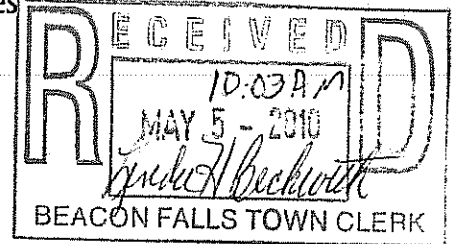




Turner Miller Group
planning consensus community

Land use, economic development, and environmental planning
Facilitating consensus among diverse constituents
Creating sustainable communities



Kurt Novak
Town Clerk
Town of Beacon Falls
10 Maple Avenue
Beacon Falls, CT 06403

Dear Kurt;

At their meeting of April 18, 2010, the Beacon Falls Planning and Zoning Commission approved the attached amendment to the zoning regulations.

Please contact me if you have any questions.

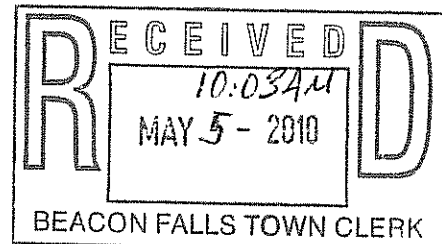
Sincerely,

Brian J. Miller, AICP, Town Planning Consultant

Copy: Beacon Falls Planning and Zoning Commission

Section 53.5 Definitions

Add the following:



"Base Flood Elevation (BFE)" means the elevation of the crest of the base flood or 200-year flood. The height in relation to mean sea level expected to be reached by waters of the base flood at pertinent points in the floodplains of coastal and riverine areas.

"Existing Manufactured Home Park or Subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured home are to be affixed (including, as a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before March 1, 1979, the effective date of the floodplain management regulations adopted by a community.

"Expansion to an Existing Manufactured Home Park or Subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

"Federal Emergency Management Agency (FEMA)" means the federal agency that administers the National Flood Insurance Program (NFIP).

"Historic Structures" means any structure that is" (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historic significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either; (1) By an approved state program as determined by the Secretary of the Interior or (2) Directly by the Secretary of the Interior in states without approved programs.

"Market Value" means the market value of the structure shall be determined by an independent appraisal by a professional appraiser; or the property's tax assessment, minus land value; at the choice of the property owner, prior to the start of the initial repair or improvement, or in the case of damage, the value of the structure prior to the damage occurring.

"New Manufactured Home Park or Subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after March 1, 1979, the effective date of the floodplain management regulation adopted by the community.

"Substantial Damage" means damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed fifty percent of the market value of the structure before the damage occurred.

"Violation" means a failure of a structure or other development to be fully compliant with the community's floodplain management Ordinance. A structure or other development without required permits lowest floor elevation documentation, flood-proofing certificates or required floodway encroachment calculations is resumed to be in violation until such time as that document is provided.

Revise the following existing definitions in Section 53.5 with changes in bold text.

"Development" means any man-made change to improved or unimproved real estate, including, but not limited to the construction of buildings or structures; the construction of additions, alterations or substantial improvements to buildings or structures; the placement of buildings or structures; mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment; the storage, deposition, or extraction of materials; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.

"Functionally Dependent Use or Facility" means a use or facility that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities. The term does not include seafood processing facilities, long-term storage, manufacturing, sales or service facilities.

"Mean Sea Level (MSL,)" means, for the purpose of the National Flood Insurance Program, **the North American Vertical Datum (NAVD) of 1988** or other datum to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"New Construction" means structures for which the "start of construction" commenced on or after **March 1, 1979**, the effective date of this regulation (not the revision date) and including any subsequent improvements to such structure.

"Water Surface Elevation" means the height, in relation to the **North American Vertical Datum (NAVD) of 1988**, or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal and **riverine** areas.

Delete the definition for "National Geodetic Vertical Datum (NGVD)" and replace with the definition below for "North American Vertical Datum".

North American Vertical Datum (NAVD) of 1988" is a vertical control used as a reference for establishing varying elevations within the floodplain.

"Cost" means, as related to substantial improvements, the cost of any reconstruction, rehabilitation, addition, alteration, repair or other improvement of a structure shall be established by a detailed written contractor's estimate. The estimate shall include, but not be limited to: the cost of materials (interior finishing elements, structural elements, utility and service equipment); sales tax on materials, building equipment and fixtures, including heating

and air conditioning and utility meters; labor; built-in appliances; demolition and suite preparation; repairs made to damaged parts of the building worked on at the same time; contractor's overhead; contractor's profit; and grand total. Items to be excluded include: cost of plans and specifications, survey costs, permit fees, outside improvements such as septic systems, water supply wells, landscaping, sidewalks, fences, yard lights, irrigation systems, and detached structures such as garages, sheds, and gazebos.

