



Article: 44

Warrant Article Title:

ZONING BYLAW AMENDMENT / FLOODPLAIN DISTRICT

Warrant Article Text:

To see if the Town will vote to amend Section 2 Definitions, and Section 5.7 of the Zoning Bylaw to assure compliance with mandatory National Flood Insurance (NFIP) requirements and all other updated requirements set forth by the Federal Emergency Management Agency so that residents of the community continue to be eligible to receive flood insurance; or take any action related thereto.

Requested By:

the Redevelopment Board

Report Excerpt:

The Board recommends Favorable Action (5-0).

The purpose of Article 44 is to bring the Town's Zoning Bylaw into compliance with state and federal requirements for floodplain management, ensuring that local regulations remain consistent with standards for public safety and hazard mitigation.

As a participating community in the National Flood Insurance Program (NFIP), Arlington must update the local floodplain regulations in the Zoning Bylaw to adopt language contained in the Massachusetts Floodplain Model Bylaw as published by the state Department of Conservation and Recreation (DCR). Failure to meet this requirement could result in the Town's suspension from the NFIP. Continued participation in the NFIP enables property owners in designated flood areas to obtain federally

backed flood insurance and allows the Town to remain eligible for certain forms of federal disaster assistance.

The proposed changes accompany an update to the Federal Emergency Management Agency's (FEMA) floodplain maps, which establish revised boundaries for areas at risk of flooding based on current data and modeling. These maps provide the Town with new boundaries of areas where flooding is expected to occur. The maps were adopted by the Town with approval from the Conservation Commission and had an effective date of July 8, 2025. The model bylaw parallels the existing Floodplain Overlay District with small changes to contemporize the relevant section of the Zoning Bylaw (e.g., referencing the FEMA maps and describing where they can be accessed).

DCR has reviewed and approved the proposed revision to the Zoning Bylaw.

As failure to meet the requirements could result in the Town's suspension from the NFIP, the Board agreed that Article 44 is a necessary update to the Zoning Bylaw.

Vote Language:

That the Zoning Bylaw be and hereby is amended as follows:

Amend SECTION 2, Definitions, as follows:

~~Flood Map: A map prepared by the Federal Emergency Management Administration (FEMA) designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance components of the National Flood Insurance Program.~~

~~Floodway: The limits of flooding from a particular body of water caused by a storm whose frequency or occurrence is once in~~

~~a given number of years, as determined by FEMA or a licensed professional acceptable to the Conservation Commission.~~

Definitions Associated with Floodplain

Agricultural Facilities: Any lots, buildings, or structures used solely for agricultural purposes in which the use is exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities, including the raising of livestock.

Development: Any human-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 Map: A map prepared by the Federal Emergency Management Administration (FEMA) designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-Zones and do not contain Floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance components of the National Flood Insurance Program.

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, as determined by FEMA or a licensed professional acceptable to the Conservation Commission.

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.

New Construction: Structures for which the start of construction commenced on or after October 8, 1975, the date of the first Floodplain Overlay District adopted by the Town, including any subsequent improvements to such structures. New construction includes work determined to be substantial improvement.

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: 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, including all special flood hazard areas within Arlington 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. The exact boundaries of the Areas 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 FIRM and FIS report are incorporated herein by reference and are on file with the Conservation Commission.

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.

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.

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 Title 44 §60.3 of the Code of Federal Regulations is presumed to be in violation until such time as that documentation is provided.

Amend SECTION 5.7, Floodplain District, as follows:

5.7 FLOODPLAIN DISTRICT

5.7.1 Purpose

The purpose of Section 5.7 is to:

- A. Protect the health and safety of the occupants of lands subject to seasonal or periodic flooding in the ~~Mill Brook, Alewife Brook, Mystic River, and Mystic Lakes~~ floodplain Special Flood Hazard Areas, as shown on the zoning overlay map of the Town of Arlington, by reducing the threats to life and personal injury.
- B. Prevent the reduction of the water-carrying capacity of streams, brooks, rivers, and drainage courses by prohibiting the destruction or alteration of their natural character, and by preventing encroachment by future development, both public and private, in the floodway. ~~A floodway includes the normal channel of a river or stream and those portions of the floodplain adjoining the normal channel which are reasonably required to carry off the flood flow.~~
- C. Preserve the natural flood control characteristics and the water storage capacity of the floodplain.
- D. Protect the public from hazard and loss through the regulation of future development of lands adjoining such watercourses.
- ~~E. Protect the safety and purity of water; control and containment of sewage; safety of gas, electric, fuel, telecommunications, and other utilities from breaking, leaking, short-circuiting, grounding, igniting, electrocuting or any other dangers due to flooding.~~
- E. Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding.

- F. 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.
- G. Eliminate new hazards to emergency response officials.
- H. Eliminate costs associated with the response and cleanup of flooding conditions.
- I. Reduce damage to public and private property resulting from flooding waters.

5.7.2 Definitions

The following definitions apply to Section 5.7, Floodplain District.

Structure: A walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

Variance: A grant of relief by a community from the terms of a floodplain management regulation.

