

## **Chapter 38 FLOOD PREVENTION**

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### **ARTICLE I. IN GENERAL**

Secs. 38-1—38-18. Reserved.

**Secs. 38-1—38-18. Reserved.**

### **ARTICLE II. FLOOD DAMAGE PREVENTION**

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#### ***DIVISION 1. GENERALLY***

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#### **Sec. 38-19. Intent.**

The intent of this article is to:

- (1) Promote the general health, welfare, and safety of the community.
- (2) Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.
- (3) Minimize danger to public health and safety by protecting water supply, sanitary sewage disposal, and natural drainage.

- (4) Reduce financial burdens imposed on the community, its governmental units and its residents, by preventing the unwise design and construction of development in areas subject to flooding.

(Ord. No. 96-3, § 1.1, 5-1996)

**Sec. 38-20. Abrogation and greater restrictions.**

The ordinance from which this article is derived supersedes any ordinances currently in effect in floodprone areas. However, any ordinance shall remain in full force and effect to the extent that its provisions are more restrictive.

(Ord. No. 96-3, § 1.2, 5-1996)

**Sec. 38-21. Applicability.**

It shall be unlawful for any person, partnership, business, or corporation to undertake or cause to be undertaken any development or the new construction, substantial improvement, the placement or relocation of any structure (including manufactured homes) within the floodplain area, unless an improvement location permit has been obtained from the permit officer. In addition, where land is to be subdivided, utilized for manufactured home park or subdivision or otherwise developed, a site plan must be submitted to, and approved by, the permit officer prior to any development in order to minimize the hazards and damage resulting from flooding.

(Ord. No. 96-3, § 1.3, 5-1996)

**Sec. 38-22. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*100-year flood* means a flood that has one chance in 100 or a one percent chance of being equaled or exceeded in any given year.

*Base flood* means the flood which has been selected to serve as the basis upon which the floodplain management provisions of this article and other ordinances have been prepared; for purposes of this article, the 100-year flood.

*Basement* means any area of the building having its floor subgrade (below ground level) on all sides.

*Development* means any manmade 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.

*Existing manufactured home park or subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lot 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 before the effective date of the ordinance from which this article is derived.

*Flood* means a general and temporary inundation of normally dry land areas.

*Floodplain* means:

- (1) A relatively flat or low land area adjoining a river, stream, or watercourse which is subject to partial or complete inundation; or
- (2) An area subject to the unusual and rapid accumulation or runoff of surface waters from any source.

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*Floodproofing* means any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

*Floodway* means the channel of a river or other watercourse and the adjacent land area that must be reserved to discharge the base flood without increasing the water surface elevation of that flood more than one foot at any point.

*Historic structure* means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) 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
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - a. By an approved state program as determined by the Secretary of the Interior; or
  - b. Directly by the Secretary of the Interior in states without approved programs.

*Lowest floor* means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this article.

*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. The term "manufactured home" does not include a "recreational vehicle."

*Manufactured home park or subdivision* means a parcel (or continuous parcels) of land divided into two or more manufactured home lots for rent or sale.

*New construction* means structures for which the start of construction commenced on or after the effective date of the ordinance from which this article is derived and includes any subsequent improvements to such structures.

*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 the effective date of the ordinance from which this article is derived.

*Person* means any individual or group of individuals, corporation, partnership, association, or other entity, including state and local governments and agencies.

*Principally above ground* means where at least 51 percent of the actual cash value of a structure, less land value, is above ground.

*Recreational vehicle* means a vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light-duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

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*Start of construction* means:

- (1) The first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.
- (2) For other than new construction or substantial improvements under the Coastal Barrier Resources Act, Pub. Law 97-348, the term "start of construction" includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of tiles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building whether or not that alteration affects the external dimensions of the building.

*Structure* means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home, garage, shed, barn, etc. For purposes of this article, a permanently constructed swimming pool shall be considered a structure.

*Substantial damage* means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

*Substantial improvement.*

- (1) The term "substantial improvement" means:
  - a. Any improvement, addition, or alteration of a structure in excess of \$1,000.00.
  - b. Any repair, reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement.
- (2) The term "substantial improvement" includes structures which have incurred substantial damage, regardless of the actual repair work performed.
- (3) The term "substantial improvement" does not, however, include either:
  - a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to ensure safe living conditions; or
  - b. Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

(Ord. No. 96-3, art. II, 5-1996)

**Sec. 38-23. Identification.**

The identified floodplain area shall be those areas of town, which are subject to the 100-year flood, as shown on the floodway map or flood insurance rate map (FIRM) and described in the flood insurance study (FIS) prepared for the county by the Federal Emergency Management Agency (FEMA) dated May 20, 1977, or the most recent revision thereof.

