

1 **Exeter Floodplain Development Ordinance Amendments**

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Existing Language
~~Language to be removed~~
Language to be added

7 **9.4 FLOODPLAIN DEVELOPMENT ORDINANCE**

8 **9.4.1** This ordinance, adopted pursuant to the authority of NH RSA §674:16, shall be known as
9 the Town of Exeter Floodplain Development Ordinance. The regulations in this ordinance shall
10 overlay and supplement the regulations in the Town of Exeter Zoning Ordinance, and shall be
11 considered part of the Zoning Ordinance for purposes of administration and appeals under state
12 law. If any provision of the Zoning Ordinance differs or appears to conflict with any provision of
13 the Zoning Ordinance or other ordinance or regulation, the provision imposing the greater
14 restriction or more stringent standard shall be controlling.

15 **9.4.2.** The purpose of this ordinance is to promote the public health, safety, and general welfare;
16 minimize hazards to persons and property from flooding; to protect watercourses from
17 encroachment; and to maintain the capability of floodplains to retain and carry off floodwaters.

18 **9.4.2** The following regulations in this ordinance shall apply to all lands designated as special
19 flood hazard areas by the Federal Emergency Management Agency (FEMA) in its “Flood
20 Insurance Study for the county of Rockingham, NH” dated May 17, 2005 and January 29, 2021,
21 together with the associated Flood Insurance Rate Maps, dated May 17, 2005 and January 29,
22 2021 and associated amendments and revisions, which are declared to be a part of this ordinance
23 and are hereby incorporated by reference.

24 **9.4.3** Definition of Terms: The following definitions shall apply only to this Floodplain
25 Development Ordinance, and shall not be affected by, the provisions of any other ordinance of
26 the Town of Exeter.

- 27 A. Area of Special Flood Hazard: Land in the floodplain within the Town of Exeter
28 subject to a one-percent or greater possibility of flooding in any given year. The
29 area is designated on the FIRM as zone A and AE.
- 30 B. Base Flood: The flood having a one-percent possibility of being equaled or
31 exceeded in any given year.
- 32 C. Base Flood Elevation: The water surface elevation having a one percent
33 possibility of being equaled or exceeded in any given year.
- 34 D. Basement: Any area of a building having its floor sub-grade on all sides.
- 35 E. Building: see “Structure”
- 36 F. Development: Any man-made change to improve or unimproved real estate,
37 including but not limited to buildings or other structures, mining, dredging,
38 filling, grading, paving, excavation, drilling operation, or storage of equipment or
39 materials.
- 40 G. FEMA: Federal Emergency Management Agency
- 41 H. Flood or Flooding: A general and temporary condition of partial or complete
42 inundation of normally dry land areas from:
 - 43 1. The overflow of inland or tidal waters.

