

DH

4.3.3 Prohibited Uses. Within the wetlands, the following buildings, structures, installations and uses shall be prohibited:

1. Septic tanks, cesspools and leaching beds or fields,
2. Business, commercial and industrial buildings, structures or uses except provided in Section 4.3.2 above,
3. Libraries, hospitals, museums, sanitarium, nursing or rest homes, charitable institutions and cemeteries, and
4. Residential buildings, structures, dwellings and mobile homes intended for living purposes other than as permitted in Section 4.3.2 above.

4.3.4 Uses Permitted by Right. Woodland, grassland, wetland and agricultural, horticultural and recreational use of land or water not requiring filling or dredging and any building and structures accessory thereto.

4.4 FLOOD PLAIN CONSERVANCY DISTRICTS

4.4.1 Purpose. The purpose of the Flood Plain District is to protect the public 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. Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding. Eliminate costs associated with the response and cleanup of flooding conditions.

Commented [NTM2]: These are fine, but you might want to look at the language in the MA model bylaw #1 to see if you want to add anything else.

4.4.2 District Delineation. The general boundaries of the Flood Plain District are shown on the Winchendon Flood Insurance Rate Map (FIRM) dated June 15, 1982 as Zones A, A 1-30 to indicate the 100-year flood plain. The exact boundaries of the District are defined by the 100-year water surface elevations shown on the FIRM and further defined by the Flood Profiles contained in the Flood Insurance Study, dated December 15, 1981. The floodway boundaries are delineated on the Winchendon Flood Boundary Floodway Map (FBFM) dated December 15, 1981 and further defined by the Floodway Data Tables contained in the Flood Insurance Study. These two maps as well as the accompanying Study are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Inspector and Selectmen. Within Zone A where the 100-year flood elevation is not provided on the FIRM, the developer/applicant shall obtain any existing flood elevation data and it shall be reviewed by the Conservation Commission. If the data is sufficiently detailed and accurate, it shall be relied upon to require compliance with this bylaw.

Commented [NTM3]: These are fine for now, but will need to be updated when Winchendon gets new flood maps (likely in 2026)

4.4.3 Use Regulations. 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 Chapter 131, Section 40 of the General Laws and with the requirements of the Massachusetts State Building Code pertaining to construction in a flood plain (currently Section 744).

1. Permitted Uses. The following uses of low flood damage potential and being unlikely to cause an obstruction 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 such as farming, grazing, truck farming, horticulture, etc.
- B. Forestry and nursery uses.
- C. Outdoor recreational uses including fishing, boating, play areas, etc.

E.

Conservation of water plants or wildlife.

Formatted: Font: 10 pt

Formatted: Normal, No bullets or numbering

F.D. Wildlife management areas, foot, bicycle and/or horse paths.

G.E. Temporary non-residential structures used in connection with fishing, growing, harvesting, storage or sale of crops raised on the premises.

H.F. Buildings lawfully existing prior to the adoption of these provisions.

2. Special Permits. No structure or building shall be erected, constructed, substantially improved or otherwise ~~erected-placed~~ or moved, no earth or other materials dumped, filled, ~~drilled, mined~~, excavated, ~~paved~~ or transferred unless a Special Permit is granted by the Zoning Board of Appeals. Said Board may issue a Special Permit thereunder (subject to other applicable provisions of this bylaw) if the application complies with the following provisions:

A. The proposed plan shall comply in all respects with the provisions of the underlying district, and

B. Within ten (10) days of receipt of the application, the Board shall transmit one copy of the development plan to the Conservation Commission, the Planning Board, the Board of Health and the Building Inspector. Final action shall not be taken until reports have been received from the above boards or until thirty-five (35) days shall have elapsed, and

C. All encroachments including fill, new construction, substantial improvements to existing structures and other development are prohibited unless certification by a registered professional engineer is provided by the applicant demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the 100-year flood, and

D. 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.

Commented [NTM4]: Take a look at bylaw #4 from the MA model bylaw below and incorporate additional language.

Here are missing elements of the FEMA-required compliant bylaw. These must also be included: (Please see state model bylaw and explanation in attachment.)

3. Designation of community Floodplain Administrator

The Town hereby designates the position of Matt Marro to be the official floodplain administrator.

Commented [DJ5]: Please see the explanation for this in Section 4 of the MA Model bylaw.

4. 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.

5. Assure that all necessary permits are obtained

The town's permit review process includes the requirement that the proponent obtain 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 demonstrate that all necessary permits have been acquired.

6. Floodway encroachment

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.

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.

7. 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 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.

8. 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.

9. 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 & constructed so as to minimize flood damage.
- (c) Adequate drainage is provided.

10. Base flood elevation data for subdivision proposals

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.

11. Recreational vehicles

In A1-30, AH, 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.

12. Watercourse alterations or relocations in riverine areas

In a riverine situation, the 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, 8th floor, Boston, MA 02114
- NFIP Program Specialist
Federal Emergency Management Agency, Region I

99 High Street, 6th Floor, Boston, MA 02110

13. 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:

- NFIP State Coordinator
Massachusetts Department of Conservation and Recreation
251 Causeway Street, 8th floor, Boston, MA 02114
- NFIP Program Specialist
Federal Emergency Management Agency, Region I
99 High Street, 6th Floor, Boston, MA 02110

14. Variances to building code floodplain standards

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.

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 (i) 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 (ii) such construction below the base flood level increases risks to life and property.

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

15. 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: 1) Good and sufficient cause and exceptional non-financial hardship exist; 2) the variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public; and 3) the variance is the minimum action necessary to afford relief.

16. 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.

17. Disclaimer of liability

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

18. Severability section

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

Commented [INTM6]: Winchendon has this in Section 13.2. Be ready to cite this for FEMA

Required Definitions (you have several in your zoning bylaw definitions, but must have all of these): incorporate definitions into existing bylaw.

DEVELOPMENT means 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 means 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 means 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 means any structure that is:

- (a) 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;
 - (b) 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;
 - (c) 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
 - (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (1) By an approved state program as determined by the Secretary of the Interior or
 - (2) 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 means a vehicle which is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and
- (d) 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. 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