

To see if the Town will vote to amend Chapter Three, Establishment of Districts by inserting the underlined information and deleting the strikethrough information as shown below, or take any other action in relation thereto:

~~CHAPTER THREE~~ **ARTICLE III**  
**ESTABLISHMENT OF DISTRICTS**  
**{Adopted 3-1-65; Article 46}**

**3.01 §300-3.1 TYPES OF DISTRICTS**

For the purposes of this Bylaw, the Town of Sturbridge is hereby divided into the following types of districts:

RURAL RESIDENTIAL	(RR)	
SUBURBAN RESIDENTIAL	(SR)	
COMMERCIAL	(C)	
COMMERCIAL II	(C2)	<b>{Amended 4-27-92; Article 53}</b>
GENERAL INDUSTRIAL	(GI)	
INDUSTRIAL PARK	(IP)	
COMMERCIAL/TOURIST	(CT)	
HISTORICAL COMMERCIAL	(HC)	<b>{Amended 4-27-98; Article 80}</b>
SPECIAL USE	(SU)	<b>{Amended 4-27-98; Article 81}</b>
VILLAGE GATEWAY DISTRICT	(VGD)	<b>{Amended 6-3-13; Article 4 &amp; 5}</b>
WIRELESS COMMUNICATION OVERLAY	(WC)	<b>{Amended 4-27-98; Article 104}</b>
MEDICAL MARIJUANA OVERLAY DISTRICT	(MMOD)	<b>{Added ATM 6-2-14; Article 21}</b>
<u>FLOODPLAIN DISTRICT</u>	<u>(FP)</u>	<b><u>{Amended 4-26-82; Article 23}</u></b>

**3.02 §300-3.2 LOCATION OF DISTRICTS**

Said districts are hereby located and bounded as shown on a map entitled "Zoning Map of Sturbridge, Massachusetts", dated February 1, 1965 and the "Town of Sturbridge - Overlay District Map" originally dated January 9, 1998 and most recently revised as per the date in the Foreword of this bylaw. Said maps and explanatory matter are hereby declared to be a part of this Bylaw. **{Amended 4-28-86; Article 99} & {Amended 4-27-98; Article 130}**

**3.03 §300-3.3 DISTRICT BOUNDARIES**

The location of the boundary lines of the districts shown on the Zoning Map shall be determined as follows:

- 3.04 A.** DISTRICT BOUNDARY LINES ON WAYS. Where the said boundary lines are shown on said map within the street lines of public or private ways, the center lines of such ways shall be the boundary lines.

**3.05** B. DISTRICT BOUNDARY LINES ON LOT LINES. Where the said boundary lines are shown approximately on the location of property or lot lines, and the exact location of property, lot or boundary lines is not indicated by means of figures, then the property or lot lines shall be the boundary lines.

**3.06** C. DISTRICT BOUNDARY LINES OUTSIDE OF STREET LINES. In the absence of specific dimensions, the distance of the boundary back from the street lines (and running parallel to the street) is assumed to be the distance which, when multiplied by the frontage requirement for the district, will produce the minimum lot size allowed for the district. **{Amended 4-29-74; Article 38}**

**3.07** D. DISTRICT BOUNDARY LINES ON WATERWAYS. Where said boundary lines follow a waterway, the said boundary line shall be as shown on the Zoning Map and shall be deemed to be at the limit of the jurisdiction of the Town, in those cases where the Zoning District Boundary Line is also a Town Boundary Line.

**3.08** E. LOCATION OF DISTRICT BOUNDARY LINES. In cases which are not governed by other provisions of this section, the location of said boundary lines shall be determined by the distances in feet, if given, from other lines upon said map, or, if the distances are not given, then by the scale of the map.

**3.09** F. DETERMINATION OF DISTRICT BOUNDARY LINES. Whenever any uncertainty exists as to the exact location of a district boundary line, the location of such lines shall be determined by the Board of Selectmen, provided however, that any person aggrieved by their decision may appeal to the Zoning Board of Appeals.