- 44 2. The unusual and rapid accumulation or runoff of surface waters from any
45 source.
- 46 I. Flood Insurance Rate Map: (FIRM) An official map incorporated with this
47 ordinance, on which FEMA has delineated both the special flood hazard areas
48 and the risk premium zones applicable to the Town of Exeter.
- 49 J. Flood Insurance Study: An examination, evaluation, and determination of flood
50 hazards and if appropriate, corresponding water surface elevation, or an
51 examination and determination of mud slide or flood-related erosion hazards.
- 52 K. Floodplain or Flood-prone area: Any land area susceptible to being inundated by
53 water from any source (See definition of “Flooding”).
- 54 L. Flood Proofing: Any combination of structural and non-structural additions,
55 changes, or adjustments to structures which reduce or eliminate flood damage to
56 real estate or improved real property, water and sanitation facilities, structures
57 and their contents.
- 58 M. Floodway: see “Regulatory Floodway”
- 59 N. Flood Opening: Flood Opening means an opening in a foundation or enclosure
60 wall that allows automatic entry and exit of floodwaters. See FEMA “Technical
61 Bulletin 1, Openings in Foundation Walls and Walls of Enclosures.”
- 62 ~~O. Functionally Dependent Use: A use which cannot perform its intended purpose
63 unless it is located or carried out in close proximity to water. The term includes
64 only docking and port facilities that are necessary for the loading/unloading of
65 cargo or passengers, and ship building/repair facilities but does not include long-
66 term storage or related manufacturing facilities.~~
- 67 P. Highest Adjacent Grade: The highest natural elevation of the ground surface
68 prior to construction next to the proposed walls of a structure.
- 69 Q. Historic Structure: Any structure that is:
- 70 1. Listed individually in the National Register of Historic Places (a listing
71 maintained by the Department of the Interior) or preliminarily
72 determined by the Secretary of the Interior as meeting the requirements
73 for individual listing on the National Register;
- 74 2. Certified or preliminarily determined by the Secretary of the Interior as
75 contributing to the historical significance of a registered historic district
76 or a district preliminarily determined by the Secretary to qualify as a
77 registered historic district;
- 78 3. Individually listed on a state inventory of historic places in states with
79 historic preservation programs which have been approved by the
80 Secretary of the Interior; or
- 81 4. Individually listed on a local inventory of historic places in communities
82 with historic preservation programs that have been certified either:
- 83 a. By an approved state program as determined by the Secretary
84 of the Interior, or
- 85 b. Directly by the Secretary of the Interior in states without
86 approved programs.
- 87 R. Lowest Floor: The lowest floor of the lowest enclosed area (including
88 basement). An unfinished or flood resistant enclosure, usable solely for parking
89 of vehicles, building access or storage in an area other than a basement area is not
90 considered a building’s lowest floor; provided, that such an enclosure is not built

- 91 so as to render the structure in violation of the applicable non-elevation design
92 requirements of this ordinance.
- 93 S. Manufactured Home: A structure, transportable in one or more sections, which is
94 built on a permanent chassis and is designed for use with or without a permanent
95 foundation when connected to the required utilities. For floodplain management
96 purposes the term “manufactured home” includes park trailers, travel trailers, and
97 other similar vehicles placed on site for greater than 180 days. This includes
98 manufactured homes located in a manufactured home park or subdivision.
- 99 T. Manufactured Home Park or Subdivision: A parcel (or contiguous parcels) of
100 land divided into two or more manufactured home lots for rent or sale.
- 101 U. Mean Sea Level: The National Geodetic Vertical Datum (NGVD) of 1929,
102 North American Vertical Datum (NAVD) of 1988, or other datum, to which base
103 flood elevations shown on a community Flood Insurance Rate Map are
104 referenced.
- 105 V. New Construction: For the purposes of determining insurance rates, structures for
106 which the “start of construction” commenced on or after the effective date of an
107 initial FIRM or after December 31, 1974, whichever is later, and includes any
108 subsequent improvements to such structures. For floodplain management
109 purposes, new construction means structures for which the start of construction
110 commenced on or after the effective date of a flood plain management regulation
111 adopted by a community and includes any subsequent improvements to such
112 structures.
- 113 W. Recreational Vehicle: A vehicle which is:
114 1. Built on single chassis;
115 2. 400 square feet or less when measured at the largest horizontal
116 projection;
117 3. Designed to be self-propelled or permanently towable by a light duty
118 truck; and
119 4. Designed primarily not for use as a permanent dwelling but as temporary
120 living quarters for recreational, camping, travel or seasonal use.
- 121 X. Regulatory Floodway: The channel of a river or other watercourse and the
122 adjacent land areas that must be reserved in order to discharge the base flood
123 without increasing the water surface elevation more than a designated height.
- 124 Y. Special Flood Hazard Area: See “Area of Special Flood Hazard”.
- 125 Z. Start of Construction: Includes substantial improvements, and means the date the
126 building permit was issued, provided the actual start of construction, repair,
127 reconstruction, placement, or other improvement was within 180 days of the
128 permit date. The actual start means either the first placement of permanent
129 construction of a structure on site, such as the pouring of slab or footings, the
130 installation of piles, the construction of columns, or any work beyond the stage of
131 excavation; or the placement of manufactured home on a foundation. Permanent
132 construction does not include land preparation such as clearing, grading and
133 filling; nor does it include the installation of streets and/or walkways; nor does it
134 include excavation for a basement, footing, piers, or foundations or the erection
135 of temporary forms; nor does it include the installation on the property of
136 accessory buildings, such as garages or sheds not occupied as dwelling units or
137 part of the main structure.

