AGENDA

SPECIAL MEETING
BOARD OF MAYOR AND ALDERMEN
(PUBLIC HEARING – ZONING ORDINANCES)

September 22, 2009
Mayor and all Aldermen

5:30 PM
Aldermanic Chambers
City Hall (3rd Floor)

1. Mayor Guinta calls the meeting to order.

2. Mayor Guinta calls for the Pledge of Allegiance.

   A moment of silent prayer is observed.

3. The Clerk calls the roll.

4. Mayor Guinta advises that the purpose of the public hearing is to hear those wishing to speak in favor or in opposition to a proposed Zoning Ordinance. The Clerk will present the proposed Zoning Ordinance change for discussion at which time those wishing to speak in favor will be heard, followed by those wishing to speak in opposition. Anyone wishing to speak must first step to the nearest microphone when recognized and state his/her name and address in a clear, loud voice for the record. Each person will be given only one opportunity to speak and any questions must be directed to the Chair.

5. The Clerk presents the proposed Zoning Ordinance change:

   "Amending the Zoning Ordinance of the City of Manchester by revising the Floodplain (F) District regulations and by deleting and adding various definitions in order to incorporate changes to the City's Flood Insurance Study and related Flood Insurance Rate Maps."

6. Mayor Guinta requests Leon LaFreniere, Director of Planning & Community Development, to make a presentation.

7. Mayor Guinta calls for those wishing to speak in favor of the proposed Zoning Ordinance change.

8. Mayor Guinta calls for those wishing to speak in opposition to the proposed Zoning Ordinance change.

9. The Clerk presents the proposed Zoning Ordinance change:

> "Amending the Zoning Ordinance of the City of Manchester by replacing the Director of the Planning and Community Development Department with the Director of the Economic Development Office as a member of the Millyard Design Review Committee."

10. Mayor Guinta requests Leon LaFreniere, Director of Planning & Community Development to make a presentation.

11. Mayor Guinta calls for those wishing to speak in favor of the proposed Zoning Ordinance change.

12. Mayor Guinta calls for those wishing to speak in opposition to the proposed Zoning Ordinance Change.

13. Mayor Guinta advises that all those wishing to speak have been heard. The testimony presented will be referred to the Committee on Bills on Second Reading to be taken under advisement with reports to be made to the Board of Mayor and Aldermen at a later date.

14. Mayor Guinta advises that this being a special meeting of the Board, no further business can be presented and a motion to adjourn would be in order.

CITY OF MANCHESTER
PLANNING AND COMMUNITY DEVELOPMENT

Planning and Land Use Management
Building Regulations
Community Improvement Program
Zoning Board of Adjustment

Leon L. LaFreniere, AICP
Director

Pamela H. Goucher, AICP
Deputy Director - Planning & Zoning

Matthew M. Sink
Deputy Director - Building Regulations

August 6, 2009

RECEIVED
AUG 07 2009
CITY CLERK'S OFFICE

The Honorable Mayor and Board of Aldermen
One City Hall Plaza
Manchester, NH 03101

Dear Mayor and Members of the Board,

As a result of recent changes to the City's Flood Insurance Study and corresponding updates to the Flood Insurance Rate Maps which become effective on September 25, 2009, the Federal Emergency Management Agency, through the New Hampshire Office of Energy and Planning, has required the City of Manchester to amend its floodplain management regulations contained in the Zoning Ordinance to reflect those changes. These are mandatory revisions in order to maintain the City's eligibility for participation in the National Flood Insurance Program.

Accordingly, we are submitting herewith for your consideration a draft of the proposed ordinance changes. They consist of amendments, deletions and insertions of various definitions and floodplain designations, as well as modifications to outdated language, all of which have been reviewed and approved by the OEP. We respectfully request that the Board refer this matter to the Committee on Bills on Second Reading to schedule it for public hearing at the earliest possible opportunity, as FEMA has asked that these changes be implemented prior to the September 25, 2009 effective date.

Please contact me directly with any questions pertaining to this request, and thank you for your consideration.

Sincerely,

Matthew M. Sink
Planning and Community Development Department
Deputy Director, Building Regulations

copy: Leon L. LaFreniere, Director

In board of Mayor and Aldermen
Date: 8|18|09 On Motion of Ald. O'Neil
Second by Ald. Pinard
Voted to refer to the Committee on Bills on Second Reading

City Clerk

One City Hall Plaza, Manchester, New Hampshire 03101
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City of Manchester
New Hampshire

In the year Two Thousand and *Nine*

AN ORDINANCE

"Amending the Zoning Ordinance of the City of Manchester by revising the Floodplain (F) District regulations and by deleting and adding various definitions in order to incorporate changes to the City's Flood Insurance Study and related Flood Insurance Rate Maps. "

(Note: Deletions shown as ~~struck through~~, new text shown *italicized*).