(Ord. No. 96-3, § 3.1, 5-1996)

**Sec. 38-24. Description of floodplain areas.**

The identified floodplain area shall consist of the following four specific areas:

- (1) The floodway area shall be those areas identified as such in the FIS and as shown on the floodway map or FIRM. The term shall also include floodway areas identified in other studies for the approximated area discussed in subsection (3) of this section.
- (2) The floodway fringe area shall be those areas for which specific 100-year flood elevations have been provided in the FIS but which lie beyond the floodway area. These areas are shown on the floodway map or FIRM.
- (3) The approximated area shall be those areas identified as an A zone on the floodway map or FIRM included in the FIS prepared by FEMA and for which no 100-year flood elevations have been provided. For these areas, elevation and floodway information from other federal, state or other acceptable source shall be used when available. Where other acceptable information is not available, the elevation shall be determined by using the elevation of a point on the boundary of the identified floodplain area which is nearest the construction site. The county planning commission may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the county planning commission.
- (4) The special floodplain area shall be those areas identified in the FIS and as shown on the floodway map or FIRM where 100-year flood elevations have been provided but no floodway has been delineated.

(Ord. No. 96-3, § 3.2, 5-1996)

**Sec. 38-25. Changes in designation of area.**

The delineation of any of the identified floodplain area may be revised by the town planning commission where natural or manmade changes have occurred and/or more detailed studies conducted or undertaken by the U.S. Army Corps of Engineers, the Potomac River Basin Commission or other qualified agency or individual documents the necessity for such changes. However, prior to any such change, approval must be obtained from the Federal Insurance Administration (FIA).

(Ord. No. 96-3, § 3.3, 5-1996)

**Sec. 38-26. Boundary disputes.**

Should a dispute concerning any district boundary arise, an initial determination shall be made by the permit officer and any party aggrieved by this decision may appeal to the town planning commission. The burden of proof shall be on the appellant.

(Ord. No. 96-3, § 3.4, 5-1996)

**Secs. 38-27—38-55. Reserved.**

***DIVISION 2. UTILIZATION OF THE FLOODPLAIN AREA***

Sec. 38-56. Development conditioned upon compliance with regulations.

Sec. 38-57. Encroachments in floodway areas.

Sec. 38-58. Developer required to provide written notification of intention to alter or relocate a watercourse.

Sec. 38-59. New construction or development permitted only where 100-year floodplain elevation not increase by more than one foot.

Secs. 38-60—38-76. Reserved.

**Sec. 38-56. Development conditioned upon compliance with regulations.**

In the floodplain area any development and/or use of land may be permitted provided that all such uses, activities, and/or development shall be undertaken in strict compliance with the floodproofing and related provisions contained herein and in all other applicable codes, ordinances and regulations.

(Ord. No. 96-3, § 4.1, 5-1996)

**Sec. 38-57. Encroachments in floodway areas.**

Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in the base flood elevation.

(Ord. No. 96-3, § 4.2, 5-1996)

**Sec. 38-58. Developer required to provide written notification of intention to alter or relocate a watercourse.**

In addition, whenever a developer intends to alter or relocate a watercourse within the floodplain area, the developer shall notify in writing by certified mail all adjacent communities, and the state coordinating office of all such intended activities prior to any alteration or relocation of the watercourse, and shall submit copies of such notification to the Federal Insurance Administrator. The developer shall also assure the town planning commission in writing, that the flood-carrying capacity within the altered or relocated portion of the watercourse in question will be maintained.

(Ord. No. 96-3, § 4.3, 5-1996)

**Sec. 38-59. New construction or development permitted only where 100-year floodplain elevation not increase by more than one foot.**

Within any special floodplain areas no new construction or development shall be allowed unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the elevation of the 100-year flood more than one foot at any point.

(Ord. No. 96-3, § 4.4, 5-1996)

**Secs. 38-60—38-76. Reserved.**

***DIVISION 3. APPROVAL FOR NEW CONSTRUCTION OR SUBSTANTIAL IMPROVEMENTS***

Sec. 38-77. Improvement location permits—Required.

Sec. 38-78. Same—Basic format.

Sec. 38-79. Elevation and floodproofing information.

Sec. 38-80. Site plan criteria.

Sec. 38-81. Certification forms.

Secs. 38-82—38-105. Reserved.