138 AA. Structure: For floodplain management purposes, a walled and roofed
139 building, including a gas or liquid storage tanks, that is principally above ground,
140 as well as a manufactured home.

141 BB. Substantial Damage: Damage of any origin sustained by a structure whereby the
142 cost of restoring the structure to its before damage condition would equal or
143 exceed fifty percent (50%) of the market value of the structure before the damage
144 occurred.

145 ~~CC. Substantial Improvement: The combination of repairs, reconstruction, alteration,~~
146 ~~or improvements to a structure in which the cumulative cost equals or exceeds~~
147 ~~fifty percent (50%) of the market value of the structure. The market value of the~~
148 ~~structure should equal:~~

149 1. ~~The appraised value prior to the start of the initial repair or improvement,~~
150 ~~or~~

151 2. ~~In the case of damage, the value of the structure prior to the damage~~
152 ~~occurring.~~

153 ~~For the purposes of this definition, “substantial improvement” is considered to~~
154 ~~occur when the first alteration of any wall, ceiling, floor, or other structural part~~
155 ~~of the building commences, whether or not that alteration affects the external~~
156 ~~dimensions of the structure. This term includes structures which have incurred~~
157 ~~substantial damage, regardless of actual repair work performed. The term does~~
158 ~~not, however, include any project for improvement of a structure required to~~
159 ~~comply with existing health, sanitary, or safety code specifications which are~~
160 ~~solely necessary to assure safe living conditions or any alteration of a “historic~~
161 ~~structure”, provided that the alteration will not preclude the structure’s continued~~
162 ~~designation as a “historic structure”.~~

163 CC. Substantial Improvement means any reconstruction, rehabilitation, addition,
164 or other improvement of a structure, the cost of which equals or exceeds 50
165 percent of the market value of the structure before the “start of construction” of
166 the improvement. This term includes structures which have incurred “substantial
167 damage,” regardless of the actual repair work performed. The term does not,
168 however, include either:

169 a. Any project for improvement of a structure to correct existing
170 violations of state or local health, sanitary, or safety code specifications
171 which have been identified by the local code enforcement official and
172 which are the minimum necessary to assure safe living conditions; or

173 b. Any alteration of a “historic structure,” provided that the alteration
174 will not preclude the structure's continued designation as a “historic
175 structure.”

176 DD. Violation: The failure of a structure or other development to by fully
177 compliant with the community’s flood plain management regulations. A structure
178 or other development without the elevation certificate, other certifications, or
179 other evidence of compliance required under this ordinance is presumed to be in
180 violation until such time as that documentation is provided.

181 EE. Water Surface Elevation: The height, in relation to the National Geodetic
182 Vertical Datum (NGVD) of 1929, North American Vertical Datum of 1988, (or
183 other datum, where specified) of floods of various magnitudes and frequencies in
184 the floodplains.

185 FF. **Sea Level Rise Risk Areas:** Areas within the town of Exeter projected to be
186 impacted by 4 feet of sea level rise plus a 1% annual chance flood event.

187 **9.4.4 Permits:** The Building Inspector shall not grant a building permit until the applicant
188 certifies that all necessary permits have been received from those governmental agencies from
189 which approval is required by federal or state law, including Section 404 of the Federal Water
190 Pollution Control Act Amendments of 1972, 33 U.S.C.1334.

