ORDINANCE

AMENDING THE LAND USE ORDINANCE IN REGARDS TO FLOODPLAIN MANAGEMENT AND DEFINITIONS

CITY OF NASHUA

In the Year Two Thousand and Nine

The City of Nashua ordains that Chapter 190 "Land Use", of the Nashua Revised Ordinances, as amended, is hereby further amended as follows:

1. Amend Part 2 "Zoning Districts and Supplemental Use Regulations", Article VII "Floodplain Management", Section 190-61 "District delineation" by deleting the struck-through language and adding the new underlined language as follows:

   "§ 190-61. District delineation.

   The following regulations in this chapter 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 ~~City of Nashua~~ County of Hillsborough, N.H.," dated September 25, 2009 or as amended, together the with the associated Flood Insurance Rate Maps dated September 25, 2009 or as amended, ~~and Flood Boundary and Floodway Maps of the City dated July 3, 2002, and any amendments thereto,~~ which are declared to be a part of this chapter and are hereby incorporated by reference, and any subsequent revisions thereto."

2. Amend Part 2 "Zoning Districts and Supplemental Use Regulations", Article VII "Floodplain Management", Section 190-62 "Definition of Terms" by deleting the struck-through language and adding the new underlined language and new definitions in the appropriate alphabetical order as follows:

   "§ 190-62. 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 City of Nashua.

AREA OF SHALLOW FLOODING – 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 the velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD – The land in the floodplain within the City of Nashua subject to one percent or greater possibility of flooding in any given year. The area is designated as Zones A, AO, and AE on the Flood Insurance Rate Map.~~on the FHBM and is designated on the FIRM as Zones A, AH or A1-30.~~

DEVELOPMENT (FLOOD MANAGEMENT) – Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, ~~excavating,~~ excavation or drilling operations or storage of equipment or materials.

~~FLOOD BOUNDARY AND FLOODWAY MAP (FLOODWAY MAP) – The official map of the City of Nashua, on which FEMA has delineated the regulatory floodway. This map should not be used to determining the correct flood hazard zone or base flood elevation; the Flood Insurance Rate Map (FIRM) will be use to make determinations of flood hazard zoned and base flood elevations.~~

~~FLOOD ELEVATION STUDY – 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. For purposes of this article, the "Flood Elevation Study" means the document titled "Flood Insurance Study for the City of Nashua, New Hampshire," published by the Federal Emergency Management Agency and dated July 3, 2002, and an amendments thereto, together with the associate flood insurance rate maps, which document is hereby incorporated by reference and declared to be a part of this article.~~

FLOOD INSURANCE STUDY – ~~See "flood elevation study."~~ An examination, evaluation and determination of flood hazards and if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide or flood-related erosion hazards.

MANUFACTURED HOME – 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 consecutive days. This includes manufactured homes located in a manufactured home park or subdivision.

MANUFACTURED HOME PARK OR SUBDIVISION – A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

NEW CONSTRUCTION – For the purpose 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 improvement to such structures.

REGULATORY FLOODWAY – 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 Insurance Rate Map.~~Boundary and Floodway Map.~~

SPECIAL FLOOD HAZARD AREA – ~~An area having flood, mudslide, and/or flood-related erosion hazards, and shown on an FHBM or FIRM as ZoneA, AO, A1-30, AE, A99, AH, VO,V1-30, VE, V, M, or E. (~~See "Area of Special Flood Hazard."~~)~~

VIOLATION – 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 in 44 CFR § 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided."

3. Amend Part 2 "Zoning Districts and Supplemental Use Regulations", Article VII "Floodplain Management", Section 190-65 "Certification" by deleting the struck-through language and adding the new underlined language as follows:

"§ 190-65. Certification.

A. For all new or substantially improved structures located in Zones A, ~~A1-30~~AE~~,~~ or AO~~, or AH,~~ the applicant shall furnish the following information to the Building Department:

. . ."

4. Amend Part 2 "Zoning Districts and Supplemental Use Regulations", Article VII "Floodplain Management", Section 190-66 "Other Permits" by adding the new underlined language as follows:

"§ 190-66. Other permits.

All proposed development in any special flood hazard area shall require a permit. The Administrative Officer 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."

5. Amend Part 2 "Zoning Districts and Supplemental Use Regulations", Article VII "Floodplain Management", Section 190-67 "Watercourses" by deleting the struck-through language and adding the new underlined language as follows:

"§ 190-67. Watercourses.

. . .

C. Watercourses within regulatory floodways. Along watercourses with a designated regulatory floodway, no encroachments, including fill, new construction, substantial improvements, and other development, are allowed within the floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed encroachment would not result in any increase in flood levels with the community during the base flood discharge. ~~In Zone A the Administrative Officer shall obtain, review, and reasonably utilize any floodway data available from federal, state or other sources as criteria for requiring that development meet the floodway requirements at this section.~~

D. ~~Watercourses outside the regulatory floodways.~~ Until a regulatory floodway is designated along watercourses, ~~Along watercourses that have not had a regulatory floodway designated,~~ no new construction, substantial improvements, or other development (including fill) shall be permitted with ~~Zones A1-30 and~~ Zone 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 within the community.

E. The Administrative Officer 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 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.""

6. Amend Part 2 "Zoning Districts and Supplemental Use Regulations", Article VII "Floodplain Management", Section 190-68 "Special flood hazard areas" by deleting the struck-through language and adding the new underlined language as follows:

"§ 190-68. Special flood hazard areas.

