

PROPOSED AMENDMENTS – (Revised 3-7-23)

**§ 300-3.4 Floodplain District.
[Amended 6-7-2021 ATM by Art. 40]**

A Floodplain District is hereby established as an overlay district to all other districts.

- 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 floodplain 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 floodplain 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]

- 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.
- 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~~, **June 21, 2023** 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 one-percent-chance base flood elevations shown on the FIRM and further defined by the Worcester County Flood Insurance Study (FIS) report dated ~~July 16, 2014~~, **June 21, 2023**. The FIRM and FIS report are

Commented [JB1]: These dates must be updated to reflect the new effective dates of the map and study.

incorporated herein by reference and are on file with the Town Clerk, Planning Board and Director of Inspections, and the Conservation Commission.

~~Within Zone A, where the 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.~~

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Commented [NTM2]: Recommend that you use the language from #7 in the state model bylaw

~~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 and 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.~~

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Commented [JB3]: Replace D. above with this language as recommended by DCR.

Commented [JB4]: Delete D, it is a duplicate of G.14

D. The Floodplain District is established as an overlay district to all other districts. All development, including structural and nonstructural activities, whether permitted by right or by special permit, must be in compliance with MGL c. 131, § 40 and with the requirements of the Massachusetts State Building Code pertaining to construction in the floodplain 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.

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- (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.
 - (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) 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.
 - (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.
- (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 nonfinancial 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.

~~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:~~

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- (1) Agricultural uses.
- (2) Forestry and nursery uses.
- (3) Outdoor recreational uses.
- (4) Conservation and wildlife management areas.
- (5) Temporary, nonresidential structures used in connection with growing, harvesting, storage or sale of crops raised on the premises.
- (6) Buildings lawfully existing prior to the adoption of these provisions.

~~F. 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:~~

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- (1) The proposed use shall comply in all respects with the provisions of the underlying district.
- (2) Review and reports.
 - (a) Within 10 days of receipt of the application, the Board shall transmit one copy of the development plan to each of the following:
 - [1] Board of Health;
 - [2] Town Engineer/DPW Director;

- [3] Conservation Commission;
 - [4] Director of Inspections; and, if concerned
 - [5] Fire Chief;
 - [6] Police Chief;
 - [7] Board of Selectmen.
- (b) Final action shall not be taken until reports have been received from the above boards or 35 days have elapsed and a properly published and posted public hearing has been held.
- (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.~~

~~(b) ——— In Zones A1-30 and AE, along watercourses that have a regulatory floodway designated on the Town's FIRM encroachments are prohibited, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.~~

- (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.
- (5) No building, development or substantial improvement shall be allowed in a floodway.
- (6) The flood-carrying capacity shall be maintained within any altered or relocated portion of any watercourse.
- (7) A minimum of 98% of the natural surface and underground flood storage volume of the site shall be maintained.
- (8) Safe and permanent access shall be maintained by the owner from the nearest public way to any proposed building in the floodplain.
- (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.

Commented [NTM5]: Recommend that you use the language in the second paragraph of bylaw #6 from the state model.
 "In Zones A1-30 and AE, along watercourses that have a regulatory floodway designated on the Town's FIRM encroachments are prohibited, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge."

Commented [JB6]: Replace (b) with this language as recommended by DCR

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

(11) All buildings and structures as defined in 780 CMR ~~120.G.204~~ (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).

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~~(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.~~

Commented [NTM8]: Recommend that you use the language from item# 10 of the state model bylaw - it's more comprehensive

(12) 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.

Commented [JB9]: Replace 12 with language from the Model as recommended by the Floodplain Management Specialist.

(13) Subdivision proposals. All subdivision proposals and development proposals in the Floodplain Overlay District shall be reviewed to assure that:

(a) Such proposals minimize flood damage.

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

(c) Adequate drainage is provided.

(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.

(15) AO and AH Zone 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.

(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 watertight with walls substantially impermeable to the passage of water.

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

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(1) No trailer coach parks or mobile home parks will be permitted in the Floodplain District.

(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.

H 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 NFIP 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

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 six 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 Street, 6th Floor, Boston, MA 02110

(2) And copy of notification to:

Massachusetts NFIP State Coordinator

MA Department of Conservation and Recreation

~~251 Causeway Street, Boston, MA 02114~~

J 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.

K Disclaimer of liability. The degree of flood protection required by this bylaw is considered reasonable but does not imply total flood protection.

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Commented [NTM13]: Recommend removal of just the addresses, since both of these agencies are in the process of moving; please leave in the agencies though.

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~~L.~~ Severability. If any section, provision or portion of this bylaw is deemed to be unconstitutional or invalid by a court, the remainder of the bylaw shall be effective.

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