191 A. **Building Permit Requirement:** All proposed development in any special flood
192 hazard areas shall require a building permit. **The applicant shall provide the**
193 **proposed elevation (in relation to mean sea level) of the lowest floor (including**
194 **basement) and include whether or not such structures contain a basement. If the**
195 **plans include flood-proofing, the elevation (in relation to mean sea level) to**
196 **which the structure will be flood-proofed. If the development involves proposed**
197 **work on an existing structure, the applicant shall also provide a description of the**
198 **total costs of the proposed work including all materials and labor.**

199 B. **Building Permit Review:** The Building Inspector shall review all building permit
200 applications for new construction or substantial improvements to determine
201 whether the proposed building sites will be reasonably safe from flooding. If a
202 proposed building site is located in a special flood hazard area, all new
203 construction or substantial improvements shall:

- 204 1. Be designed (or modified) and adequately anchored to prevent flotation,
205 collapse, or lateral movement of the structure resulting from
206 hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- 207 2. Be constructed with materials resistant to flood damage;
- 208 3. Be constructed by methods and practices that minimize flood damages;
- 209 4. Be constructed with electrical, heating, ventilation, plumbing, and air
210 conditioning equipment, and other service facilities that are designed
211 and/or located so as to prevent water from entering or accumulating
212 within the components during conditions of flooding.

213 **9.4.5 New or Replacement Water and Sewer Systems:** Where new or replacement water
214 and sewer systems (including on-site systems) are proposed in a special flood hazard area the
215 applicant shall provide the Building Inspector with assurance that these systems will be designed
216 to minimize or eliminate infiltration of flood waters into the systems and discharges from the
217 systems into flood waters, and on-site waste disposal systems will be located to avoid impairment
218 to them or contamination from them during periods of flooding.

219 **9.4.6 New or Substantially Improved Structure Requirements:** For all new or substantially
220 improved structures located in Zones A and AE, the applicant shall furnish the following
221 information to the Building Inspector, **prior to issuance of a certificate of occupancy:**

- 222 ~~A. The as-built elevation (in relation to mean sea level) of the lowest floor~~
223 ~~(including basement) and include whether or not such structures contain a~~
224 ~~basement.~~
- 225 ~~B. If the structure has been flood-proofed, the as-built elevation (in relation to mean~~
226 ~~sea level) to which the structure was flood-proofed.~~
- 227 ~~C. Any certification of flood-proofing.~~

228 A. completed and certified copy of an Elevation Certificate that includes the as-built
229 elevation (in relation to mean sea level) of the lowest floor of the structure and
230 whether or not the structure has a basement.

231 B. If a non-residential structure includes dry floodproofing, a completed and
232 certified copy of the Floodproofing Certificate for Non-Residential Structures
233 that includes the as-built elevation (in relation to mean sea level) to which the
234 structure was dry floodproofed and certification of floodproofing.
235

236 The Building Inspector shall maintain for public inspection and shall furnish
237 such information upon request.

238 **9.4.7 Development Along Watercourses:**

239 A. In riverine situations, prior to the alteration or relocation of a watercourse the
240 applicant for such authorization shall notify the Wetlands Bureau of the New
241 Hampshire Department of Environmental Services and submit copies of such
242 notification to the Building Inspector, in addition to the copies required by NH
243 RSA §482-A:3. Further, the applicant shall be required to submit copies of said
244 notification to those adjacent communities as determined by the Building
245 Inspector, including notice of all scheduled hearings before the Wetlands Bureau.

246 B. The applicant shall submit to the Building Inspector, certification provided by a
247 registered professional engineer, assuring that the flood carrying capacity of an
248 altered or relocated watercourse can and will be maintained.

249 C. Along watercourses with a designated Regulatory Floodway no encroachments,
250 including fill, new construction, substantial improvements, and other
251 development are allowed within the floodway unless it has been demonstrated
252 through hydrologic and hydraulic analyses performed in accordance with
253 standard engineering practices that the proposed encroachment would not result
254 in any increase in flood levels within the community during the base flood
255 discharge.