**3.10** **§ 300-3.4 FLOODPLAIN DISTRICT**

A Flood Plain District is hereby established as an overlay district to all other districts. **{Amended 4-26-82; Article 23}**

**3.11** A. FLOODPLAIN DISTRICT DEFINITIONS. Where not expressly defined in the Zoning Bylaws, terms used in this Section shall be interpreted as defined below:

DEVELOPMENT - any man-made 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. [US Code of Federal Regulations, Title 44, Part 59]

FLOODWAY - The channel of the river, creek or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. [Base Code, Chapter 2, Section 202]

FUNCTIONALLY DEPENDENT USE - a use which 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, but does not include long-term storage or related manufacturing facilities. [US Code of Federal Regulations, Title 44, Part 59] Also [Referenced Standard ASCE 24-14]

HIGHEST ADJACENT GRADE - the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. [US Code of Federal Regulations, Title 44, Part 59]

HISTORIC STRUCTURE - 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.

[US Code of Federal Regulations, Title 44, Part 59]

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. [Referenced Standard ASCE 24-14]

RECREATIONAL VEHICLE - a vehicle which is:

- (1) Built on a single chassis;
- (2) 400 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.

[US Code of Federal Regulations, Title 44, Part 59]

REGULATORY FLOODWAY - see FLOODWAY.

SPECIAL FLOOD HAZARD AREA - The land area subject to flood hazards and shown on a Flood Insurance Rate Map or other flood hazard map as Zone A, AE, A1-30, A99, AR, AO, AH, V, VO, VE or V1-30. [Base Code, Chapter 2, Section 202]

#### START OF CONSTRUCTION

(1) 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.

(2) 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. [Base Code, Chapter 2, Section 202]

STRUCTURE - for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. [US Code of Federal Regulations, Title 44, Part 59]

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. [As amended by MA in 9th Edition BC]

VARIANCE - a grant of relief by a community from the terms of a flood plain management regulation. [US Code of Federal Regulations, Title 44, Part 59]

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 §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. [US Code of Federal Regulations, Title 44, Part 59]

**3.12** The purposes of the Flood Plain District are to protect the public health, safety and general welfare, to protect human life and property from the hazards of periodic flooding, to preserve the natural flood control characteristics and the flood storage capacity of the flood plain, and to preserve and maintain the ground water table and water recharge areas within the flood plain. {Amended 4-26-82; Article 23}

B. The purpose of the Floodplain Overlay District is 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

**3.13** ~~The general boundaries of the Flood Plain District includes all special flood hazard areas within the Town of Sturbridge designated as Zone A and AE, on the Worcester County Flood Insurance Rate Maps (FIRMs) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Worcester County FIRM that are wholly or partially within the Town of Sturbridge are panel numbers 25027C0745E, 25027C0761E, 25027C0762E, 25027C0763E, 25027C0764E, 25027C0766E, 25027C0767E, 25027C0768E, 25027C0769E, 25027C907E, 25027C0909E, 25027C0917E, 25027C0919E, 25027C0926E, 25027C0927E, 25027C0928E, 25027C0929E, 25027C0931E, 25027C0932E, 25027C0933E, 25027C0936E and 25027C0940E dated July 4, 2011. The exact boundaries of the District may be defined by the 100 year base flood elevations shown on the FIRM and further defined by the Worcester County Flood Insurance Study (FIS) report dated July 4, 2011. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board and Director of Inspections, and the Conservation Commission. {Amended 6-06-11; Article 23}~~

C. The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Sturbridge designated as Zone A, AE, AH, AO, or A99 on the Worcester County Flood Insurance Rate Map (FIRM) dated July 16, 2014 issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The exact boundaries of the District shall be defined by the 1%-chance base flood elevations shown on the FIRM and further defined by the Worcester County Flood Insurance Study (FIS) report dated July 16, 2014. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board and Director of Inspections, and the Conservation Commission.

**3.14** D. Within Zone A, where the one hundred (100) year flood elevation is not provided on the FIRM, the applicant shall obtain any existing flood elevation data, and it shall be reviewed by the

Planning Board. If the data is sufficiently detailed and accurate, it shall be relied upon to require compliance with this Bylaw and the State Building Code. **{Amended 4-26-82; Article 23}**

**3.15** E. The Flood Plain District is established as an overlay district to all other districts. All development, including structural and non-structural activities, whether permitted by right or by special permit, must be in compliance with M.G.L., Ch. 131 § 40 and with the requirements of the Massachusetts State Building Code pertaining to construction in the flood plain as well as the DEP Wetlands Protection Regulations, DEP Inland Restriction, DEP Coastal Wetlands Restriction and the DEP Minimum Requirements for the Subsurface Disposal of Sanitary Sewage. **{Amended 4-26-82; Article 23} & {Amended 4-24-95; Article 41}**

**3.15.1** (1) Designation of community Floodplain Administrator. The Town of Sturbridge hereby designates the position of Town Planner to be the official floodplain administrator for the Town.

