



**ARTICLE 30 - Amend Zoning Bylaw for Floodplain District:** To see if the Town will vote to amend Zoning Bylaw, Chapter 210, Article X as follows:

ARTICLE X  
Floodplain District

§ 210-49. Purpose.

The purposes of the Floodplain District are to **ensure public safety by reducing the threats to life and personal injury; eliminate new hazards to emergency response officials; prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding; 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; eliminate costs associated with the response and cleanup of flooding conditions; and to reduce damage to public and private property resulting from flooding waters.** ~~protect public health, safety and general welfare; to protect human life and property from the hazards of periodic flooding; to preserve natural flood control characteristics and the flood storage capacity of the floodplain; and to preserve and maintain the groundwater table and water recharge areas within the floodplain.~~

§ 210-50. District delineation.

**The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within Hopkinton designated as Zone A, AE, AH, AO, A99, V, or VE on the Middlesex 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 (NFIP). 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 Middlesex County Flood Insurance Study (FIS) report dated July 8, 2025.** The Floodplain District is hereby established as an overlay district to all other Zoning Districts. The Floodplain District includes all special flood hazard areas within the Town of Hopkinton designated as Zone A or AE on the Middlesex 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 Middlesex County FIRM that are wholly or partially within the Town of Hopkinton are panel numbers 25017C0489F, 25017C0493F, 25017C0494F, 25017C0513F, 25017C0602F, 25017C0605F, 25017C0606F, 25017C0610F, 25017C0626F, 25017C0627F, and 25017C0628F dated July 7, 2014; and 25017C0620E and 25017C0629E dated June 4, 2010. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and may be further defined by the July 8, 2025 Middlesex County Flood Insurance Study (FIS) report. The FIRM and FIS report are incorporated herein by reference and shall be kept on file with the Town Clerk, the Planning Board, the Conservation Commission and the Director of Municipal Inspections.

**§ 210-51.1. Floodplain Administrator.**

**The Town of Hopkinton hereby designates the position of Conservation Administrator to be the official floodplain administrator for the Town.**

**§ 210-51. Definitions**

**As used in this Article, the following terms shall have the meanings indicated:**

**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.**

**FLOOD BOUNDARY AND FLOODWAY MAP. An official map of a community issued by FEMA that depicts, based on detailed analyses, the boundaries of the 100-year and 500-year floods and the 100-year floodway.**

**FLOOD HAZARD BOUNDARY MAP (FHBM). An official map of a community issued by the Federal Insurance Administrator, where the boundaries of the flood and related erosion areas having special hazards have been designated as Zone A or E.**

**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.

**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.

**HIGHEST ADJACENT GRADE.** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**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.**

**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.

**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.

**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.**

**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. For floodplain management purposes, a structure is 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 §60.3 of the FEMA Code of Federal Regulations (CFR) is presumed to be in violation until such time as that documentation is provided.**

§ 210-~~51~~**52**. Use regulations.

Where there is a conflict between provisions of this article and other Zoning Bylaws, the more restrictive regulation shall be deemed to be applicable. All development in the Floodplain District, including structural and nonstructural activities, whether permitted by right or by Special Permit, shall be in compliance with those provisions of the Massachusetts State Building Code that address construction in floodplains and floodways; as well as regulations of the Department of Environmental Protection codified at 310 CMR 13.00, Inland Wetlands Restrictions, 310 CMR 10.00, Wetlands Protection, and 310 CMR 15.00, Minimum Requirements for the Subsurface Disposal of Sanitary Sewage (Title 5), as such provisions and regulation may be amended from time to time.

§ 210-~~52~~**53**. Permitted uses.

The following uses, which create a minimal risk of damage due to flooding and will not constitute obstructions to flood flow, shall be allowed by right in the Floodplain District if they are permitted in the underlying district and do not require structures, fill or storage of materials or equipment:

- A. Agricultural use.
- B. Forestry and nursery use.
- C. Outdoor recreational use, including fishing, boating, and play area.
- D. Conservation of water, plants, and wildlife.
- E. Wildlife management area, foot, bicycle, and horse paths.
- F. Temporary nonresidential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises.
- G. Buildings lawfully existing prior to the adoption of these provisions.

§ 210-5354. Special Permits.

