon, NH” which is a part of this ordinance and are defined as follows:

3.01.01 District A: All property North of the railroad crossing adjacent to Clark’s Garage on existing 302 bounded on one side by the Ammonoosuc River and on the other side by a parallel line 1250 feet from Route 302 as indicated on Overlay No. 1 to the Official Zoning Map of the Town of Lisbon, NH.

3.01.02 District B: All property south of the railroad crossing adjacent to Clark’s Garage on existing Route 302 bounded on one side by the Ammonoosuc River and on the other side by the top of the terrace bank formed by the Ammonoosuc River as indicated on Overlay No. 1 of the Official Zoning Map of the Town of Lisbon, NH.

3.01.03 District C: All property not included in District B serviced by Public Water as indicated on Overlay No. 1 to the Official Zoning Map of the Town of Lisbon, NH.

3.01.04 District D: All other property not included in Districts A, B, or C as indicated on Overlay No. 1 to the Official Zoning Map of the Town of Lisbon, NH.

3.01.05 Special Districts

3.01.05.1 Conservation Districts: All property surrounding Pearl Lake and defined as the Pearl Lake Watershed as indicated on Overlay No. 2 to the Official Zoning Map of the Town of Lisbon, NH.

3.01.05.2 Flood Hazard Conservation District: All property shown on Overlay No. 1 to the Official Zoning Map of the Town of Lisbon, NH, along the Ammonoosuc River Titled “Flood Hazard Area”.

3.01.05.3 Flood Hazard Areas: All lands designated as flood hazard areas by the Federal Emergency Management Agency in its “Flood Insurance Study for the Town of Lisbon, NH” together with the associated Flood Insurance Rate Maps and Flood Boundary and Floodway maps of the Town of Lisbon, dated August 19, 1986 which are declared to be a part of this ordinance. (March 1986)

3.01.05.4 Special Industrial District A: All property located along Mt. Eustis Road from the Littleton/Lisbon town line to Streeter Pond Road located within 3000’ south of the high water mark of the south bank of the Ammonoosuc River. Said district shall not include any

property fronting on Streeter Pond Road. Minimum lot size: 200,000 sq. ft.

Permitted Uses:

Factory retail establishments,
Mail order business,
Manufacturing,
Office building.

Allowed by Special Exception:

Open storage of building materials for the individual's use on site,
Open storage of timber and lumber for individual's use on site,
Sawmills and lumber treatment facilities,
Warehouse,
Wholesale,
Commercial removal of loam, clay, sand, gravel and ledges,
Day care services,
Growth and harvesting of forest products (orchards, Etc.)
Planned unit development,
Raising agricultural crops (including the raising of farm animals or livestock where the use is incidental to the primary use of the property),
Storage of volatile fuels for resale,
Temporary dumping and filing as a means for eventual use by a conforming and permitted use. (March 2002)

ARTICLE IV

SPECIAL DISTRICTS

4.01 Land Use Limitations: Where uses are planned on land of such character as shown on the overlays referred to in Article III, Paragraph 3.01.05 as to be detrimental to the health and welfare of the general public due to inherent natural use limitations, plans shall be submitted in sufficient detail to enable the Board of Adjustment to consider such usage as a Special Exception use as covered by the provisions of Article VIII as well as the objectives outlined below. In reviewing proposed uses in Hazardous Flood Areas, or in wet lands where water tables are at or near ground level for extended periods of time or on slopes in excess of 25%, the following shall be given due consideration: Pollution of ground water, creation of erosion or sediment producing areas, diversion of water.

4.02.01 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 Lisbon.

Area of Shallow Flooding means a designated AO, AH, or VO zone on the Flood Insurance Rate Map (FIRM) with a one-percent or greater annual possibility of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet-flow.

Area of Special Flood Hazard is the land in the floodplain within the Town of Lisbon subject to a one-percent or greater possibility of flooding in any given year. The area is designated as zone A on the FHBM and is designated on the FIRM as zones A, AO, AH, A1-30, AE, A99, VO, or V1-30, VE or V.

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 sub-grade on all sides.

Building – see **Structure**.

Breakaway Wall means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation.

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.

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 run-off of surface waters from any source.

