

Proposed 2009 Zoning Ordinance Amendments

1. Amend Article XVII of the Hampton Zoning Ordinance as follows to add a new article titled Small Wind Energy Systems with associated zoning requirements to comply with new RSA 674:62-66 and to renumber the articles that follow accordingly.

ARTICLE XVII – SMALL WIND ENERGY SYSTEMS ORDINANCE

Section 17.1 Purpose

This small wind energy systems ordinance is enacted in accordance with RSA 674:62-66 and its definitions and the purposes outlined in RSA 672:1-III-a. The purpose of this ordinance is to allow the building inspector to grant building permits for small wind energy systems and their associated towers in appropriate locations, while protecting the public's health, safety and welfare.

17.3 Standards

The building inspector shall evaluate the building permit application for compliance with the following standards:

1. Only one small wind energy system or tower shall be allowed per lot.
2. GENERATING CAPACITY: The system shall not produce in excess of 100Kw of electricity.
3. HEIGHT: System height (ground to blade tip) shall be limited to a maximum of 125 feet but no more than 35 feet taller than the surrounding tree canopy, whichever is less. Turbine blades must have a clearance of at least 20 feet from the blade tip to the ground or nearest structure.
4. SETBACKS: The minimum required setback distance, measured from the closest point of the tower base to property line, shall be system height plus 15 ft.
5. NOISE LIMIT: The sound from the system shall not exceed 50 decibels using the A scale (dBA) measured at the nearest property line.
6. SIGN: At least one sign posted at five feet warning of electrical shock or high voltage and harm there from.
7. OTHER REQUIREMENTS: Towers shall be constructed as a tilt-down or provide one of the following means of access control, or other appropriate method of access:
 - a. Tower-climbing apparatus located no closer than 12 feet from the ground.
 - b. A locked anti-climb device installed on the tower.

c. A locked, protective fence at least six feet in height that encloses the base.

2. Amend Article XVIII of the Hampton Zoning Ordinance as follows to add a new article entitled Solar Panels with associated zoning requirements to allow for their installation with appropriate safeguards and with due consideration to visual appearance and to renumber the articles that follow accordingly.

ARTICLE XVIII – SOLAR PANELS ORDINANCE

1. Solar panels exceeding two (2) square feet in area are not permitted in any front yard, on any face of a building or structure facing a street unless integrated with the ordinary construction of said building or structure, or in view of any adjacent street, except roof-mounted solar panels as set forth below.

2. Ground-mounted solar panels shall:

a. Be located in a side or rear yard only.

b. Not exceed eight (8) feet in height above the ground.

c. Be fully screened from adjacent properties by fencing or a combination of evergreen and deciduous plantings.

3. Roof-mounted solar panels:

a. Permitted roof-mounted solar panels shall include integrated solar panels as the surface layer of the roof structure with no additional apparent change in relief or projection (the preferred installation), or separate flush-mounted solar panels attached to the roof surface.

b. Separate flush-mounted solar panels shall be located on a rear- or side-facing roof, as viewed from any adjacent street, unless such installation is proven to be ineffective or impossible. The removal of potential obstructions such as interceding vegetation shall not be sufficient cause for permitting a front-facing roof installation.

c. Separate flush-mounted solar panels installed on a building or structure with a sloped roof surface shall not project vertically above the peak of the roof to which it is attached, or project vertically more than five (5) feet above a flat roof installation.

3. Amend Article II, Section 2.4 and Article XI, Section 11.6 of the Hampton Zoning Ordinance as follows to comply with requirements of the National Flood Insurance Program:

Section 2.4 Special Flood Area

2.4.3 DEFINITIONS

Development is defined to mean 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.

~~**Flood Boundary and Floodway Map** (Floodway Map) is an official map of the Town of Hampton, on which FEMA has delineated the “Regulatory Floodway”. This map should not be used to determine the correct flood hazard zone or base flood elevation; the Flood Insurance Rate Map (FIRM) will be used to make determinations of flood hazard zones and base flood elevations.~~

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 flood plain management purposes the term “manufactured home” also 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 means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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.