**3.15.2** (2) Permits are required for all proposed development in the Floodplain Overlay District. A permit is required for all proposed construction or other development in the floodplain overlay district, including new construction or changes to existing buildings, placement of manufactured homes, placement of agricultural facilities, fences, sheds, storage facilities or drilling, mining, paving and any other development that might increase flooding or adversely impact flood risks to other properties.

**3.15.3** (3) Assure that all necessary permits are obtained. Sturbridge'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.

**3.15.4** (4) Variances to building code floodplain standards

(a) 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.

(b) The Town shall also 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.

(c) Such notification shall be maintained with the record of all variance actions for the referenced development in the floodplain overlay district.

**3.15.5** (5) Variances to local Zoning Bylaws related to community compliance with the National Flood Insurance Program (NFIP). A variance from these floodplain bylaws must meet the requirements set out by State law, and may only be granted if:

(a) Good and sufficient cause and exceptional non-financial hardship exist;

(b) The variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public; and

(c) The variance is the minimum action necessary to afford relief.

**3.16** F. The following uses of low flood damage potential and causing no obstructions to flood flows shall be allowed provided they are permitted in the underlying district and they do not require structures, fill, or storage of materials or equipment.

(a) Agricultural uses.

(b) Forestry and nursery uses.

(c) Outdoor recreational uses.

(d) Conservation and wildlife management areas.

(e) Temporary, non-residential structures used in connection with growing, harvesting, storage or sale of crops raised on the premises.

(f) Buildings lawfully existing prior to the adoption of these provisions.

**{Amended 4-26-82; Article 23}**

**3.17** G. No structure or building shall be erected, constructed, substantially improved, moved, or otherwise created; no earth or other materials dumped, filled, evacuated, or transferred unless a special permit is granted by the Planning Board. Said Board may issue a special permit hereunder (subject to the applicable provisions of this Bylaw) if the application is compliant with the following provisions:

~~(a)~~ (1) The proposed use shall comply in all respects with the provisions of the underlying district.

(2) Review and reports.

~~(b)~~ (a) Within ten (10) days of receipt of the application, the Board shall transmit one copy of the development plan to each of the following:

1) [1] Board of Health

2) [2] Town Engineer/DPW Director {Amended 4-27-98; Article 105}

3) [3] Conservation Commission

4) [4] Director of Inspections; and if concerned

5) [5] Fire Chief

6) [6] Police Chief

7) [7] Board of Selectmen

(b) Final action shall not be taken until reports have been received from the above Boards or thirty five (35) days have elapsed and a properly published and posted public hearing has been held. **{Amended 4-26-82; Article 23}**

~~(c) All encroachments, including fill, new construction, substantial improvement to existing structures, and other developments are prohibited unless certification by a registered professional engineer is provided by the applicant demonstrating that the encroachment shall not result in any increase in flood levels during the occurrence of the one hundred (100) year flood. {Amended 4-26-82; Article 23}~~

(3) Watercourses with or without designated regulatory floodways.

(a) In Zones A, A1-30, 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.

(b) In Zones A1-30 and AE, along watercourses that have a regulatory floodway designated on the Sturbridge 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.

~~(d)~~ (4) The Board may specify such additional requirements and conditions it finds necessary to protect the health, safety, and welfare of the public and the occupants of the proposed use. {Amended 4-26-82; Article 23}

~~(e) All other necessary permits including State and Federal permits must be received prior to any construction, alteration or other development. In situations involving a river, the developer must show proof of notification to adjacent communities and the State Coordinating Office prior to any alterations or relocation of a watercourse and submit copies to the Federal Insurance Administration of said notifications. {Amended 4-26-82; Article 23}~~

~~(f)~~ (5) No building, development or substantial improvement shall be allowed in a Floodway. {Amended 4-26-82; Article 23}