Section 53.6.2 - The basis for establishing the areas of special flood hazard:

The areas of special flood hazard are identified by the Federal Emergency Management Agency (FEMA) in its Flood Insurance Study (FIS) for New Haven County Connecticut dated September 29, 2010, accompanying Flood Insurance Rate Maps (FIARM), dated September 29, 2010, and other supporting data applicable to the Town of Beacon Falls, and any subsequent revisions thereto, are adopted by reference and declared to be a part of this regulation. Since mapping is legally adopted by reference into this regulation it must take precedence when more restrictive until such time as a map amendment or map revision is obtained from FEMA. Areas of special flood hazard are determined utilizing the base flood elevations (BFE's) provided on the flood profiles in the Flood Insurance Study (FIS) for a community. BFE's provided on Flood Insurance Rate Map (FIRM) are only approximate (rounded up or down) and should be verified with the BFE's published in the FIS for a specific location.

Section 53.9 General Standards

Add the bold text to section 53.9

53.9.1 New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

Section 53.11.1 Specific Standards © Manufactured Homes

- (1) All manufactured homes including "mobile" homes placed on a site from 180 consecutive days or longer to be placed, or substantially improved shall be elevated so that the lowest floor is two (2) feet above the base flood elevation. **This includes all manufactured homes outside of a manufactured home park or subdivision, in a new manufactured home park or subdivision, in an existing manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as a result of a flood.**
- (4) Recreational vehicles placed on sites within an area of special flood hazard shall either (i) be on the site for fewer than 180 consecutive days, and (ii) be fully licensed and ready for highway use, OR (iii) meet all the general standard of Section 53.9 and the elevation and anchoring requirement of Section 53.9.8 and 53.11 (c) (1)-(3). A recreational vehicle is ready for highway use if it is on wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

Section 53.11.3 and 53.11.4 Floodways:

In section 53.11.3 replace the phrase "Flood Boundary and Floodway Map" with "Flood Insurance Rate Map." In section 53.11.4, add bold text provided below.

53.11.4 Prohibit encroachments, including fill, new construction, substantial improvements and other developments unless certification (with supporting technical data) by a registered professional engineer is provided demonstrating, **through hydrologic and hydraulic analyses performed in accordance with standard engineering practice**, that encroachments shall not result in any (0.00 feet) increase in flood levels during occurrence of the base flood discharge.

Delete Section 53.12 for areas of shallow flooding (AO Zones) and replace with the following:

Section 53.12 Compensatory Storage and Equal Conveyance

Compensatory Storage. The water holding capacity of the floodplain, except those areas which are tidally influenced, shall not be reduced. Any reduction caused by filling, new construction or substantial improvements involving an increase in footprint to the structure, shall be compensated for by deepening and/or widening of the floodplain. Storage shall be provided on-site, unless easements have been gained from adjacent property owners, it shall be provided within the same hydraulic reach and a volume not previously used for flood storage; it shall be hydraulically comparable and incrementally equal to the theoretical volume of floodwater at each elevation, up to and including the 100-year flood elevation, which would be displaced by the proposed project. Such compensatory volume shall have an unrestricted hydraulic connection to the same waterway or water body. Compensatory storage can be provided off-site if approved by the municipality.

Equal Conveyance. Within the floodplain, except those areas which are tidally influenced, as designed on the Flood Insurance Rate Map (RIRM) for the community, encroachments resulting from filling, new construction or substantial improvements involving an increase in footprint of the structure, are prohibited unless the applicant provides certification by a registered professional engineer demonstrating with supporting hydrologic and hydraulic analyses performed in accordance with standard engineering practice, that such encroachments shall not result in any (0.00 feet) increase in flood levels (base flood elevation). Work within the floodplain and the land adjacent to the floodplain, including work to provide compensatory storage shall not be constructed in such a way so as to cause an increase in flood stage or flood velocity.

Add the following as Section 53.15:

Section 53.15 Variance Procedures

53.15.1 Establishment of Variance Procedures

The Zoning Board of Appeals as established by the Town of Beacon Falls, shall hear and decide appeals and requests for variances from the requirements of this regulation.

The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement decision or determination in the enforcement or administration of this regulation.

Any person aggrieved by the decision of the Zoning Board of Appeals or any person owning land which abuts or is within a radius of one hundred (100) feet of the land in question may appeal within fifteen (15) days after such decision to the State Superior Court, as provided in Section 8-8 of the General Statutes of Connecticut. The Zoning Board of Appeals shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency (FEMA) upon request.

