

## SECTION 3.7. FLOOD PLAIN OR WATERSHED PROTECTION DISTRICTS

### A. Purposes

The purposes of Flood Plain Districts or Watershed Protection Districts are to:

1. Ensure public safety through reducing the threats to life and personal injury;
2. Eliminate new hazards to emergency response officials;
3. Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding;
4. Avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding;
5. Eliminate costs associated with the response and cleanup of flooding conditions;
6. Reduce damage to public and private property resulting from flooding waters.

### B. Definitions

For the purposes of this Section the following terms shall be defined as follows:

Development – Any manmade change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

New Construction – Structures for which the start of construction commenced on or after the effective date of the first floodplain management code, regulation, ordinance, or standard adopted by the authority having jurisdiction, including any subsequent improvements to such structures. New construction includes work determined to be substantial improvement.

Start of Construction –the date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading or filling), the installation of streets or walkways, excavation for a basement, footings, piers or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. 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 –a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

Substantial Repair of a Foundation –when work to repair or replace a foundation results in the repair or replacement of a portion of the foundation with a perimeter along the base of the foundation that equals or exceeds 50% of the perimeter of the base of the foundation measured in linear feet, or repair or replacement of 50% of the piles, columns or piers of a pile, column or pier supported foundation, the building official shall determine it to be substantial repair of a foundation. Applications determined by the building official to constitute substantial repair of a foundation shall require all existing portions of the entire building or structure to meet the requirements of 780 CMR.

Variance – a grant of relief by a community from the terms of a flood plain management regulation.

Violation – the failure of a structure or other development to be fully compliant with the community’s flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR §60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

## C. Flood Plain District

### 1. District Boundaries and Base Flood Elevation Data

- a. The Flood Plain District is herein established as an overlay district. The District includes all Special Flood Hazard Areas within the Town designated as Zone A, AE, AH, AO, A99, V, or VE on the Norfolk County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Norfolk County FIRM that are wholly or partially within the Town are panel numbers 25021C0004E, 25021C0008E, 25021C0009E, 25021C0012E, 25021C0014E, 25021C0016E, 25021C0017E, 25021C0018E, 25021C0028E, and 25021C0036E. The exact boundaries of the District shall be defined by the 1%-chance base flood elevations shown on the FIRM dated July 17, 2012 and further defined by Norfolk County Flood Insurance Study (FIS) report dated July 17, 2012. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Inspector of Buildings, Conservation Commission and Wetlands Protection Committee.
- b. Base Flood Elevation Data. In Zones A and AE, along watercourses that have not had a regulatory Floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

## D. Watershed Protection District

The Watershed Protection District is herein established as an overlay district.

## E. Regulations and Restrictions

### 1. General Restrictions:

- a. In Flood Plain or Watershed Protection Districts, except as provided in Section 3.7.E.4 below, no new building or structure shall be constructed or used in whole or in part, and no existing building or structure lying wholly within a designated Flood Plain or Watershed Protection District shall be altered, enlarged, reconstructed or used in a manner which would increase ground coverage within the Flood Plain or Watershed Protection District; no dumping of trash, rubbish garbage, junk or other waste materials shall be permitted; no filling, dumping, excavating, removal or transfer of gravel, sand, loam, or other material which will restrict flood water flow or reduce the flood water storage capacity shall be permitted, except the surfacing or resurfacing of any existing parking area.
- b. The Town requires a permit for all proposed construction or other development in the Flood Plain District, including new construction or changes to existing buildings, placement of manufactured homes, placement of agricultural facilities, fences, sheds, storage facilities or drilling, mining, and paving.
- c. All development in the Flood Plain or Watershed Protection District, including structural and non-structural activities, must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and the following:
  - i. Sections of the Massachusetts State Building Code (780 CMR) which address floodplain and coastal high hazard areas;
  - ii. Wetlands Protection Regulations, Department of Environmental Protection (310 CMR 10.00);
  - iii. Inland Wetlands Restriction, Department of Environmental Protection (310 CMR 13.00); and
  - iv. Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, Department of Environmental Protection (310 CMR 15, Title 5).
- d. The portion of any lot delineated as being within a Flood Plain or Watershed Protection District may be used to meet the area and yard requirements for the district in which the remainder of the lot is situated.

### 2. Floodway encroachment

- a. In Zones A1-30 and AE, along watercourses that have a regulatory floodway designated on the Town's FIRM, encroachments are prohibited in the regulatory

floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

3. Assure that all necessary permits are obtained

- a. Wellesley's permit review process includes the use of a checklist of all local, state and federal permits that will be necessary in order to carry out the proposed development in the floodplain overlay district. The proponent must acquire all necessary permits and must submit the completed checklist demonstrating that all necessary permits have been acquired.