Flood Elevation Study means an examination, evaluation, and determination of flood hazards and if appropriate, corresponding water

surface elevations, or an examination and determination of mudslide or flood – related erosion hazards.

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 Lisbon.

Flood Insurance Study – see **Flood Elevation Study**.

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

Flood proofing means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improve 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 next to the proposed wall 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; 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 days.

Mean sea level means the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a communities Flood Insurance Rate Map are referenced.

100-year flood – see **base flood**

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. These areas are designated as floodways on the Flood Boundary and Floodway Map.

Special flood hazard area means an area having flood, mudslide, and/or flood-related erosion hazards, and shown on an FHBM or FIRM as zone A, AO, A1-30, AE, A99, AH, VO, V1-30, VE, V, M, or E. (See – **Area of Special Flood Hazard**)

Structure means for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, which 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 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.

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 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 the 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**.

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

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 temporary living quarters for recreational, camping, travel or seasonal use. (March 1994)

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

4.02.03 The Board of Selectmen (or their designate) 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:

- (i) be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy,
- (ii) be constructed with materials resistant to flood damage,
- (iii) be constructed by methods and practices that minimize flood damages,
- (iv) 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.

4.02.04 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 Board of Selectmen (or their designate) 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 on-site waste disposal systems will be located to avoid impairment to them or contamination from them during periods of flooding.

4.02.05 For all new substantially improved structures located in Zones A, A1-30, AE, or AH, the applicant shall furnish the following information to the Board of Selectmen (or their designate):

- (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 flood-proofed, the as-built elevation (in relation to NGVD) to which the structure was flood-proofed.
- (c) Any certification of flood proofing.

The Board of Selectmen (or their designate) shall maintain for public inspection, and shall furnish such information upon request.

4.02.06 The Board of Selectmen (or their designate) shall not grant a building permit until the applicant certifies that all necessary permits have been received from those government 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.

4.02.07 Additional wetlands requirements:

1. In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the Wetlands Board of the New Hampshire Environmental Services Department and submit copies of such notification to the Board of Selectmen (or their designate), in addition to the copies required by the RSA 483-A:1-b. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Board of Selectmen (or their designate), including notice of all scheduled hearings before the Wetlands Board.
2. The applicant shall submit to the Board of Selectmen (or their designate), certification provided by a registered professional engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.
3. The Board of Selectmen (or their designate) 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.”
4. Along watercourses that have not had a Regulatory Floodway designated or determined by federal, state, or other source; no new construction, substantial improvements, or other development (including fill) shall be permitted within zone A1-30 and 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 in the community.

4.02.08 Flood elevation determination:

1. In special flood hazard areas the Board of Selectmen (or their designate) shall determine the 100 year flood elevation in the following order of precedence according to the date available:
 - a. In zone AE refer to the elevation date provided in the community's Flood Insurance Study and accompanying FIRM or FHBM.
 - b. In unnumbered A zones the Board of Selectmen (or their designate) 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).
 - c. In zone A0 the flood elevation is determined by adding the elevation of the highest adjacent grade to the depth number specified on the FIRM or if no depth number specified on the FIRM at least 2 feet.
2. The Board of Selectmen's (or their designate) 100 year flood elevation determination will be used as criteria for requiring in zones A and AE 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 flood proofed 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;
- c. 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 flotation, 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;
- d. 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 or vehicles, building access or storage; (2) the area is not a basement; (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.
- e. Proposed structures to be located on slopes in special flood hazard areas shall include adequate drainage paths to guide floodwaters around and away from the proposed structures.

4.02.09 Variances and Appeals:

1. Any order, requirement, decision or determination of the Board of Selectmen (or their designate) made under this ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.
2. 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:
 - (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 the minimum necessary, considering the flood hazard, to afford relief.
3. The Zoning Board of Adjustment shall notify the applicant in writing that (i) the issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to amount as high as \$25 for \$100 of insurance coverage and (ii) 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 (i) maintain a record of all variance actions, including their justification for their issuance, and (ii) report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

4.02.10 Recreational vehicles placed on sites in Zones A1-30, AH, and AE shall either (i) be on the site fewer than 180 consecutive 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. (March 1994)