

OFFICE OF THE
TOWN CLERK



13 AYER ROAD · HARVARD, MASSACHUSETTS 01451-1458
(978) 456-4100 · FAX: (978)456-4113

The following is a copy of the final vote taken under Article 41 at the Annual Town Meeting of the qualified voters of the Town of Harvard on May 3, 2025:

ARTICLE 41: AMEND THE PROTECTIVE BYLAW 125-54 FLOODPLAIN DISTRICTS

(Two-Thirds Majority Vote Required)

To see if the Town will vote to amend Chapter 125, the Protective Bylaw, of the Code of the Town of Harvard, by making the following revisions to Section 125-54, to reflect updated Flood Insurance Rate Maps (FIRM) and Flood Insurance Study (FIS) or take any vote or votes in relation thereto.

(Inserted by Planning Board)

The intent of this bylaw revision is to codify new effective dates of flood hazard maps and flood insurance studies issued by the Federal Emergency Management Agency (FEMA), and to revise the standards governing development in Harvard's Floodplain District in accordance with regulations promulgated by FEMA and in accordance with the State of Massachusetts model bylaw.

[key to revisions: underline = additions; ~~strikethrough~~ = deletions]

§ 125-54 Floodplain Districts.

A. The purposes of the Floodplain District 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. Floodplain District boundaries and base flood elevation data. The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Harvard designated as Zones A and AE on the Worcester County Flood Insurance Rate Map (FIRM) dated July 8, 2025 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 Harvard are panel numbers 25027C0292E, 25027C0294E, 25027C0311E, 25027C0312E, 25027C0313E, 25027C0314E, 25027C0316E, 25027C0318E, 25027C0457E, and 25027C0476E dated July 4, 2011, and; 25027C0477E,~~

~~25027C0478F, 25027C0479F, 25027C0481F and 25027C0483~~ dated July 16, 2014. The exact boundaries of the District ~~may~~ shall be defined by the one-percent chance one-hundred-year base flood elevations shown on the FIRM and further defined by the Worcester County Flood Insurance Study (FIS) report dated ~~July 16, 2014~~ July 8, 2025. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Commission, Conservation Commission and Department of Public Works.

[Amended 4-1-2014 ATM by Article 44]

C. Standards for Bbase flood elevation, ~~and floodway data, and floodway encroachment.~~

- (1) ~~Floodway 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.
- (2) ~~Base flood elevation data. 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.~~
- (2) In Zone AE, along watercourses that have a regulatory floodway designated on the Worcester County 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.
- (3) In A Zones, in the absence of FEMA BFE data and floodway data, the Planning Board and Building Commissioner 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.

D. Use regulations.

- (1) Reference to existing regulations.
 - (a) The Floodplain District is established as an overlay district to all other districts. All development in the district, 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 Massachusetts General Laws and with the following:
 - [1] Section of the Massachusetts State Building Code which addresses floodplain and coastal high hazard areas (currently 780 CMR);
 - [2] Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);
 - [3] Inland Wetlands Restriction, DEP (currently 310 CMR 13.00);
 - [4] Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5);
 - (b) ~~Any variances from the provisions and requirements of the above-referenced state regulations~~

may only be granted in accordance with the required variance procedures of these state regulations.

(2) Other use regulations.

~~(a)~~ In Zone AE, along watercourses that have a regulatory floodway designated on the Worcester County 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)~~ (a) All subdivision proposals must be designed and reviewed to assure that:

[1] Such proposals minimize flood damage;

[2] All public utilities and facilities are located and constructed to minimize or eliminate flood damage; and

[3] Adequate drainage is provided to reduce exposure to flood hazards.

~~(b)~~ For subdivisions or other developments greater than 50 lots or 5 acres (whichever is less) in the Floodplain District, the applicant shall provide technical data consistent with standard engineering practices to determine base flood elevations for each developable parcel shown on the design plans.

~~(c)~~ In A 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.

~~(e)~~ (d) Existing contour intervals of site and elevations of existing structures must be included on plan proposal.

~~(d)~~ (e) There shall be established a "routing procedure" which will circulate or transmit one copy of the development plan to the Conservation Commission, Planning Board, Board of Health, Building Commissioner and Department of Public Works for comments which will be considered by the appropriate permitting board prior to issuing applicable permits.

E. Special Permit Required. A Special Permit authorized by the Planning Board is required for all proposed construction or other development in the Floodplain 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, fill, storage of materials or equipment, and any other development that might increase flooding or adversely impact flood risks to other properties.

(1) Application for Special Permit for use or development within the Floodplain District shall be in accordance with Special Permit requirements at 125-46, and shall include the following:

(a) A written statement detailing the proposed work. Narrative shall include the history of flooding on the site.

(b) Site plan prepared by a registered professional engineer or registered land surveyor, including specific topographic details within the floodplain.

(c) All necessary hydraulic and hydrologic calculations, prepared by a registered professional engineer, to demonstrate compliance with the provisions of this chapter.

(2) The applicant shall obtain all local, state and federal permits that will be necessary in order to carry out

the proposed development in the Floodplain District. The applicant must acquire all necessary permits, and must demonstrate that all necessary permits have been acquired.