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

SECTION I. Amend the Zoning Ordinance of the City of Manchester, Article 3, Section 3.03 Definitions of Terms, by deleting the following terms and their definitions:

~~*Flood Boundary and Flood Map (Floodway): an official map of the City of Manchester on which the Federal Emergency Management Agency (FEMA) has delineated the "Regulatory Floodway".*~~

~~*Flood Hazard Area, Special: That area designated in the Flood Insurance Study for the City of Manchester, New Hampshire together with the associated Flood Insurance Rate Maps and Flood Boundary and Floodway Maps dated February 18, 1981.*~~

SECTION II. Amend the Zoning Ordinance of the City of Manchester, Article 7, Section 7.03 B, Establishment of the F District, as follows:

The F District is established in accordance with and for the purposes so stated in Section 4.01, Establishment and Purpose of Districts, of this Ordinance~~, and encompasses lands as indicated on the Flood Insurance Rate Map (FIRM) and the Flood Boundary and Floodway Map (FBFM) as adopted pursuant to Section 4.02, Official Zoning Maps, of this Ordinance~~. *The following regulations in this ordinance pertaining to the F District 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 Hillsborough, NH", dated September 25, 2009 or as amended, together with the associated Flood Insurance Rate Maps dated September 25, 2009 or as amended, which are declared to be a part of this ordinance and are hereby incorporated by reference.*

SECTION III. Amend the Zoning Ordinance of the City of Manchester, Article 7, Section 7.03 Floodplain (F) District, by creating a new subsection B(1), Definitions (for purposes of floodplain management) and by adding the following terms and definitions:

Area of Special Flood Hazard: The land in the flood plain within the City of Manchester subject to a 1 percent or greater chance of flooding in any given year. The area is designated as Zones A or AE on the Flood Insurance Rate Map.

Base Flood: The flood having a one-percent possibility of being equaled or exceeded in any given year.

Basement: Any area of a building having its floor subgrade on all sides.

Building: See "Structure".

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BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

Development: 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 operations or storage of equipment or materials.

FEMA: The Federal Emergency Management Agency.

Flood Insurance Study (FIS): 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.

Flood or Flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from:

a. the overflow of inland or tidal waters; or
b. the unusual and rapid accumulation or runoff of surface waters from any source.

Floodway: see "Regulatory Floodway".

Functionally dependent use: A use that 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: The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Lowest Floor: 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: 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.

Mean sea level: The National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Maps are referenced.

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BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

New Construction: 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 including 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:
a. built on a single chassis; and
b. 400 square feet or less when measured at the largest horizontal projections; and
*c. designed to be self-propelled or permanently towable by a light duty truck and designed primarily **not** for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.*

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 cumulatively increasing the water surface elevation more than a designated height.

Special flood hazard area: see "Area of Special Flood Hazard"

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.

Structure: A walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

Substantial damage: 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.

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

City of Manchester
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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.

Water surface elevation: 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.

SECTION IV. Amend the Zoning Ordinance of the City of Manchester, Article 7, Section 7.03C, General Requirements for the F District, by revising the first paragraph as follows:

> Within the F District, *all proposed development in any special flood hazard area shall require a permit. T*he Planning and Community Development Director 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 in a Special Flood Hazard Area, all new construction and substantial improvements shall be:

SECTION V. Amend the Zoning Ordinance of the City of Manchester, Article 7, Section 7.03D Alteration or Relocation of Watercourses, by revising items 1, 2 and 3 and by adding a new item 4 as follows:

1. In riverine situations, prior to the alteration or relocation of a watercourse, the application 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 and Community Development Director in addition to the copies required by 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 and Community Development Director, including notice of all scheduled hearings before the Wetlands Bureau.* The applicant shall submit to the Planning and Community Development Department Director certification, provided by a licensed professional engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.

2. Any application for a building permit in a Regulatory Floodway shall require the granting of a conditional use permit pursuant to Article 12, Conditional Use permits, of this Ordinance. ~~No building, fill or other obstruction shall be permitted in any floodway where it is determined by the Planning Board that such encroachment will adversely affect the flood carrying capacity of the floodway or flood levels along the flood plain, or create a hazard to life and property.~~ *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*

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performed in accordance with standard engineering practices that the proposed encroachment would not result in any increase in flood levels within the community during the base flood discharge. In making this determination, the Planning Board may consult with the US Army Corps of Engineers or such other experts as deemed necessary. The Planning Board may engage a licensed professional engineer, at the applicant's expense, to conduct such studies as may be necessary to assist the Board in making a determination.