- A. In the Floodplain District, ~~except as authorized by a Special Permit granted by the Board of Appeals, **no construction or development may occur within 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, and any other development that might increase flooding or adversely impact flood risks to other properties, except as authorized by a Special Permit granted by the Board of Appeals.**~~ ~~no building or structure shall be erected, constructed or moved; no building or structure shall be enlarged by more than 30% of its ground floor area; and no dumping, filling or earth removal or transfer shall be permitted.~~
- B. Within 10 days of receipt of an application for a Special Permit pursuant to this section, the Board of Appeals shall transmit one copy of the development plan to the Conservation Commission, the Planning Board, the Board of Health and the Director of Municipal Inspections. Final action shall not be taken until reports have been received from these officials or until 35 days after transmittal of the development plan pursuant to this section, whichever occurs first.
- C. The Board of Appeals may issue a Special Permit pursuant to this section in accordance with the following provisions:
- (1) The proposed use shall comply in all respects with all requirements applicable in the underlying Zoning District.
  - (2) All encroachments into the floodway, including fill, new construction, substantial improvement to existing structures and other development, shall be prohibited unless the applicant provides certification by a registered professional engineer demonstrating, **through hydrologic and hydraulic analyses performed in accordance with standard engineering practice,** that the encroachment will not result in any increase in flood levels during the occurrence of the **base flood discharge**~~100-year flood~~. For watercourses that have not had a regulatory floodway designated, the Board of Appeals shall use the best available Federal, State, local or other floodway data to prohibit encroachments into floodways that would result in any increase in flood levels within the community during the occurrence of a base flood discharge.
  - (3) **In areas that have land either partially or wholly located within Zone A, 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.**

- (4) In granting a Special Permit pursuant to this section, the Board of Appeals may specify such requirements and conditions as it deems necessary to protect the health, safety and welfare of the public.
- (5) **The proponent must acquire all necessary permits, including all applicable local, state, and federal permits for the proposed work.**

§ 210-5455. Subdivision standards.

All subdivision proposals and other proposed new development shall be reviewed to determine whether such proposals will be reasonably safe from flooding. If any part of a subdivision proposal or other new development is located within the Floodplain District established under this Chapter, it shall be reviewed to assure that:

- A. The proposal is designed so as to minimize the risk of damage due to flooding.
- B. All public utilities and facilities, such as sewer, gas, electrical and water systems are located, and constructed so as to minimize or eliminate the risk of damage due to flooding.
- C. Adequate drainage systems are provided in order to reduce exposure to flood hazards.
- D. Base flood elevation data (the level of the one-hundred-year flood) is provided for all proposals for development within the Floodplain District.

§ 210-5556. ~~Health regulation~~ **Additional Requirements, Regulations, and Duties.**

A. **Health Regulations**

**The Board of Health, in reviewing all proposed water and sewer facilities to be located in the Floodplain District established under this Chapter, shall require that:**

- (1) New and replacement water supply systems be designed to minimize or eliminate infiltration of floodwaters into the systems; and

- (2) New and replacement sanitary sewage systems be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.

**B. Conservation Commission Duties**

The duties of the Conservation Commission shall be as follows:

- (1) Notify, in riverine situations, adjacent communities, the NFIP State Coordinator, Massachusetts Department of Conservation and Recreation, and the NFIP Program Specialist, FEMA, Region 1, prior to any alteration or relocation of a watercourse where an order of conditions has been issued, and submit copies of such notification to the Federal Insurance Administration.
- (2) Assure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained.

**C. Recreational Vehicles**

**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.**

**D. New Technical Data**

**If the Town acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, the Floodplain Administrator shall, within six months, submit notification to the NFIP State Coordinator, Massachusetts Department of Conservation and Recreation, and the NFIP Program Specialist, FEMA, Region 1, of these changes by submitting the technical or scientific data that supports the change(s).**

**E. Variances**

**(1) 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 Town's files.**

**The Town, via the Floodplain Administrator, 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.**

(2) **Local Zoning Bylaws related to Community Compliance with the NFIP**  
**A variance from these floodplain bylaws must meet the requirements set out by State law, and may only be granted if the following conditions have been met:**

- (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.**

F. **Disclaimer of Liability**

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

G. **Severability**

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

#### **§ 210-56. Conservation Commission duties:**

~~The duties of the Conservation Commission shall be as follows:~~

- A. ~~Notify, in riverine situations, adjacent communities, the NFIP State Coordinator, Massachusetts Department of Conservation and Recreation, and the NFIP Program Specialist, FEMA, Region 1, prior to any alteration or relocation of a watercourse where an order of conditions has been issued, and submit copies of such notification to the Federal Insurance Administration.~~

- B. ~~Assure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained.~~

Pass any vote or take any act relative thereto.

**Required Recommendations:** Planning Board recommends Approval.

**Motion (Robert Benson, Planning Board):** *We move that the Town vote to amend the Zoning Bylaws of the Town of Hopkinton, as set forth in Article 30 of the 2025 Annual Town Meeting Warrant.*

**Caroline Lu of Daniel Shays Road** asked if expanding the definition of a flooding zone would impact homeowners insurance. Mr. Gelcich answered that these changes are required by the Federal Emergency Management Agency and the Massachusetts Emergency Management Agency. FEMA in particular changes maps every so often, and the towns must adopt the map changes and changes to the bylaws to meet their regulations as well.

**Julius Billeter of Overlook Road** asked if the town we have the maps available to display. Mr. Gelcich answered that FEMA has the maps.

**Main Motion Passed by  $\frac{2}{3}$  Majority, 132 Yes - 3 No (2025-05-05)**