

January 23, 2019

TO: Town Council

FROM: Gary Crosby, Town Planner

RE: Zoning Ordinance amendment

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Please put this item on the Portsmouth Town Council agenda for the January 28, 2019 meeting under New Business.

**Title:** Proposed Zoning Ordinance Amendment Related to the Measurement of Building Height in Special Flood Hazard Areas.

**Council Action Requested:** A motion authorizing advertisement for a Public Hearing to be held on February 25th concerning amendment of the Portsmouth Zoning Ordinance.

**Backup:** See attached Memo to Town Council.

January 23, 2019

TO: Town Council

FROM: Gary Crosby, Town Planner

RE: Zoning Ordinance Amendments – Building Height Regulations in Flood Zones

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Attached please find proposed zoning ordinance amendments prompted by a change in the state definition of building height as it is applied in Special Flood Hazard Areas. Legislation changing the definition was passed in the House and Senate on June 23, 2018, the last day of the 2018 legislative session, and signed by the governor to take effect on March 1, 2019.

Building height in Rhode Island has for years been measured from the average natural grade of the site. In Portsmouth this maximum height is set by the zoning ordinance at 35 feet for all zoning districts and 40 feet for Planned Unit Developments (PUDs). The change to state law passed last year requires that building height in Special Flood Hazard Areas be measured from the base flood elevation as shown on the FEMA Flood Insurance Rate Maps (FIRMs) rather than from the ground itself. Further, the legislation stipulates that CRMC Design Elevation Maps may be used in place of FEMA FIRM Maps at the builder's discretion if they represent an even higher flood elevation than the FEMA maps. This is a significant change that will allow buildings of much greater height and bulk in our coastal flood zones. For example, if one is proposing to build on a lot where the average grade is 6 feet above sea level and the base flood elevation as shown on the FIRMS is 18 feet, the measurement of the total building height (35 feet) would not start until the structure is 12 feet off the ground. Allowable overall height of the structure itself would be 47 feet rather than the 35 feet per our ordinance. In both cases, the lowest 12 feet of the structure could be used solely for parking of vehicles, building access or limited storage in an area other than a basement, but the overall effect of the change in the law will be a building that is a full 12 feet higher above ground than currently allowed for this site. The site used here as an example is not atypical of much of our coastal flood zones.

The Planning Board will consider these amendments at their February 13, 2019 regular meeting and will have an advisory opinion for the Town Council ready for your February 25, 2019 meeting. Thank you for your consideration and I look forward to presenting this item to you at your next meeting.

Gary Crosby, Town Planner

PROPOSED AMENDMENTS TO THE PORTSMOUTH ZONING ORDINANCE

ARTICLE II - DEFINITIONS

Amend:

BUILDING HEIGHT - The vertical distance from the average natural grade of the ground adjoining said building to the top of the highest point of the roof or structure. The distance shall exclude spires, chimneys, flag poles, and the like.

To read:

BUILDING HEIGHT - For a vacant parcel of land, building height shall be measured from the average, existing-grade elevation where the foundation of the structure is proposed. For an existing structure, building height shall be measured from average grade taken from the outermost four (4) corners of the existing foundation.

For definition of Building Height in Special Flood Hazard Areas see Article III, Section F (13).

ARTICLE III – DIVISION INTO DISTRICTS

Amend Section F – Flood Hazard Areas, Paragraph 2(B):

B.) The Special Flood Hazard Areas are herein established as a floodplain overlay district. The District includes all special flood hazard areas within the Town of Portsmouth designated as Zone A, AE, V, or VE on the Newport County Flood Insurance Rate Map (FIRM) and Digital FIRM issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Newport County FIRM that are wholly or partially within the Town of Portsmouth are panel numbers 0011H, 0012H, 0013H, 0014H, 0018H, 0019H, 0038H, 0039H, 0076H, 0077H, 0079H, 0081H, 0082H, 0083H, 0084H, 0091H, 0092H, 0094H, 0101H, 0103H, 0111H, 0113H, dated April 5, 2010. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Newport County Flood Insurance Study (FIS) report dated April 5, 2010.

The FIRM and FIS report and any revisions thereto are incorporated herein by reference and are on file with the Building Official of the Town of Portsmouth.

To read:

B.) The Special Flood Hazard Areas are herein established as a floodplain overlay district. The District includes all special flood hazard areas within the Town of Portsmouth designated as Zone A, AE, V, or VE on the Newport County Flood Insurance Rate Map (FIRM) and Digital FIRM issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Newport County FIRM that are wholly or partially within the Town of Portsmouth are panel numbers 0011J, 0012J, 0013J, 0014J, 0018J, 0019J, 0038J, 0039J, 0076J, 0077J, 0079J, 0081J, 0082J, 0083J, 0084J, 0091J, 0092H, 0094J, 0101J, 0103J, 0111J, 0113J, dated September 4, 2013. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Newport County Flood Insurance Study (FIS) report dated September 4, 2013. The FIRM and FIS report and any revisions thereto are incorporated herein by reference and are on file with the Building Official of the Town of Portsmouth.

Add to Section F – Flood Hazard Areas, Paragraph 13 – Definitions:

**BUILDING HEIGHT** - For any property or structure located in a Special Flood Hazard Area, as shown on the official FEMA Flood Insurance Rate Maps (FIRMs), building height shall be measured from base flood elevation (BFE), and where freeboard, as defined in this section, being utilized or proposed, such freeboard area, not to exceed five feet (5'), shall be excluded from the building height calculation; provided, however that the Rhode Island Coastal Resources Management Council (CRMC) design elevation maps may be used by an owner or applicant to establish a base flood elevation for a property that is higher than the official FEMA FIRMs.

The maximum height for buildings and structures erected in Special Flood Hazard Areas shall be in accordance with the general intensity regulation tables at Article IV, Section B and Article VIII, Section D (6a) of this ordinance minus the difference between the base flood elevation (BFE), however established, and the average existing grade.