256 D. Along watercourses that have not had a Regulatory Floodway designated, no new
257 construction, substantial improvements, or other development (including fill)
258 shall be permitted within zone AE on the FIRM, unless it is demonstrated by the
259 applicant that the cumulative effect of the proposed development, when
260 combined with all existing and anticipated development, will not increase the
261 water surface elevation of the base flood more than one foot at any point within
262 the community.

263 E. In zone A, the building Inspector shall obtain review, and reasonably utilize any
264 floodway data available from Federal, State, or other sources as criteria for
265 requiring that development meet the following floodway requirement:

266 “No encroachments, including fill, new construction, substantial improvements,
267 and other development are allowed within the floodway that would result in any
268 increase in flood levels within the community during the base flood discharge.”

269 **9.4.8 Base Flood Elevation:**

- 270 A. In special flood hazard areas, the Building Inspector shall determine the base
271 flood elevation in the following order of precedence according to the data
272 available:
- 273 1. In zone AE refer to the base flood elevation data provided in the
274 community's Flood Insurance Study and accompanying FIRM.
 - 275 2. In Zone A the Building Inspector shall obtain, review, and reasonably
276 utilize any base flood elevation data available from any federal, state or
277 other source including data submitted for development proposals
278 submitted to the community (i.e. subdivisions, site approvals).
 - 279 3. In Zone A where the base flood elevation is not available, the base flood
280 elevation shall be at least two feet above the highest adjacent grade.
- 281 B. The Building Inspector's base flood elevation, determination will be used as
282 criteria for requiring in zones A and AE that:
- 283 1. All new construction or substantial improvement of residential structures
284 have the lowest floor (including basement) elevated at least ~~two feet one~~
285 ~~feet~~ ~~one~~ ~~feet~~ above the base flood elevation.
 - 286 2. That all new construction or substantial improvement of non-residential
287 structures have the lowest floor (including basement) elevated ~~at least~~
288 ~~two feet to or~~ ~~above~~ the base flood elevation; or together with attendant
289 utility and sanitary facilities, shall
 - 290 a. Be flood-proofed at least two feet above the base flood
291 elevation so this portion of the structure is watertight with
292 walls substantially impermeable to the passage of water;
 - 293 b. Have structural components capable of resisting hydrostatic
294 and hydrodynamic loads and the effects of buoyancy; and
 - 295 c. Be certified by a registered professional engineer or architect
296 that the design and methods of construction are in accordance
297 with accepted standards of practice for meeting the provisions
298 of this article;
 - 299 3. Recreational vehicles placed on site within Zones A and AE shall either:
 - 300 a. Be on the site for fewer than 180 consecutive days;
 - 301 b. Be fully licensed, ~~on wheels or jacking system, attached to the~~
302 ~~site only by quick disconnect type utilities and security~~
303 ~~devices, and have no permanently attached additions; and~~
304 ~~ready for highway use, or;~~
 - 305 c. Meet all standards of Section 9.4.8.(B)(4) of this ordinance.
 - 306 4. All manufactured homes to be placed or substantially improved within
307 special flood hazard areas shall be elevated on a permanent foundation
308 such that the lowest floor is ~~at least two feet such that the lowest floor of~~
309 ~~the manufactured home is at or~~ ~~above~~ the base flood elevation; and be
310 securely anchored to resist flotation, collapse, or lateral movement.
311 Methods of anchoring may include, but are not limited to, use of over-the
312 top or frame ties to ground anchors. This requirement is in addition to
313 applicable state and local anchoring requirements for resisting wind
314 forces;

- 315 5. For all new construction and substantial improvements, fully enclosed
316 areas below the lowest floor that are subject to flooding are permitted
317 provided they meet the following requirements:
318 a. The enclosed area is unfinished or flood resistant, useable
319 solely for the parking of vehicles, building access or storage;
320 b. The area is not a basement;
321 c. Shall be designated to automatically equalize hydrostatic flood
322 forces on exterior walls by allowing for the entry and exit of
323 floodwater. Designs for meeting this requirement must either
324 be certified by a registered professional engineer or architect or
325 must meet or exceed the following minimum criteria: A
326 minimum of two flood openings having a total net area of not
327 less than one square inch for every square foot of enclosed area
328 subject to flooding shall be provided. The bottom of all
329 openings shall be no higher than one foot above grade.
330 Openings may be equipped with screens, louvers, or other
331 coverings or devices provided that they permit the automatic
332 entry or exit of floodwater.