4. Permitted Uses

- a. The following uses of low flood damage potential and causing no obstructions to flood flows shall be permitted provided they are permitted in the underlying district and they do not require structures, excavation, fill, or storage of materials or equipment:
  - i. Farming, grazing, and horticulture;
  - ii. Forestry and nursery uses;
  - iii. Conservation of water, plants, wildlife; and
  - iv. Wildlife management areas, foot, bicycle, and/or horse paths.
- b. The Special Permit Granting Authority may give permission, as hereinafter provided in Section 6.3 and subject to the provisions of Section 3.7.F.5 below, for the following uses within Flood Plain or Watershed Protection Districts:
  - i. Any use, otherwise permitted by the underlying zoning district within which the land is situated;
  - ii. Construction, operation and maintenance of dams and other water control devices including temporary alteration of the water level for emergency purposes;
  - iii. Bridges and like structures permitting passages between lands of the same owner, provided that such bridges and structures shall be constructed, maintained and used at the expense and risk of such owner;
  - iv. Driveways and walkways ancillary to uses otherwise permitted by this Section;
  - v. Recreation, including golf courses, municipal, county or state parks (but not an amusement park), boating, fishing or any non-commercial open air recreation use;

- vi. Structures ancillary to farms, truck gardens, nurseries, orchards, tree farms and golf courses.

## 5. Project Approval

The provisions of Section 5.6 shall apply.

- a. Plans submitted in accordance with Section 5.6 shall make adequate provision for:
  - i. The protection, preservation and maintenance of the water table and water recharge areas;
  - ii. The preservation of the natural river channel plus sufficient width of overbank areas for the passage of flood flows;
  - iii. The retention of existing flood carrying capacity;
  - iv. The design of proposed construction in a manner which ensures anchoring to prevent flotation, collapse and/or excessive movement of structures; and
  - v. The design of public utilities including sewer, water, gas and electrical systems in a manner which will minimize or eliminate flood damage.
- b. Base flood elevation data for subdivision proposals
  - i. When proposing subdivisions or other developments greater than 50 lots or 5 acres (whichever is less), the proponent must provide technical data to determine base flood elevations for each developable parcel shown on the design plans.
- c. All subdivision proposals and development proposals in the floodplain overlay district shall be reviewed to assure that:
  - i. Such proposals minimize flood damage;
  - ii. Public utilities and facilities are located & constructed so as to minimize flood damage; and
  - iii. Adequate drainage is provided.
- d. AO and AH zones drainage requirements
  - i. Within Zones AO and AH on the FIRM, adequate drainage paths must be provided around structures on slopes, to guide floodwaters around and away from proposed structures.
- e. Unnumbered A Zones
  - i. In A Zones, in the absence of FEMA BFE data and floodway data, the building department will obtain, review and reasonably utilize base flood

elevation and floodway data available from a Federal, State, or other source as criteria for requiring new construction, substantial improvements, or other development in Zone A as the basis for elevating residential structures to or above base flood level, for floodproofing or elevating nonresidential structures to or above base flood level, and for prohibiting encroachments in floodways.

f. Recreational Vehicles

- i. In A1-30, AH, AE Zones, V1-30, VE, and V Zones, all Recreational Vehicles to be placed on a site must be elevated and anchored in accordance with the zone's regulations for foundation and elevation requirements or be on the site for less than 180 consecutive days or be fully licensed and highway ready.

6. Variances from Flood Plain District Requirements

A variance may be granted for flood plain management purposes only.

- a. A variance from this floodplain bylaw must meet the requirements set out by State law and may only be granted if: 1) Good and sufficient cause and exceptional non-financial hardship exist; 2) the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, or cause fraud or victimization of the public; and 3) the variance is the minimum action necessary to afford relief.
- b. Variances shall not be issued within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

7. State Building Code Appeals Board Variance

The Town will request from the State Building Code Appeals Board a written and/or audible copy of the portion of the hearing related to the variance and will maintain this record in the community's files.

8. Notice

- a. The Town shall issue a letter to the property owner regarding potential impacts to the annual premiums for the flood insurance policy covering that property, in writing over the signature of a community official that 1) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and 2) such construction below the base flood level increases risks to life and property.
- b. Such notification shall be maintained with the record of all variance actions for the referenced development in the Flood Plain District.

F. Abrogation and Greater Restrictions

The floodplain management regulations found in this Floodplain Overlay District section shall take precedence over any less restrictive conflicting local laws, ordinances or codes.

G. Designation of Community Floodplain Administrator

The Town hereby designates the position of Planning Director to be the official floodplain administrator for the Town.

H. Watercourse alterations or relocations in riverine areas

In a riverine situation, the Community Floodplain Administrator shall notify the following of any alteration or relocation of a watercourse:

- Adjacent Communities, especially upstream and downstream
- Bordering States, if affected
- NFIP State Coordinator  
Massachusetts Department of Conservation and Recreation  
251 Causeway Street, 8<sup>th</sup> floor  
Boston, MA 02114
- NFIP Program Specialist  
Federal Emergency Management Agency, Region I  
99 High Street, 6<sup>th</sup> Floor  
Boston, MA 02110

I. Requirement to submit new technical data.

If the Town acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, the Town will, within 6 months, notify FEMA of these changes by submitting the technical or scientific data that supports the change(s.) Notification shall be submitted to:

FEMA Region I Risk Analysis Branch Chief  
99 High St., 6<sup>th</sup> floor, Boston, MA 02110

And copy of notification to:

Massachusetts NFIP State Coordinator  
MA Dept. of Conservation & Recreation, 251 Causeway Street, Boston, MA 02114

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