**Sec. 38-77. Improvement location permits—Required.**

Improvement location permits are required in order to determine whether all new construction or substantial improvements are:

- (1) Approved by the county health department for well and septic permits.
- (2) If in the floodplain area, are:
  - a. Designed or modified and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
  - b. Constructed with materials and utility equipment resistant to flood damage.
  - c. Constructed by methods and practices that minimize flood damage.
  - d. Constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(Ord. No. 96-3, § 5.1, 5-1996)

**Sec. 38-78. Same—Basic format.**

The basic format of the improvement location permit shall include the following:

- (1) Name and address of applicant.
- (2) Name and address of owner of land on which proposed construction is to occur.
- (3) Name and address of contractor.

- (4) Specific site location.
- (5) A brief description of proposed work and estimated cost.
- (6) A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.
- (7) The type of construction (residential, recreation, commercial, garage).

(Ord. No. 96-3, § 5.2, 5-1996)

**Sec. 38-79. Elevation and floodproofing information.**

Depending on the type of structure involved, the following information shall also be included in the improvement location permit application for work within the floodplain area:

- (1) For structures to be elevated to the base flood elevation:
  - a. A plan showing the size of the proposed structure and its relation to the lot where it is to be constructed.
  - b. A determination of elevations of the existing ground, proposed finished ground and lowest floor, certified by a registered professional engineer, surveyor or architect.
  - c. Plans showing the method of elevating the proposed structure, including details of proposed fills, pile structures, retaining walls, foundations, erosion protection measures, etc. When required by the permit officer, these plans shall be prepared by a registered professional engineer or architect.
  - d. Plans showing the methods used to protect utilities (including sewer, water, telephone, electric, gas, etc.) from flooding to the base flood elevation at the building site.
- (2) For structures to be floodproofed to the base flood elevation (nonresidential structures only):
  - a. Plans showing details of all floodproofing measures, prepared by a registered professional engineer or architect, and showing the size of the proposed structure and its relation to the lot where it is to be constructed.
  - b. A determination of elevations of existing ground, proposed finished ground, lowest floor, and floodproofing limits, certified by a registered professional engineer, surveyor, or architect.
  - c. A certificate prepared by the registered professional engineer or architect who prepared the plans in subsection (2)a of this section, that the structure in question, together with attendant utility and sanitary facilities is designed so that:
    1. Below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water.
    2. The structure will withstand the hydrostatic, hydrodynamic, buoyant, impact, and other forces resulting from the flood depths, velocities, pressures, and other factors associated with the base flood.

(Ord. No. 96-3, § 5.3, 5-1996)

**Sec. 38-80. Site plan criteria.**

The owner or developer of any proposed subdivision, manufacture home park, or subdivision, or other development shall submit a site plan to the permit officer which includes the following information:



- (1) The name of the engineer, surveyor or other qualified person responsible for providing the information required in this section.
- (2) A map showing the location of the proposed subdivision and/or development with respect to the county's floodplain areas, proposed lots and sites, fills, flood or erosion protective facilities and areas subject to special deed restriction. In addition, it is required that all subdivision proposals and other proposed new developments greater than 50 lots or five acres, whichever is lesser, shall include base flood elevation data.
- (3) Where the subdivision and/or development lies partially or completely in the floodplain areas, detailed information giving the location and elevation of proposed roads, public utilities and building sites. All such maps shall also show contours at intervals of two or five feet depending upon the slope of the land and identify accurately the boundaries of the floodplain areas.

(Ord. No. 96-3, § 5.4, 5-1996)

**Sec. 38-81. Certification forms.**

Upon completion of construction, the permit holder shall submit to the permit officer a completed elevation certificate or floodproofing certificate (for floodproofed nonresidential construction). These forms shall be kept on file by the county planning commission.

(Ord. No. 96-3, § 5.5, 5-1996)

**Secs. 38-82—38-105. Reserved.**

***DIVISION 4. SPECIFIC REQUIREMENTS***

Sec. 38-106. Design and construction standards.

Secs. 38-107—38-125. Reserved.