~~**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, AE, AH, AO, AR, A99, V, and VE. See - “Area of Special Flood Hazard”~~

Substantial Improvement means any combination of repairs, reconstruction, alteration or improvements of to a structure in which the cumulative cost of which equals or exceeds 50 percent of the market value of the structure either. The market value of the structure should equal:

- ~~1. Before the improvement or repair is started, or~~
- ~~2. If the structure has been damaged and is being restored, before the damage occurred. For the purpose 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.~~

The term does not, however, include either:

- ~~1. Any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which is solely necessary to assure safe living conditions, or~~
- ~~2. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places:~~
 - a. the appraised value prior to the start of the initial repair or improvement, or
 - b. 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 that 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 in 44CFR Sections 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.

Section 11.6 Floodplain Development Regulations

11.6.6 In riverine situations, prior to the alteration or relocation of a watercourse, the applicant for such authorization shall notify the Civil Defense Agency Wetlands Board Bureau of New Hampshire Department of Environmental Services and submit copies of such notification to the Building Inspector, in addition to the copies required by the RSA 482-A:3. Further, the applicant shall be required to submit copies of the said notification to those adjacent communities as determined by the building inspector, including notice of all scheduled hearings before the Wetlands Bureau. and the Federal Emergency

Management Agency. ~~Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Building Inspector. Within the altered or relocated portion of any watercourse, the applicant shall submit to the Building Inspector, certification provided by a registered professional engineer assuring that the flood carrying capacity of the watercourse can and will be maintained.~~

11.6.6a Along watercourses that have not had a Regulatory Floodway designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within zone AE ~~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 within the community. (Adopted 1996)

11.6.7 ~~In unnumbered "A" Zones~~ Zone A, as defined on the Flood Insurance Rate map, the Building Inspector shall obtain, review, and reasonably utilize any 100 year flood elevation and floodway data available from a Federal, State, or other source, until such other data has been provided by the Administrator, as criteria for requiring that:

b) All new construction and substantial improvements of non-residential structures have the lowest floor (including basement) elevated to or the 100-year flood level; or together with attendant utility and sanitary facilities, shall be floodproofed to or above the so that below the 100-year flood level elevation the structure is watertight with walls substantially impermeable to the passage of water; and have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

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: the enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage; the area is not a basement; and 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 automatic entry and exit of floodwater.

11.6.8 In "AO" Zone the Building Inspector shall require:

(ii) ~~together with attendant utility and sanitary facilities be completely~~ shall be floodproofed so that below the required elevation the structure is watertight with walls substantially impermeable to the passage of water; and have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. ~~to that level to meet the floodproofing standard specified in 60.3 of the National Flood Insurance Program and Related Regulations.~~

11.6.9 In Zone AE, as defined on the Flood Insurance Rate map, for new construction and substantial improvements, the Building Inspector shall require that:

c) For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be permitted provided they meet the following requirements: the enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage; the area is not a basement; and shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. 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:

11.6.10 In ~~Zone AE~~ Zones A, AE and AO, where floodproofing is used in lieu of elevation, a registered professional engineer or architect shall certify to the Building Inspector that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 100 year flood.

11.6.11 In Zone AE, for new or substantially improved manufactured homes within existing ~~or expanded~~ manufactured home parks, the Building Inspector shall require that:

11.6.12 All manufactured homes to be placed or substantially improved in existing manufactured home parks 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.

11.6.13 Recreational vehicles placed on sites within ~~Zones A1 through A30~~ Zones A, AE and VE shall either (i) be on the site for fewer than 180 consecutive days, (ii) be fully licensed and ready for highway use, or (iii) meet all standards of Section 60.3 (b) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for manufactured homes on Paragraph (c) (6) of Section 60.3.