333 **9.4.9 Variances and Appeals:**

- 334 A. Any order, requirement, decision, or determination of the Building Inspector made under
335 this ordinance may be appealed to the Zoning Board of Adjustment as set forth in NH
336 RSA §676:5.
337 B. If the applicant, upon appeal, requests a variance as authorized by NH RSA §674:33, I
338 ~~(b)~~, the applicant shall have the burden of showing in addition to the usual variance
339 standards under state law:
340 1. That the variance will not result in increased flood heights, additional
341 threats to public safety, or extraordinary public expense.
342 2. That if the requested variance is for activity within a designated
343 regulatory floodway, no increase in flood levels during the base flood
344 discharge will result.
345 3. That the variance is the minimum necessary, considering the flood
346 hazard, to afford relief.
347 C. The Zoning Board of Adjustment shall notify the applicant in writing that:
348 1. The issuance of a variance to construct below the base flood elevation
349 ~~base level~~ will result in increased premium rates for flood insurance up to
350 amounts as high as twenty-five dollars (\$25) for one hundred dollars
351 (\$100) of insurance coverage, and
352 2. Such construction below the base flood elevation ~~base flood level~~
353 increases risks to life and property.
354 Such notification shall be maintained with a record of all variance
355 actions.
356 D. The community shall:
357 1. Maintain a record of all variance actions, including their justification for
358 their issuance, and

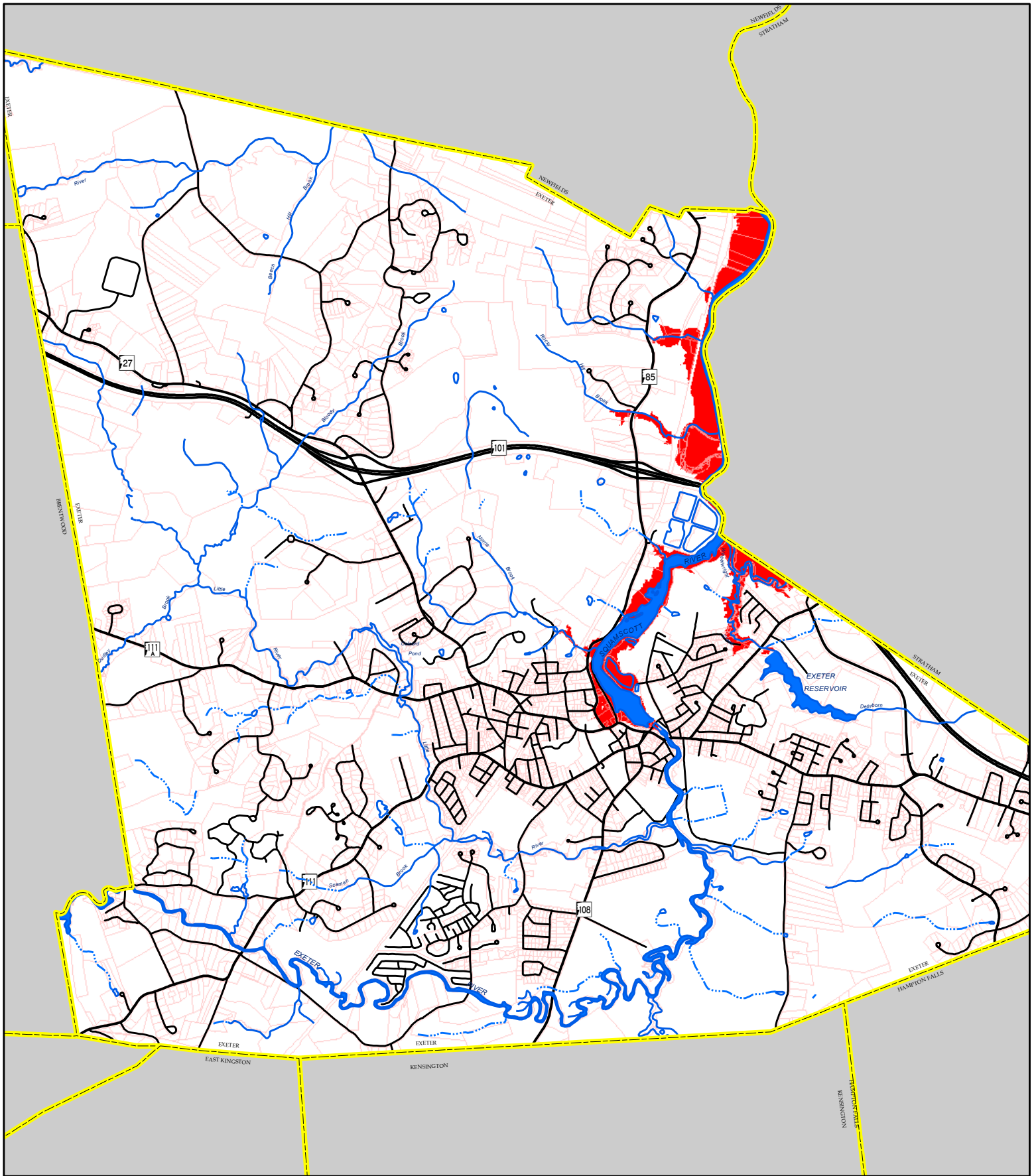
359 2. Report such variances issued in its annual or biennial report submitted to
360 FEMA’s Federal Insurance Administrator.

