

ARTICLE XX: To see if the Town will vote to amend its Zoning Bylaws to delete Section 50-6.1: “Floodplain Overlay District”, in its entirety, and insert in its place a new Section 50-6.1: “Floodplain Overlay District”, in the form placed on file with the Town Clerk and in Appendix X, or take any action relative thereto.

(Requires a 2/3rd Majority)

Article submitted by the Building Commissioner

Note: The National Flood Insurance Program (NFIP) in coordination with FEMA have mandated all municipal floodplain bylaws include specific language in their floodplain bylaw. Failure to do so will result in the municipality from being eligible for flood insurance under the NFIP. The required information was mostly clarification of existing language, changing existing terms and language to pair with the requirements of state building code as well as updated terminology changes. A “List of Changes” depicting the changes made to the existing bylaw to create the new bylaw is on file with the Town Clerk and included as an appendix to the warrant.

§ 50-6.1 FLOODPLAIN OVERLAY DISTRICT.

A. Purpose and Intent.

The purposes of the Floodplain Overlay 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. Definitions.

These definitions are unique to this section.

Base Flood (BFE): The elevation of the base flood, including wave height, relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum specified on the Flood Insurance Rate Map (FIRM).

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]

Federal Emergency Management Agency (FEMA): The governmental agency that administers the National Flood Insurance Program and provides a nationwide flood hazard area mapping study program for communities as well as regulatory standards for development in the flood hazard areas.

Flood Insurance Rate Map (FIRM): 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 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. (For maps done in 1987 and later, the floodway designation is included on the FIRM.)

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

Flood Insurance Study: An examination, evaluation, and determination of flood hazards, and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related hazards.

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. [780 CMR 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]

Lowest Floor: 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 non-elevation design requirements of NFIP Regulations 60.3.

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.
[780 CMR 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 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.
[780 CMR 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 Damage: 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 percent of the market value of the structure before the damage occurred. [US Code of Federal Regulations, Title 44, Part 59]

Substantial Improvement: Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. The term includes structures that have incurred “substantial damage,” regardless of the cause of damage and regardless of the cost of repair work actually performed. However, the term does not include:

- Any project for improvement of a structure to correct existing violations of State or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official, and that are the minimum necessary to ensure safe living conditions, or
- Any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”
[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 the Massachusetts State Building Code as amended.

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]

ZONE A: An area of special flood hazard without water surface elevations determined.

ZONE A1-30 and ZONE AE: Area of special flood hazard with water surface elevations determined.

ZONE AH: Areas of special flood hazards having shallow water depths and/or unpredictable flow paths between (1) and (3) feet, and with water surface elevations determined.

ZONE AO: Area of special flood hazards having shallow water depths and/or unpredictable flow paths between (1) and (3) ft. (*Velocity flow may be evident; such flooding is characterized by ponding or sheet flow.*)

ZONE A99: Area of special flood hazard where enough progress has been made on a protective system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. (Flood elevations may not be determined.)

ZONES B, C, AND X: Areas of minimal or moderate flood hazards or areas of future-conditions flood hazard. (*Zone X replaces Zones B and C on new and revised maps.*)

ZONE V: Area of special flood hazards without water surface elevations determined, and with velocity, that is inundated by tidal floods (coastal high hazard area).

ZONE V1-30 and ZONE VE (*for new and revised maps*): Area of special flood hazards, with water surface elevations determined and with velocity, that is inundated by tidal floods (coastal high hazard area).

C. Abrogation and greater restriction.

The floodplain management regulations found in this Floodplain Overlay District section shall take precedence over any less restrictive conflicting local laws, ordinances or codes.

D. Disclaimer of Liability.

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

E. 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.

F. Designation of community Floodplain Administrator.

The Town of Groveland hereby designates the position of Building Commissioner/Inspector of Buildings to be the official floodplain administrator for the Town.

G. Subdivision proposals.

All subdivision proposals and development proposals in the Floodplain Overlay District shall be reviewed to assure that:

- 1) Such proposals minimize flood damage.
- 2) Public utilities and facilities are located & constructed so as to minimize flood damage.
- 3) Adequate drainage is provided.

