



# Memo

**To:** Ken Lacoste, First Warden  
New Shoreham Town Council

**From:** Margie Comings, Chair  
New Shoreham Planning Board

**Date:** February 12, 2020

**Re:** Draft Zoning Ordinance amendment (Article 3 Zoning Districts and Regulations – Dimensional Standards) and amendment to Chapter 11 Natural Resources Protection “Flood Ordinance” establishing reduced maximum building heights for structures in Special Flood Hazard Areas.

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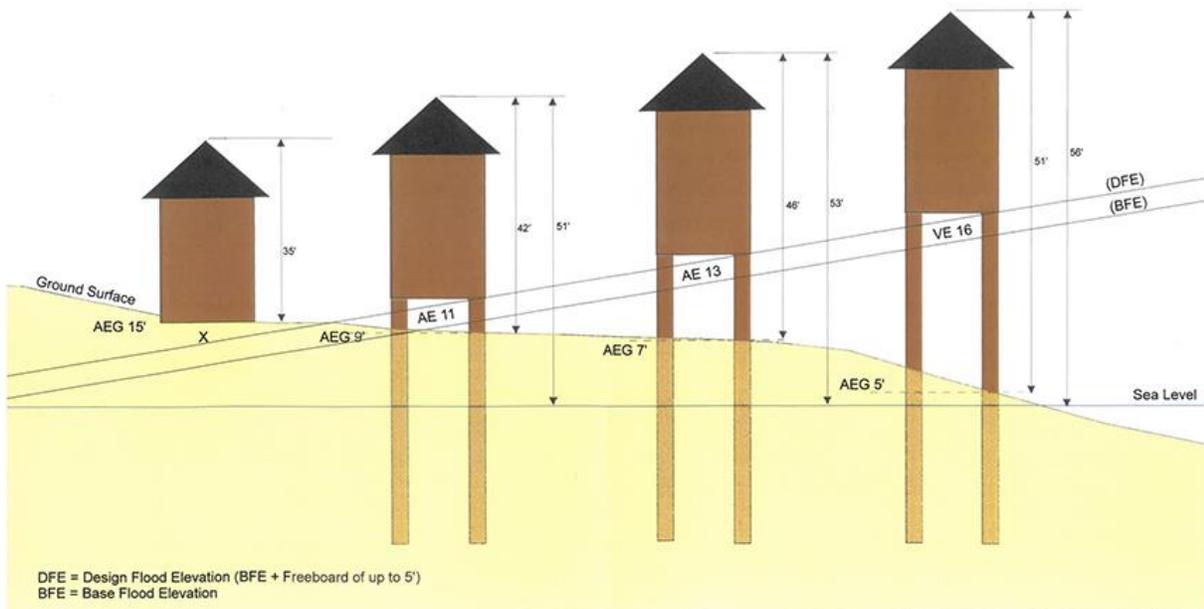
During the 2018 Rhode Island Legislative Session, a bill was enacted (effective March 1, 2019) that amended the definition of building height within the Zoning Enabling Act. Within SFHAs, building height must no longer be measured from average existing grade, but from Base Flood Elevation (BFE) or BFE plus freeboard. As you recall, the Town amended our local definition of building height in 2018 to address the state legislative change to the building height definition at that time which excluded up to 5 feet of freeboard from the calculation of building height. This amended definition allows for greater building height within Special Flood Hazard Areas (SFHAs). An amendment to the Town’s definition a building height is required in order to be consistent with State law (refer to correspondence dated 1/14/2020 Re: *Zoning Ordinance amendment (Section 202 Definitions) requiring that within Special Flood Hazard Areas building height be measured from Base Flood Elevation.*)

There was considerable opposition to this change among Rhode Island coastal communities due to the concern/potential for very tall structures along the coast. Several communities including Middletown, South Kingstown, Charlestown and Narragansett, have adopted amendments to their local regulations in an attempt to counteract this state legislative change.

If the Town proceeds with an amendment to the definition of building height to measure building height for structures within SFHA’s from base flood elevation and would like to counteract potentially higher structures in SFHA’s the Town may also want to consider and elect to amend the dimensional standards sections of the Zoning ordinance.