361 9.5 Sea Level Rise (SLR) Risk Areas

362 As part of New Hampshire’s Coastal Watershed and the Great Bay Estuary, portions of Exeter are
363 vulnerable to sea level rise impacts including increased flooding from coastal storms, riverbank flooding
364 and erosion. The town’s Climate Risk in the Seacoast Vulnerability Assessment (C-RiSe) conducted by
365 the Rockingham Planning Commission in 2017 identified several areas in town likely to be impacted by
366 increased flooding under future projections for sea level rise. These areas may be subject to increased
367 flood damage and as base flood elevations change over time, may be added to a FEMA special flood
368 hazard areas in the future. The map titled *Advisory Sea Level Rise Risk Areas for the Town of Exeter*,
369 dated October 2022, identifies areas in town projected to be impacted by four feet of sea level rise plus a
370 1% annual chance flood event (sea level rise scenarios based on [The New Hampshire Coastal Flood Risk
371 Summary Part 1: Science](#)) The Exeter SLR Risk Areas are intended to be an advisory, non-binding part of
372 this ordinance for the purpose of educating landowners of the potential risks to property and to encourage
373 more stringent building and design standards for development within SLR risk areas.

374 The town of Exeter advises (but does not require) that landowners, homeowners, developers, and any
375 parties seeking to build in lands located within the designated SLR Risk Areas as shown on map titled
376 *Advisory Sea Level Rise Risk Areas for the Town of Exeter*, but not in a special flood hazard area, review
377 the provisions of this floodplain development ordinance and apply them proactively to construction and
378 development projects as applicable.

379 ~~Where base flood elevation is not available in the SLR risk areas, applicants are advised to determine the~~
380 ~~flood elevation by adding at least two feet above the highest point around the perimeter of the building~~
381 ~~footprint.~~