**Sec. 38-106. Design and construction standards.**

In order to prevent excessive damage to buildings, structures and related utilities and facilities, the following restrictions shall apply to all development, subdivision proposals, manufactured home parks, new construction and to construction of substantial improvements to existing structures occurring in the floodplain areas:

- (1) *Basements and lowest floors.* Restrictions for basements and lowest floors are as follows:
  - a. All new construction and substantial improvements of residential structures must have the lowest floor (including basement) elevated to or above the base flood elevation.
  - b. All new construction and substantial improvements of nonresidential structures must have the lowest floor (including basement) elevated to or above the base flood elevation; or, together with attendant utility and sanitary facilities, be designed so that below the base flood elevation the structure is floodproofed in accordance with section 38-79(2).
  - c. For all new construction and substantial improvements, those fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on

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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, architect or meet or exceed the following minimum criteria:

1. 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.
  2. The bottom of all openings shall be no higher than one foot above grade.
  3. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (2) *Manufactured home placement.* Restrictions for manufactured home placement are as follows:
- a. Manufactured homes to be placed or substantially improved within any floodplain area on sites outside of a manufactured home park or subdivision, in a new 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 in which a manufactured home has incurred substantial damage as the result of a flood shall:
    1. Be elevated on a permanent foundation so that the lowest floor of the manufactured home is elevated to or above the base flood elevation; and
    2. Be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
  - b. Manufactured homes to be placed or substantially improved within any floodplain area in an existing manufactured home park or subdivision and not subject to the provisions of subsection (2)a of this section shall be elevated so that either:
    1. The lowest floor of the manufactured home is at or above the base flood elevation; or
    2. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- (3) *Recreational vehicle placement.* Recreational vehicles to be placed within any floodplain area shall either be on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use or meet the provisions of subsection (2)a of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect utilities and security devices, and has no permanently attached additions.
- (4) *Fill.* If fill is used to raise the finished surface of the lowest floor to the base flood elevation:
- a. Fill shall extend beyond a structure for a sufficient distance to provide acceptable access. For residential structures, fill shall extend laterally 15 feet beyond the building line from all points. For nonresidential structures, fill shall be placed to provide access acceptable for intended use. At-grade access, with full extending laterally 15 feet beyond the building line, shall be provided to a minimum of 25 percent of the perimeter of a nonresidential structure.
  - b. Fill shall consist of soil or rock materials only. Sanitary landfills shall not be permitted.
  - c. Fill material shall be compacted to provide the necessary stability and resistance to erosion, scouring, or settling.

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- d. Fill slopes shall be no steeper than one vertical on two horizontal, unless substantiating data justifying steeper slopes are submitted to and approved by the permit officer.
  - e. Fill shall be used only to the extent to which it does not adversely affect adjacent properties.
- (5) *Placement of buildings.* All buildings and structures shall be constructed and placed on the lot so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum obstruction effect upon the flow and height of floodwaters.
- (6) *Anchoring.* Restrictions for anchoring shall be as follows:
- a. All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, and lateral movement, thus reducing the threat to life and property and decreasing the possibility of the blockage of bridge openings and other restricted sections of the watercourse.
  - b. All air ducts, large pipes and storage tanks located at or below the base flood elevation shall be firmly anchored to resist flotation.
  - c. All manufactured homes shall be anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include but are not limited to the over-the-top and frame ties to ground anchors such as the following:
    - 1. Over-the-top ties shall be provided at each of the four corners of the manufactured home, with two additional ties per side for manufactured homes less than 50 feet long.
    - 2. Frame ties shall be provided at each corner of the home with five additional ties per side at intermediate points, with manufactured homes less than 50 feet long requiring four additional ties per side.
    - 3. All components of the anchoring system shall be capable of carrying a force of 4,800 pounds.
    - 4. Any additions to a manufactured home shall be similarly anchored.
- This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
- (7) *Storage.* No materials that are buoyant, flammable, explosive, or in times of flooding could be injurious to human, animal or plant life, shall be stored below the base flood elevation.
- (8) *Utility and facility requirements.* Utility and facility requirements are as follows:
- a. All new or replacement water systems, whether public or private, shall be designed to minimize or eliminate infiltration of floodwaters into the system.
  - b. All new or replacement sanitary disposal systems, whether public or private, shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.
  - c. All other new or replacement public and/or private utilities and facilities shall be located and constructed to minimize or eliminate flood damage.
  - d. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- (9) *Drainage.* Adequate drainage shall be provided to reduce exposure to flood hazards.
- (Ord. No. 96-3, § 6.1, 5-1996)

**Secs. 38-107—38-125. Reserved.**

***DIVISION 5. ADMINISTRATION***

Sec. 38-126. Improvement location permits; site plan approvals required.

**Sec. 38-126. Improvement location permits; site plan approvals required.**

It shall be unlawful for any person, partnership, business, or corporation to undertake or cause to be undertaken any development or the new construction, substantial improvement or relocation of any structure (including manufactured homes) within the floodplain area, unless a permit has been obtained from the permit officer. In addition, where land is to be subdivided, utilized for a manufactured home park or subdivision or otherwise developed, a site plan must be submitted to, and approved by, the town.

(Ord. No. 96-3, § 7.1, 5-1996)