3. ~~Along watercourses that have not had a Regulatory Floodway designated~~, *Until a Regulatory Floodway is designated along watercourses,* no new construction, substantial improvements or other development (including fill) shall be permitted within Zones ~~A1-30~~ *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.

4. The Planning and Community Development Director 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."

SECTION VI. Amend the Zoning Ordinance of the City of Manchester, Article 7, Section 7.03 E, Determination of 100-year Flood Levels in the F District, by revising item 1and deleting item 3 as follows:

1. In Zones ~~A1-30 and AH~~, *AE*, refer to the elevation data provided in the Flood Insurance Study for the City of Manchester and accompanying FIRM and FBFM;

~~3. In Zones AO, the one hundred (100) year 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 is specified on the FIRM, at least two (2) feet.~~

SECTION VII. Amend the Zoning Ordinance of the City of Manchester, Article 7, Section 7.03F Design Standards in the F District, by revising the first sentence and item 4 and by deleting item 6 as follows:

In Zones ~~A1-30,~~ AE ~~AH, AO~~ and A it shall be required that:

4. Recreational vehicles placed on sites within Zones A or ~~A8~~ *AE* shall:

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BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

~~6. Proposed structures to be located on slopes in special flood hazard areas, Zones AH and AO, shall include adequate drainage paths to guide flood waters around and away from the proposed structures.~~

SECTION VIII. Amend the Zoning Ordinance of the City of Manchester, Article 7, Section 7.03G Appeals to the Zoning Board of Adjustment (ZBA) in the F District, by revising item 4 as follows:

4. ~~A record of all variance actions shall be included in the City's regular reports to FEMA's Federal Insurance Administrator.~~ *The City shall maintain a record of all variance actions, including the justification for their issuance, and report such variances issued in its annual or biennial report submitted* to FEMA's Federal Insurance Administrator.

SECTION IX. This Ordinance shall take effect upon its passage.

CITY OF MANCHESTER
PLANNING AND COMMUNITY DEVELOPMENT

Planning and Land Use Management
Building Regulations
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Zoning Board of Adjustment

Leon L. LaFreniere, AICP
Director

Pamela H. Goucher, AICP
Deputy Director - Planning & Zoning

Matthew M. Sink
Deputy Director - Building Regulations

RECEIVED
AUG 07 2009
CITY CLERK'S OFFICE

Date: August 6, 2009

To: Honorable Board of Mayor and Aldermen

From: Leon L. LaFreniere
Director of Planning and Community Development

Subject: Proposed Zoning Ordinance Change

Attached is a proposed change to the City of Manchester Zoning Ordinance for review by the BMA. This amendment is proposed as a result of the consolidation of the Planning and Building Departments earlier this year. Section 7.01 (D.) of the Zoning Ordinance provides for the establishment of the Millyard Design Review Committee, whose duty it is to provide findings to the Planning Board and the Director of Planning and Community Development. Currently the composition of this committee includes the Director of Planning and Community Development as a participating member. After discussing this matter with the City Solicitor's office, I feel that it would be appropriate to modify the composition of the committee to eliminate any potential for conflict between the various responsibilities of my position. Prior to the consolidation of the Planning and Building Departments this potential for conflict did not exist as responsibility for the issuance of permits fell to the Building Regulations Director.

In an effort to address this situation I am proposing that the composition of the Millyard Design Committee be amended by eliminating the Director of Planning and Community Development Director as a member, and by substituting with the Economic Development Director. I have discussed this matter with the Millyard Design Review Committee as well as the Economic Development Director.

I respectfully request that this proposal be set for public hearing following the requirements of state law and the BMA's normal practice.

In board of Mayor and Aldermen
Date: 8|18|09 On Motion of Ald. O'Neil
Second by Ald. Pinard
Voted to refer to the Committee on Bills on Second Readin
City Clerk

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City of Manchester
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In the year Two Thousand and *Nine*

AN ORDINANCE

"Amending the Zoning Ordinance of the City of Manchester, by replacing the Director of the Planning and Community Development Department with the Director of the Economic Development Office as a member of the Millyard Design Review Committee."

(Note: Deletions shown as ~~struck through~~, new text shown *italicized*).

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

SECTION I. Amend the Zoning Ordinance of the City of Manchester, Article 7, Section 7.01 D. Millyard Design Review Committee, by revising the first paragraph as follows:

D. Millyard Design Review Committee. In order to provide for proper design review necessary to enhance the image *of* and protect the interest in the Millyard, there is hereby established a Millyard Design Review Committee. The Committee shall be composed of: a representative of the Central Business Service District, the Director of ~~Planning and Community Development Department~~ *the Economic Development Office*, an aldermanic representative, and the following members appointed by the Mayor for a term of three years: two property owners in the district, a member of the Heritage Commission and two members from the architectural or design field.

SECTION II. This Ordinance shall take effect upon its passage.