Sea Level Rise Risk Areas (4' + Storm Surge)
 Waterbodies

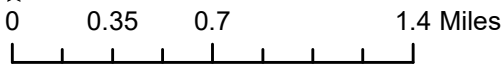
Exeter Parcels

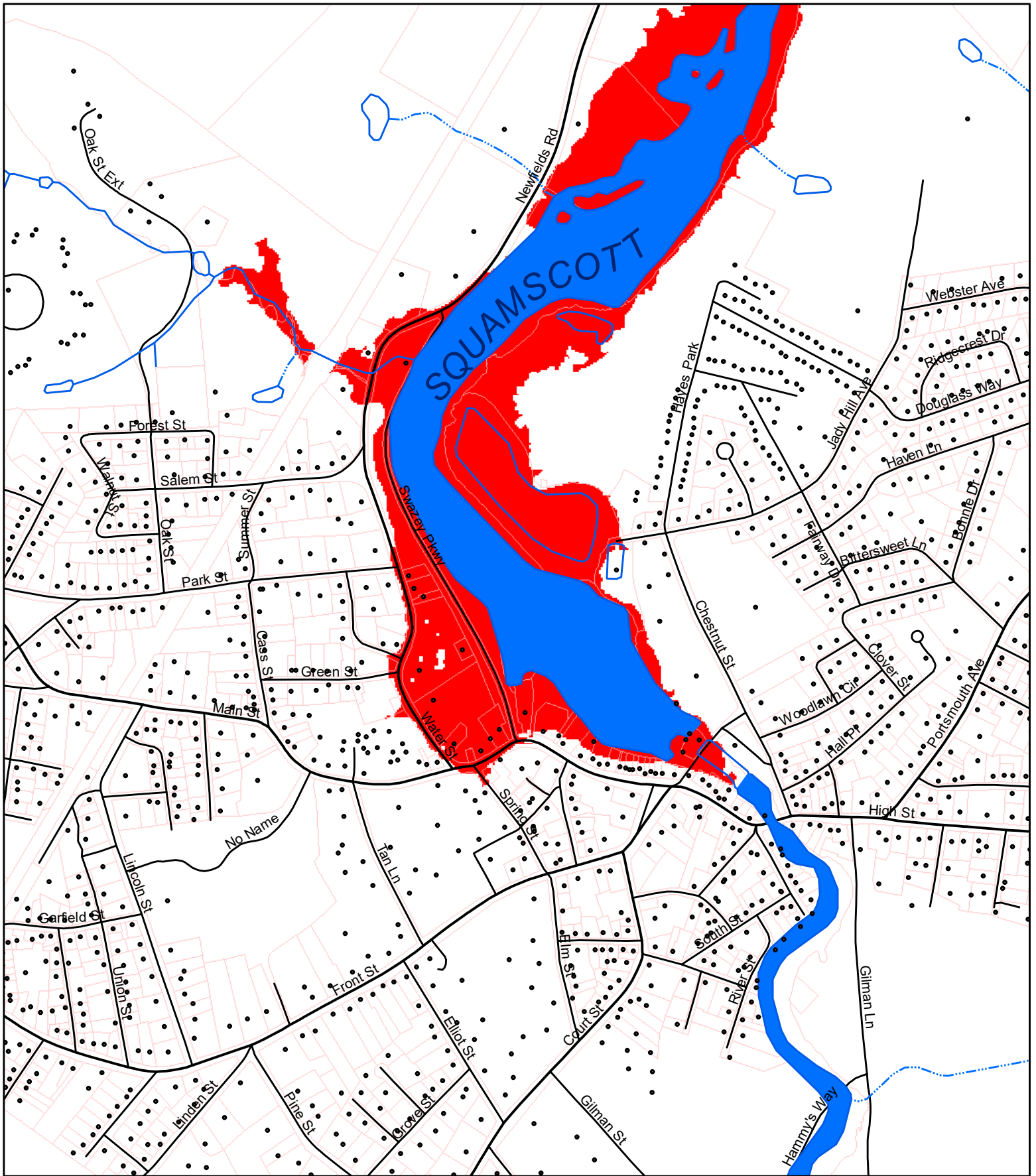
Interstate

US Route

State Route

Local





Sea Level Rise Risk Areas (4' + Storm Surge)
 Waterbodies
 NHDOT Roads 2022

• Buildings 2010

□ Exeter Parcels

Interstate

US Route

State Route

Local

N



0 0.05 0.1 0.2 Miles