E-F. Permitted uses-Uses; no Special Permit required; floodplain review by the Community Floodplain Administrator required. The following uses of low flood damage potential and causing no obstructions to flood flows are ~~encouraged-permitted~~, provided they are permitted in the underlying district and they do not require new construction or changes to existing buildings, placement of manufactured homes, placement of agricultural facilities, fences, sheds, storage facilities or drilling, mining, paving, fill, storage of materials or equipment, and any other development that might increase flooding or adversely impact flood risks to other properties structures, fill, or storage of materials or equipment:

- (1) Agricultural uses such as farming, grazing, truck farming, horticulture, etc.
- (2) Forestry and nursery uses.
- (3) Outdoor recreational uses, including fishing, boating, ~~play areas~~, etc.
- (4) Conservation of water, plants, wildlife.
- (5) Wildlife management areas;.
- (6) At-grade foot, bicycle, and/or horse paths that do not alter existing topography.
- (67) Temporary (installed for less than 180 days) nonresidential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises.
- (8) Repairs to existing subsurface sewage disposal systems (SSDS), including leaching facilities, but excluding any expansion of SSDS capacity beyond the minimum design flow for the existing use of the property as required by applicable Board of Health regulations, and excluding any repairs that alter topography or otherwise impact upstream or downstream base flood elevations.
- (79) Buildings lawfully existing prior to the adoption of these provisions.

G. Designation of Community Floodplain Administrator. The Director of Planning is hereby designated as the official Floodplain Administrator for the Town of Harvard.

H. The Community Floodplain Administrator shall notify the following of any watercourse alteration or relocation in riverine areas:

- (1) The Town Manager or Administrator in the Towns of Ayer, Shirley, Lancaster, Bolton, Stow, Boxborough and Littleton, and the Head of the Devens Enterprise Commission in Devens;
- (2) Bordering States, if affected.
- (3) Massachusetts NFIP State Coordinator, MA Dept. of Conservation & Recreation; and
- (4) NFIP Program Specialist, FEMA Region 1.

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:

- (1) FEMA Region 1 Risk Analysis Branch Chief; and

(2) Massachusetts NFIP State Coordinator, MA Dept. of Conservation & Recreation.

J. 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.

K. 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.

L. Abrogation and Greater Restriction. The floodplain management regulations found in this Floodplain District bylaw shall take precedence over any less restrictive conflicting local bylaws, ordinances or codes.

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

N. Severability. 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.

FO. Definitions.

AREA OF SPECIAL FLOOD HAZARD

Is the land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year. The area may be designated as Zone A, AO, AH, A1-30, AE, A99, V1-30, VE, or V.

BASE FLOOD

Means the flood having a one-percent chance of being equaled or exceeded in any given year.

COASTAL HIGH HAZARD AREA

Means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM as Zone V, V1-30, VE.

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.

DISTRICT

Means Floodplain District.

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)

Administers the National Flood Insurance Program. FEMA provides a nationwide flood hazard area mapping study program for communities as well as regulatory standards for development in the flood hazard areas.[1]

FLOOD INSURANCE RATE MAP (FIRM)

Means an official map of a community on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY

Means an examination, evaluation, and determination of flood hazards, and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

FLOODWAY

Means the channel of a 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.

LOWEST FLOOR

Means the lowest floor of the lowest enclosed area (including basement or cellar). 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 nonelevation design requirements of NFIP Regulations 60.3.

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.

HIGHEST ADJACENT GRADE

Means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE

For floodplain management purposes, 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.

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. For floodplain management

purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. ~~For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.~~

MANUFACTURED HOME PARK OR SUBDIVISION

Means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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. Means, for floodplain management purposes, structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community. For the purpose of determining insurance rates, "new construction" means structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later.

ONE-HUNDRED-YEAR FLOOD

See "base flood."

RECREATIONAL VEHICLE

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.

REGULATORY FLOODWAY

See "floodway."

SPECIAL FLOOD HAZARD AREA

~~Means an area having special flood and/or flood-related erosion hazards, and shown on an FHBM or FIRM the land area subject to flood hazards and shown on a Flood Insurance Rate Map (FIRM) or other flood hazard map as Zone A, AO, A1-30, AE, A99, AR, or AH-V, V1-30, VE.~~

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

Means, 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. "Structure," for insurance coverage purposes, means a walled and roofed building, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as a manufactured home on foundation. For the latter purpose, the term includes a building while in the course of construction, alteration, or repair, but does not include building materials or supplies intended for use in such construction, alteration, or repair, unless such materials or supplies are within an enclosed building on the premises.

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% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT

Means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either a) before the improvement or repair is started, or b) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

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

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

VIOLATION

Means 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 is presumed to be in violation until such time as that documentation is provided.

ZONE A

Means the one-hundred-year (one-percent chance) floodplain area where the base flood elevation (BFE) has not been determined. ~~To determine the BFE, use the best available federal, state, local, or other data.~~

~~ZONE AE (FOR NEW AND REVISED MAPS)~~

~~Means the one-hundred-year (one-percent chance) floodplain where the base flood elevation has been determined.~~

~~ZONE AE (FOR NEW AND REVISED MAPS)~~

~~The one-hundred-year floodplain where the base flood elevation has been determined.~~

ZONES B, C, AND X

~~Are areas identified in the community Flood Insurance Study as Means areas of moderate or minimal flood hazard. Zone X replaces Zones B and C on new and revised maps.~~

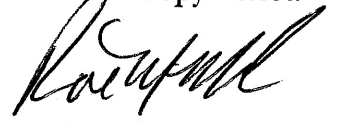
On a MOTION by *Kara Minar, 204 Still River Road, Select Board, and Seconded:*

I move that the Town amend Chapter 125, Code of the Town of Harvard, the Protective Bylaw, by making the revisions to Section 125-54 thereof relative to Floodplain Districts to reflect updated Flood Insurance

Rate Maps and Flood Insurance Study information as printed in the Warrant and Finance Committee Report for the 2025 Annual Town Meeting.

Vote on Article 41, Main Motion: PASSES by Two-Thirds Majority (154-5)

A True Copy Attest:



Rose M. Miranda,
Town Clerk