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.

H. Permit Required.

The Town of Groveland requires a Special Permit from the Planning Board 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. The proponent must acquire all necessary local, state and federal permits necessary to carry out the proposed development in the Floodplain Overlay District. A list of permits, required and obtained, shall be submitted to the Planning Board and Floodplains Administrator.

I. Application Procedure.

See Section 50-14.6 of the Zoning Bylaw and Planning Board Regulations for Special Permits for filing and other requirements. When feasible, the Planning Board and Conservation Commission may schedule a joint Public Hearing for Applications submitted.

J. Floodplain Overlay District Boundaries.

The Floodplain Overlay District is herein established as an Overlay District. The Floodplain Overlay District includes all special flood hazard areas designated on Groveland's Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program, dated July 3, 2012 and on the Flood Boundary & Floodway Map dated July 3, 2012. These maps indicate the 1%-chance regulatory floodplain. The exact boundaries of the Floodplain Overlay District shall be defined by the 1%-chance base flood elevations shown on the FIRM and further defined by the Flood Insurance Study (FIS) report dated (July 3, 2012). The effective FIRM, FBFM, and FIS report are incorporated herein by reference and are on file with the Town Clerk, and the Building Official. The map panels of the Essex County FIRM that are wholly or partially within the Town of Groveland are panel numbers 25009C0092F, 25009C0093F, 25009C0094F, 25009C0113F, 25009C0114F, 25009C0231F, 25009C0232F, 25009C0233F and 25009C0251F dated July 3, 2012.

K. Unnumbered A Zones.

In A Zones, in the absence of FEMA BFE data and floodway data, the Inspectional Services 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.

L. Floodway encroachment.

- 1) 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.
- 2) In Zones A1-30 and AE, along watercourses that have a regulatory floodway designated on the Town's most recent FIRM or Flood Boundary & Floodway Map, 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.

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

And copy of notification to:

- 2) Massachusetts NFIP State Coordinator
Massachusetts Department of Conservation and Recreation
251 Causeway Street, 8th Floor
Boston, MA 02114-2104

N. Notification of Watercourse Alteration.

In a riverine situation, the Building Inspector shall notify the following of any alteration or relocation of a watercourse:

- 1) Adjacent Communities
- 2) Bordering States, if affected
- 3) Massachusetts NFIP State Coordinator
Massachusetts Department of Conservation and Recreation
251 Causeway Street, 8th Floor
Boston, MA 02114-2104
- 4) NFIP Program Specialist
Federal Emergency Management Agency, Region I
99 High Street, 6th Floor

Boston, MA 02110

O. 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.

P. Recreational vehicles.

In A1-30, AH, AE Zones, V1-30, VE, and V 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.

Q. Use Regulations.

All development in the Floodplain Overlay District, including structural and non-structural activities must be in compliance with M.G.L. Chapter 131, § 40 and with the following:

- 1) 780 CMR the Massachusetts State Building Code;
- 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);

R. Permitted uses.

All uses normally allowed in the underlying zone(s), provided that comply with this bylaw, the Massachusetts State Building Code and the requirements of the NFIP, shall be permitted if the requirements of this bylaw are met.

S. Variances to building code floodplain data.

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:

- 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. Such notification shall be maintained with the record of all variance actions for the referenced development in the Floodplain Overlay District.

T. 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.

U. Planning Board Findings.

The Planning Board shall make the following Findings relative to Special Permit approval in the Floodplain:

- 1) Such proposals shall not increase potential damage caused by flood;
- 2) All public utilities and facilities shall be located and constructed to minimize or eliminate flood damage;
- 3) Adequate drainage shall be provided to reduce exposure to flood hazards;
- 4) There is no volumetric loss of flood storage within the designated floodplain resulting in an increase in the BFE within the affected floodplain.

V. Enforcement.

Enforcement shall be in compliance with Section 500-14.2 of this bylaw and with Chapter 40A Section 7.