11.6.14 In Coastal High Hazard Areas, designated as Zone VE on the community's Flood Insurance Rate map, all development shall meet the following standards:

1. All new construction or substantial improvements shall be located to the landward of the reach of mean high tide.

3. Within zones VE, and V on the community's FIRM a registered professional engineer shall provide the Building Inspector with the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures, whether or not such structures contain a basement.

4. Amend Article VIII, Section 8.2.3 of the Hampton Zoning Ordinance as follows to change the multi-family dwelling setback from 40 feet to 20 feet:

Section 8.2.3 No multi-family dwelling shall be closer than ~~forty (40)~~ twenty (20) feet to any part of any other building or to any lot line.

5. Amend Article II, Section 2.3.2 of the Hampton Zoning Ordinance as follows to add a new subpart F to designate the Hampton Salt Marsh Complex as a prime wetland in accordance with RSA 482-A:15 and Department of Environmental Services regulations:

The Hampton Salt Marsh complex as mapped in Exhibit 27 in the February 8, 2006 "Prime Wetland Inventory Report" by Gove Environmental Services, Inc. and as later also described in said Report under Recommendations for Hampton Prime Wetlands, is hereby designated a prime wetland for purposes of RSA 482-A:15 and Department of Environmental Services regulations.

6. Amend Article II, Section 2.3.2, A, 1 of the Hampton Zoning Ordinance as follows to add the Atlantic Ocean and Hampton Harbor and their associated tidal waters to the definition of “tidal wetlands”:

Section 2.3.2, A, 1

Prime tidal wetlands are defined in Appendices 1 & 2, but also include the Atlantic Ocean and Hampton Harbor and their associated tidal waters.

7. Amend Article XI, Section 11.2-b, Section 11.2-b.1, Section 11.2-b.4, and Section 11.2-b.5 of the Hampton Zoning Ordinance as follows to comply with the requirements of RSA 155-A:2 that mandates that the Town apply the State Building Code and State Fire Code:

Section 11.2-b

(Adopted 2003)

In compliance with RSA 155-A:2, House Bill 285-FN-LOCAL, the Town of Hampton shall adopt the New Hampshire State Building Code. Any construction, alteration, repair, renovation or maintenance of a building or structure commencing on or after September 14, 2003, the construction, design, structure, maintenance, and use of all buildings or structures to be erected and the alteration, renovation, rehabilitation, repair, maintenance, removal, or demolition of all buildings and structures previously erected shall comply with the provisions of Section 11.2-b, as follows:

11.2-b.1 ~~The New Hampshire State Building Code and State Fire Code as same may be amended. as defined in NH RSA 155-A:1, IV, which includes the International Building Code 2000; the International Plumbing Code 2000; the International Mechanical Code 2000; the International Energy Conservation Code 2000, as published by the International Code Council; and the National Electric Code 1999.~~

11.2-b.2 Standards, including definitions, established by the most recent edition of the Life Safety Code, NFPA Doc. No. 101, shall take precedence over all standards in State Building Code relative to means of egress.

11.2-b.3 For all new buildings, the requirements of the State Fire Code adopted pursuant to RSA 153:5 and to the extent that there is any conflict between the State Building Code and the State Fire Code, the State Fire Code shall take precedence unless otherwise determined by the State Building Code Review Board under RSA 155-A:2, III and RSA 155-A:10.

11.2-b.4 ~~The International Residential Building Code, 2000 Edition.~~

11.2-b.5 ~~The National Electric Code, 2002 Edition.~~

11.2-b.6 The enforcement mechanism for the State Building Code shall be that which is already in place for enforcement of the Town Building Code, with the Building Inspector administrating and enforcing same; and the Zoning Board of Adjustment shall act as the Building Code Board of Appeals.

Petition Article

Amendment to the Town Zoning Ordinance, Petitioned Article as follows:
Amend ARTICLE IV – DIMENSIONAL REQUIREMENTS, Section 4.4 in the RA District to change the maximum # stories/ft (height) to 2 stories or 32 feet. This would pertain to properties in the RA District that are located starting at the west corner of High Street and Kings Highway ending at 19th Street east corner.