**The enclosed draft Zoning Ordinance Amendments and draft amendments to the Flood Ordinance are not required for State law consistency. These are optional policy considerations to be made at the local level if and when the Town's amends the local definition of building height.**

The following illustration from another local community may help demonstrate the terminology and the change in how building height must now be calculated in SFHAs, as well as impact. Maximum building height shown is 35 feet which was previously measured from ground surface. If a building is located in a SFHA with a Base Flood Elevation of 11 feet and the ground (average existing grade) is at 9 feet above sea level, then the structure could be up to 42 feet tall as the distance between the ground and the Base Flood Elevation (2 feet), as well as a minimum of 1 foot (DFE) and up to 5 feet of freeboard, is no longer allowed to be counted towards building height per state law (2 ft + 5 ft + 35 ft = 42 ft). The following two structures offer more extreme examples.



A rough analysis was conducted based off GIS data layers including contours and FEMA FIRMs. Other local GIS layers were included in the analysis to further identify potential impacts of regulations including parcels, conserved lands, zoning districts, structures, CRMC coastal overlay, undeveloped and underdeveloped parcels. The higher Base Flood Elevations on Block Island (BFE 13 and BFE 28) are along the edge of the coastline and within the Coastal Overlay Zone / CRMC jurisdiction where there is little to no development potential. Much of the land where Base Flood Elevation of 12 is located can also be described as such with the exception of a few parcels in Old Harbor, as well as, the Coast Guard Station. The areas where Base Flood Elevation is 8, 10 or 11 feet and where there is the most potential to see new structures (development and redevelopment) are located along Corn Neck Road and Ocean Avenue. Based on a GIS analysis there are several parcels within the New Harbor commercial district that have 7 feet in difference between base flood elevation and existing grade.

Therefore, as a result, this draft amendment puts forward 7 feet as the distance to reduce maximum building height elevation in Special Flood Hazard Areas. The 7 feet represents roughly the greatest distance between Base Flood Elevations of the FIRMs and ground elevations for a majority of the developable parcels within the Special Flood Hazard Areas on Block Island.

The table below offers the current building heights for main structures and accessory structures in the Zoning Ordinance and a potential new maximum building height in SFHAs based upon the Zoning District in which the parcel is located. The height of accessory structures was also considered by the Planning Board and the recommendation is that the reduced maximum building height for accessory structures in SFHAs be based upon the existing percentage of the maximum building height of the main structure in the corresponding Zoning district.

Zoning District	Maximum Height					
	Not in a Flood Zone			Rounded % for Zoning Regulation to be used for calculating maximum Accessory Structure in SFHA	Special Flood Hazard Area	
	Main Structure (Feet)	Accessory Structure (Feet)	Accessory Structure as % of Main Structure		Main Structure in SFHA* (Feet)	Allowable Accessory Structure Maximum Height using Rounded %
RA	32	25	78%	80%	25	20
RB	32	25	78%	80%	25	20
RC	30	20	67%	70%	23	16.1
RC/M	30	20	67%	70%	23	16.1
M	30	20	67%	70%	23	16.1
OHC	40	25	63%	60%	33	19.8
NHC	30	25	83%	80%	23	18.4
SC	30	30	100%	100%	23	23

\*Maximum Height for a Main Structure minus 7 feet

\*SFHA- Special Flood Hazard Area

Another way to look at the new building height calculation in SFHAs is that it more closely measures the height of the living area rather than the actual building height of the structure from the ground as it does not include the amount the structure is elevated. For example, a property that is located in a SFHA with a base flood elevation of 11 feet and an average existing grade of 8 feet, the lowest floor (required elevation /Design Flood Elevation/1 ft of freeboard) would begin at 12 feet from grade. With a maximum height of 32 feet under the previous regulations the homeowner would lose 4 vertical feet of living area (DFE 12 - 8ft grade) with the required elevation. Under the proposed amendment/reduction, with a maximum height limit of 25 feet, the same property would lose 7 vertical feet of living area, however, the structure could be up to thirty-three feet tall (25 feet of living area +3 (distance between grade and BFE) +1 of required freeboard (DFE) + 4 optional freeboard = 33 feet).

The enclosed ordinance adds proposed amendment language within the Town’s Flood Ordinance and also within each of the dimensional standards sections of Article 3 of the Zoning Ordinance, as applicable (currently, all Zoning districts with the exception of Public Education, Medical Center and Public Utility have land that falls within the Special Flood Hazard Area). Enclosed also is the PowerPoint presentation prepared for the Town Council following the Planning Board’s invitation to attend their October meeting to discuss this potential Zoning amendment. The Planning Board voted during its November Planning Board meeting to forward the enclosed draft language and supporting material to the Town Council for consideration and finds it is consistent with the Comprehensive Plan.