

To: Kittery Land Use Issues Committee

From: Kathy Connor, Project Planner

Subject: Floodplain & Coastal Hazard Management Ordinance amendments

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Last year, the Town of Kittery was awarded a PREP grant to develop a coastal hazard map and accompanying ordinances. Kittery's Climate Adaptation Committee is leading this effort. The Town's coastal hazard area is defined as that area subject to 1.6 feet and 3.0 feet of storm surge and sea level rise. The data for the map was provided by the Maine Geological Survey. Southern Maine Planning & Development Commission is assisting the Town with the PREP grant mapping and technical support. Staff are making the amendments.

The Town has long had a floodplain management ordinance. After consultation with the State's floodplain management staff, it was determined that the Town's floodplain ordinance needed updating (mandatory to maintain National Flood Insurance Program eligibility) and that to better protect the Town, KCAC thought floodplain regulations should be strengthened. These efforts were combined with the changes needed for the coastal hazard area amendments to produce the Floodplain & Coastal Hazard Management Ordinance.

Below is an outline of what is being done and why.

1. Why we are using the existing floodplain management ordinance for coastal hazard amendments:
  - a. Well-known existing process that is state and federally mandated
  - b. Floodplain ordinance already exists in Kittery's land use regulations (Title 16) along with accompanying FEMA flood maps so adding coastal hazard amendments to accompany the coastal hazard maps follows precedent
  - c. Floodplain ordinance needs updating to meet NFIP and State standards anyway so it is an excellent time to make amendments to the floodplain-related requirements as the KCAC Natural and Built Environment subcommittee discussed this time last year while also making the coastal hazard changes.
  - d. Floodplain areas are already protected as a Resource Protection Zone in Kittery's land use regulations (Title 16) so following precedent, Coastal Hazard Areas will also be protected under this zone.
  - e. Since Kittery's new flood maps will not be available until early next year, it isn't certain, but it is likely that the FEMA flood zones lie within the coastal hazard areas in many parts of Kittery's coastline.

2. What are the main things we are amending?
  - a. Prohibiting new development of residential and non-residential principal structures in the floodplain and coastal hazard areas. Accessory structures and structures supporting water-based uses are still allowed.
  - b. Introducing a 10-year cumulative permit process by which all existing properties within the floodplain and coastal hazard areas total the construction and labor cost of their permits over a ten-year period and compare that total to the assessed value of the structure. If the permit (or total of permits) meet or exceed 50% of the assessed value during that ten-year period, the structure must meet substantial improvements requirements, including freeboard. Other coastal Maine communities have done some version of this.
  - c. Requiring two feet of freeboard instead of 1 foot (which is the minimum required by FEMA) when structures meet the substantial improvement threshold described in b. above.
  - d. Existing structures within the flood or coastal hazard areas that meet the substantial improvements threshold and wish to proceed with construction must request a special exception from the Planning Board.
  - e. Minor improvements to existing structures (that do not meet the substantial improvements threshold) and accessory structures can be permitted by the Code Enforcement Officer.
  - f. All other regulations such as shoreland zoning are in effect where applicable.
  - g. Certain construction/development standards already in place for flood zones will also be required for the coastal hazard areas.