. . .

A. (1) In Zones ~~A1-30, AH~~ AE, refer to the elevation data provided in the community's Flood Insurance Study and accompanying FIRM. ~~or FHBM.~~

A. (2) In ~~unnumbered A Zones~~ Zone A, the Administrative Officer shall obtain, review, and reasonably utilize any one-hundred-year flood elevation data available from any federal, state or other source including data submitted for development proposals submitted to the community (i.e., subdivision, site approvals.).

. . .

B. Criteria. The Administrative Officer's one-hundred-year flood elevation determination will be used as criteria for requiring in Zones A, ~~A1-30~~, AE and ~~, AH,~~ AO ~~, and A~~ that:

. . .

B. (4) All recreational vehicles placed on sites within Zones A, ~~A1-30, AH,~~ and AE shall either:

. . ."

7. Amend Part 8 "Definitions and Submittal Requirements", Article XLII "Definitions", Section 190-264 "Definitions" by deleting the struck-through language and adding the new underlined language and new definitions in the appropriate alphabetical order as follows:

"§ 190-264. Definitions.

AREA OF SHALLOW FLOODING – 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 the velocity flow may be evident. Such flooding is characterized by ponding or sheet flow. See § 190-62.

AREA OF SPECIAL FLOOD HAZARD – The land in the floodplain within the City of Nashua subject to one percent or greater possibility of flooding in any given year. The area is designated as Zones A, AO, and AE on the Flood Insurance Rate Map. ~~on the FIHBM and is designated on the FIRM as Zones A, AH or A1-30.~~ See § 190-62.

DEVELOPMENT (FLOODPLAIN MANAGEMENT) – Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, ~~excavating,~~ excavation or drilling operations or storage of equipment or materials. See § 190-62.

~~FLOOD BOUNDARY AND FLOODWAY MAP (FLOODWAY MAP) – The official map of the City of Nashua, on which FEMA has delineated the regulatory floodway. This map should not be used to determining the correct flood hazard zone or base flood elevation; the Flood Insurance Rate Map (FIRM) will be use to make determinations of flood hazard zoned and base flood elevations. See § 190-62.~~

~~FLOOD ELEVATION STUDY – 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. For purposes of this article, the "Flood Elevation Study" means the document titled "Flood Insurance Study for the City of Nashua, New Hampshire," published by the Federal Emergency Management Agency and dated July 3, 2002, and an amendments thereto, together with the associate flood insurance rate maps, which document is hereby incorporated by reference and declared to be a part of this article. See § 190-62.~~

FLOOD INSURANCE STUDY – ~~See "flood elevation study."~~ An examination, evaluation and determination of flood hazards and if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide or flood-related erosion hazards. See § 190-62.

MANUFACTURED HOME – ~~A portable structure eight feet or more wide, 30 feet or more in length, used or designed for year-round living and provided with running water and sanitary facilities, whether or not such vehicle is actually immobile because of temporary or permanent utilities, connections, foundations or other features attached to a fixed site. For the purposes of Article VII (Floodplain Management), a "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 attached to the required utilities.~~ 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 consecutive days. This includes manufactured homes located in a manufactured home park or subdivision. See § 190-62.

MANUFACTURED HOME PARK OR SUBDIVISION – A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale. See § 190-62.

NEW CONSTRUCTION – For the purpose 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 improvement to such structures. See § 190-62.

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VIOLATION — 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 in 44CFR § 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided. See § 190-62."

All other ordinances or parts of ordinances inconsistent herewith are hereby repealed.

This ordinance shall become effective upon passage.

LEGISLATIVE YEAR 2009

ORDINANCE: 0-09-66

PURPOSE: Amending the Land Use Ordinance in regards to Floodplain Management and Definitions

ENDORSER(S): **Mayor Donnalee Lozeau**

COMMITTEE ASSIGNMENT:

FISCAL NOTE: **No Fiscal Impact.**

ANALYSIS

This ordinance amends sections of the City of Nashua Floodplain Development Ordinance (as well as some definitions related to site plans and subdivision plans) to bring it into compliance with the regulations contained in the National Flood Insurance Program. Failure to adopt a local ordinance complying with this federal program would make Nashua ineligible to participate in the program.

A public hearing is required prior to passage of these amendments. RSA 675:2, II. Notice of the public hearing must be posted in a newspaper of general circulation and in two (2) public places at least ten (10) days prior to the hearing (does not include day of posting or day of hearing). RSA 675:7, I. The public notice must contain an "adequate statement" describing the amendments and designate the place(s) where the proposal is on file for public review. RSA 675:7, II.

Approved as to form: **Office of Corporation Counsel**

By: _____

Date: July 10, 2009

ORDINANCE 0-09-66

Amending the Land Use Ordinance in regards to Floodplain Management and Definitions

Endorsed by MAYOR **TABACSKO**

IN THE BOARD OF ALDERMEN

1ST READING **JULY 14, 2009**

Referred to:

PLANNING & ECONOMIC DEVELOPMENT COMMITTEE, NASHUA PLANNING BOARD & PUBLIC HEARING, AUGUST 18, 2009

2nd Reading **SEPTEMBER 8, 2009**

3rd Reading

4th Reading

Other Action

Passed **SEPTEMBER 8, 2009**

Indefinitely Postponed

Defeated

Attest: City Clerk

President

Approved Mayor's Signature

9/15/09

Date

Vetoed:

Veto Sustained:

Veto Overridden:

Attest: City Clerk

President