5.7.23 Boundaries

The Floodplain District is herein established as an overlay district. The Floodplain District boundaries are contiguous with the borders of land area subject to flood hazards as shown on a Flood Insurance Rate Map, including ~~The District includes all sSpecial fFlood hHazard aAreas within the Town of Arlington designated a Zone A, AE and X 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-(NDIP). The map panels of the Middlesex County FIRM that are wholly or partially within the Town of Arlington include the following panel numbers: 25017C0412E, 25017C0416E, 25017C0419E, dated June 4, 2010 (Scale 1"=500').~~ The exact boundaries of the District Areas may shall be defined by the 1%-chance annual (100-year

~~flood) base flood elevations shown on the FIRM and further defined by the Middlesex County Floor Insurance Study (FIS) report dated June 4, 2010 July 8, 2025. Said boundary, so determined, shall be presumed accurate. This presumption may be overcome by credible evidence from a registered professional engineer or other professional competent in such matters. The FIRM and FIS report are incorporated herein by reference and are on file with the Department of Planning and Community Development and Conservation Commission.~~

5.7.4 Floodplain Administrator

The Town of Arlington hereby designates the position of Conservation Agent as the official Floodplain Administrator for the Town, or such other person as designated by the Director of Planning and Community Development when the position of Conservation Agent is vacant.

5.7.35 Applicability

- A. Any proposed use, structure, development, filling, grading, or excavation within the Floodplain District shall be governed by all ~~regulations~~ requirements of this Section 5.7, G.L. c. 131, § 40, Town of Arlington Bylaw for Wetlands Protection (Title V, Article 8) and the Town's Wetland Protection Regulations (Regulations) promulgated thereunder, Department of Environmental Protection (DEP) 310 CMR 10.00, Inland Wetlands Restriction (DEP) 310 CMR 13.00, and the section of the State Building Code that addresses floodplain areas, and shall require a building permit.
- ~~B. The phrase, "Board of Appeals or Arlington Redevelopment Board, as applicable", shall mean "subject to a special permit from the Board of Appeals or approval from the Arlington Redevelopment Board in the case of~~

~~activity subject to Section 3.4, Environmental Design Review”.~~

- B. The Town of Arlington requires a permit for the subject activities 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 and any other development that might increase flooding or adversely impact flood risks to other properties.
- C. 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 District. The proponent must acquire all necessary permits, and must demonstrate that all necessary permits have been acquired.
- D. 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.
- E. 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.

- F. In A Zones, in the absence of FEMA base flood elevation 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.
- G. All subdivision proposals and development proposals in the Floodplain District shall be reviewed to assure that:
- (1) Such proposals minimize flood damage.
 - (2) Public utilities and facilities are located and constructed so as to minimize flood damage.
 - (3) Adequate drainage is provided.
- H. 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.
- I. 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.
- J. In a riverine situation, the Conservation Agent shall notify the following of any alteration or relocation of a watercourse:
- (1) Adjacent Communities, especially upstream and downstream
 - (2) NFIP State Coordinator, Massachusetts Department of Conservation and Recreation

(3) NFIP Program Specialist, Federal Emergency Management Agency, Region I

5.7.46 Setback from Open Stream

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5.7.57 Use Regulations

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5.7.68 Procedures

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5.7.79 Areas, Open Space, and Yard Regulations

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5.7.810 Exemptions, Map Changes, and Variances

~~A. Where a proposed use is determined to fall within the limits of the Floodplain District and the applicant determines that the location is not included in the definition of the Floodplain District, said use may be exempt by the Board of Appeals or Arlington Redevelopment Board, as applicable, from the provisions of this section if the applicant provides sufficient evidence for the applicable Board to determine that the land in question should not be subject to the provisions of this Section.~~

~~B. If it is determined that an area of significant size should no longer be included within the Floodplain District due to a natural or man-made event which has altered the boundary, the floodline determining the boundaries of the Floodplain District may be changed with approval from Town Meeting provided the new floodline to be adopted has been established in accordance with accepted engineering practice and certified by a registered professional engineer.~~

A. If the Town acquires data that changes the base flood elevation in the FEMA mapped Floodplain District, 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) NFIP State Coordinator, Massachusetts Department of Conservation and Recreation
- (2) NFIP Program Specialist, Federal Emergency Management Agency, Region I

B. If the State issues a variance to the flood-resistant standards as found in the state building code, 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 District.

C. A variance from Section 5.7 of this Bylaw 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.

5.7.11 Supremacy

The floodplain management requirements found in Section 5.7 of this Bylaw shall take precedence over any less restrictive conflicting local laws, regulations, or codes.

5.7.12 Disclaimer

The degree of flood protection required by Section 5.7 of this Bylaw is considered reasonable but does not imply total flood protection.

5.7.13 Compliance with Court Decisions

If any Court of the Commonwealth shall invalidate any provisions of Section 5.7 of this Bylaw, the Zoning Board of Appeals or Conservation Commission may promulgate additional rules and regulations or present to the next Town Meeting after such invalidations, amendments to the Bylaw or regulations which are designed to comply with any Court decision invalidating such provisions or regulations, as the case may be.

[Redevelopment Board Report](#)