53.15.2 Specific Situation Variances

Buildings on a Historic Register: Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places, the State Inventory of Historic Places, or any locally-adopted historic district without regard to the procedures set forth in the remainder of this section and provided the proposed reconstruction, rehabilitation or restoration will not result in the structure losing its historical designation.

Functionally Dependent Use or Facility: Variances may be issued for new construction and substantial improvements and other development necessary for the conduct of a functionally dependent use or facility provided the structure or other development is protected by methods that minimize flood damage, creates no additional threat to public safety and meet all the requirements of Section x.x.

Floodway Prohibition: Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

53.15.3 Consideration for Granting of Variances

In passing upon such applications, the Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this regulation and the items listed below. Upon consideration of these factors and the purposes of this regulation, the Zoning Board of Appeal(s) may attach such conditions to the granting of variances as it deems necessary to further the purposes of this regulation.

- The danger that materials may be swept onto other lands to the injury of others;
- The danger to life and property due to flooding or erosion damage;
- The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- The importance of the services provided by the proposed facility to the community;
- The necessity of the facility to waterfront location, in the case of a functionally dependent facility;
- The availability of alternative locations not subject to flooding or erosion damage for the proposed use;
- The compatibility of the proposed use with existing and anticipated development;
- The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- The safety access to the property in times of flood for ordinary and emergency vehicles;

- The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
- The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer; gas, electrical and water systems, and streets and bridges.

53.15.4 Conditions for Variances

Variances shall only be used upon a determination that the variance is the minimum necessary to afford relief considering the flood hazard; and in the instance of a historical building, a determination that the variance is the minimum necessary as not to destroy the historic character and design of the building and result in the loss of historic designation of the building. Variances pertain to a piece of property and are not personal in nature. A properly issue variance is granted for a parcel of property with physical characteristics so unusual that complying with the regulation would create an exceptional hardship to the applicant or the surrounding property owners. Those characteristics must be unique to that property and not be shared by adjacent parcels. For example, economic or financial hardship is not sufficient cause for a variance, nor are inconvenience, aesthetic considerations, physical handicaps, personal preferences or disapproval of one's neighbors.

Variances shall only be used upon (1) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship, and; (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, damage the rights or property values of other persons in the area, cause fraud on or victimization of the public, or conflict with existing local laws, ordinances or regulations. Only hardships that are based on unusual or unique physical characteristics of the property in question, characteristics that are not shared by adjacent parcels, shall qualify to meet subsection (ii) above. Claims of hardships based on structure, on economic gain or loss, or on personal or self-created circumstances are not sufficient cause for the granting of a variance.

No variance may be issued within a regulatory floodway that will result in any increase in the 100-year flood levels. A variance may be issued for new construction, substantial improvements and other development necessary for the conduct of a "functionally dependent use" provided that there is good and sufficient cause for providing relief; and the variance does not cause a rise in the 100-year flood level within a regulatory floodway. The structure and other development must be protected by methods that minimize flood damages.

Any applicant to whom a variance is granted shall be given written notices that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation (BFE) and that the cost of flood insurance will be commensurate with the increased risk resulting from the lowest floor elevation.

Add the following to Section 53.9:

53.9.11 Above Storage Tanks – above ground storage tanks (oil, propane etc.) which are located outside or inside of the structure must either be elevated above the base flood elevation (BFE) on a concrete pad, or be securely anchored with tie-down straps to prevent

flotation or lateral movement, have the top of the fill pipe extended above the BFE, and have a screw fill cap that does not allow for the infiltration of flood water.

53.9.12 **Portion of Structure in Flood Zone** – If any portion of a structure lies within the Special Flood Hazard Area (SFHA), the entire structure is considered to be in the SFHA. The entire structure must meet the construction requirements of the flood zone. The structure includes any attached additions, garages, decks, sunrooms, or any other structure attached to the main structure. Decks or porches that extend into a more restrictive flood zone will require the entire structure to meet the standards of the more restrictive zone.

53.9.13 **Structures in Two Flood Zones** – If a structure lies within two or more flood zones, the construction standards of the most restrictive zone apply to the entire structure (i.e., V zone is more restrictive than A zone; structure must be built to the highest BFE). The structure includes any attached additions, garages, decks, sunrooms, or any other structure attached to the main structure. (Decks or porches that extend into a more restrictive zone will require the entire structure to meet the requirements of the more restrictive zone.)

53.9.14 **No structures Entirely or Partially over Water** – New construction, substantial improvements and repair to structures that have sustained substantial damage cannot be constructed or located entirely or partially over water unless it is a functionally dependent use or facility.