~~(g)~~ (6) The flood-carrying capacity shall be maintained within any altered or relocated portion of any watercourse. {Amended 4-26-82; Article 23}

~~(h)~~ (7) A minimum of ninety-eight (98) percent of the natural surface and underground flood storage volume of the site shall be maintained. {Amended 4-26-82; Article 23}

~~(i) All new construction and substantial improvements shall be constructed with flood resistant materials and methods, and anchored to prevent floatation and lateral movement. {Amended 4-26-82; Article 23}~~



{j} (8) Safe and permanent access shall be maintained by the owner from the nearest public way to any proposed building in the flood plain. **{Amended 4-26-82; Article 23}**

{k} (9) All new or reconstructed water, sewer, drainage and other utilities shall be designed and located to avoid their impairment, promote safety and minimize flood damage. Approval of the Board of Health shall be required for sewer and drainage systems. **{Amended 4-26-82; Article 23}**

~~{l} The Director of Inspections shall be furnished with:~~

~~1) The elevation in relation to mean sea level of the lowest habitable floor including basement.~~

~~2) (10) If the structure has been flood-proofed, the Director of Inspections shall be furnished with the elevation to which the structure has been flood-proofed floodproofed.~~

~~**{Amended 4-26-82; Article 23}**~~

{m} (11) All buildings and structures as defined in 780 CMR 120.G201 (State Board of Building Regulations and Standards) including new or replacement manufactured homes erected or substantially improved in Flood Hazard Zones (A Zones) shall be designed and constructed in accordance with 780 CMR 120.G501 (as may from time to time be amended). **{Amended 4-27-09; Article 11}**

{n} (12) Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or five acres, whichever is the lesser, within unnumbered A Zones. **{Amended 4-27-09; Article 11}**

~~{o} (13) Subdivision Proposals. All subdivision proposals and development proposals in the floodplain overlay district shall be reviewed to assure that:~~

~~a- (a) Such proposals minimize flood damage.~~

~~b- (b) Public utilities and facilities are located & constructed so as to minimize flood damage.~~

~~c- (c) Adequate drainage is provided.~~

{p} (14) Unnumbered A Zones. 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.

~~(e)~~ (15) AO and AH zones drainage requirements. 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.

~~(f)~~ (16) When floodproofing is used, it shall be certified by a Registered Professional Engineer and Registered Architect to be adequate to withstand the forces associated with the Base Flood, and to be essentially water tight with walls substantially impermeable to the passage of water. **{Amended 4-26-82; Article 23}**

H. Trailer coach and mobile home parks; recreational vehicles.

**3.18** (1) No Trailer Coach Parks or Mobile Home Parks will be permitted in the Flood Plain District. **{Amended 4-26-82; Article 23}**

**3.18.1** (2) Recreational Vehicles. In A1-30, AH, and AE 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.

**3.19** I. NOTIFICATION OF WATERCOURSE ALTERATION

The following parties must be notified in the case of any alteration or relocation of a watercourse:

- (1) Adjacent Communities
- (2) Bordering States (optional)
- (3) FIP State Coordinator  
Massachusetts Department of Conservation and Recreation  
251 Causeway Street, Suite 800  
Boston, MA 02114-2104
- (4) NFIP Program Specialist  
Federal Emergency Management Agency, Region 1  
99 High Street, 6th Floor  
Boston, MA 02110

**{Amended 4-27-09; Article 11}**

**3.20** J. 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.)

(1) Notification shall be submitted to:

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

(2) And copy of notification to:

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

- 3.21** K. ABROGATION AND GREATER RESTRICTION SECTION. The floodplain management regulations found in this Floodplain Overlay District section shall take precedence over any less restrictive conflicting local laws, ordinances or codes.
- 3.22** L. DISCLAIMER OF LIABILITY. The degree of flood protection required by this bylaw is considered reasonable but does not imply total flood protection.
- 3.23** M. SEVERABILITY SECTION. If any section, provision or portion of this bylaw [ordinance] is deemed to be unconstitutional or invalid by a court, the remainder of the ordinance shall be effective.

Our Floodplain Bylaw has been reviewed by the State NFIP Coordinator and she has determined that several provisions of the bylaw are outdated and in need of updating. She has assisted the Town with the language proposed.