

SECTION 11: FLOOD PLAIN PROTECTION OVERLAY DISTRICT

Existing Bylaw Section: Section 3-C – Flood Plain District

Approach: This section was drafted to accomplish two primary objectives:

- 1) Streamline the bylaw to deal with issues specific to flooding and compensatory storage.*
- 2) Defer to Special Permit procedures and criteria in Section 2 of the proposed bylaw.*

Commentary for specific provisions is provided throughout this document along with more specific references to those sections of the existing bylaw that are directly related to these revisions.

1. Purposes

The purposes of the Flood Plain Overlay District are to protect the public health, safety, and general welfare from the hazards of seasonal or periodic flooding of land, to protect human life and property, 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.

2. District Delineation

- A. The general boundaries of the Flood Plain Overlay District are shown on the map entitled, "Flood Insurance Rate Map (FIRM), panel 2502540001-0010" dated November 18, 1988, Zones A, A1-30, which is hereby made a part of this Bylaw and which is on file in the office of the Town Clerk. The exact boundaries of the District are defined by the one hundred (100) year water surface elevations shown on the FIRM and further defined by the Flood Profiles contained in the Flood Insurance Study, dated November 18, 1988 or as amended.
- B. In any case where a portion of a lot is included in the Flood Plain, the restrictions of the Flood Plain Bylaw shall apply only to that portion of the lot contained within the Flood Plain.
- C. Within Zone A, where the one hundred (100) year flood elevation is not provided on the FIRM, the developer/applicant may obtain an Order of Resource Area Delineation from the Conservation Commission which, when final, shall be conclusive for purposes of this Article.

3. Use Regulations

The Flood Plain Overlay 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, the Town of Walpole Wetland Protection Bylaw, and with the

requirements of the Massachusetts State Building Code pertaining to construction in the flood plains (currently Section 3107).

- A. Permitted Uses. The following uses of low flood damage potential and causing no obstructions 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:
- (1) Conservation of water, plants, and wildlife.
 - (2) Grazing and farming, gardening, nurseries, including truck gardening and harvesting of crops.
 - (3) Dwellings, structures and uses lawfully existing prior to the adoption of these provisions.
 - (4) Outdoor recreation, including play areas, nature study, boating and fishing, but excluding permanent buildings and structures.
 - (5) Signs as permitted in the residential district and wildlife management areas.
 - (6) Foot paths, horse paths or other paths constructed with pervious materials (including crushed stone, porous pavement, etc.)
 - (7) Temporary non-residential structures used in connection with any use permitted under this section, including stands for the sale of the produce grown on the premises as may be permitted by other sections of the Zoning Bylaw.
 - (8) Improvement or repair of any structure in existence at the time of the adoption of this section of the Bylaw, which is less than fifty percent (50%) of the market value of the structure, as determined by the Board of Assessors in the most recent tax valuation.
- B. Special Permits. No structure or building shall be erected, constructed, substantially improved, or otherwise created or moved; no earth or other materials dumped, filled, excavated, or transferred, unless a special permit is granted by the Board of Appeals. Said Board may issue a special permit hereunder (subject to other applicable provisions of this Bylaw) in conformity with the following provisions:
- (1) The proposed use shall comply in all respects with the provisions of the underlying District unless subject to provisions of Section 9 of this bylaw.
 - (2) 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 compensatory storage is provided for the one hundred (100) year flood.
 - (3) Any new residential construction or substantial improvements (the cost of which equals or exceeds fifty percent (50%) of the market value of the structure) shall have the lowest floor, including basement elevated to or above the base flood level (the one

hundred (100) year flood elevation) designated on the FIRM. Nonresidential structures must be flood-proofed and watertight to the base flood level.

- (4) All structures (including subsurface structures) are designed so as to prevent contamination of flood waters by chemicals, waste products, and other pollutants. The Board of Appeals may waive proof of this requirement if the same analyses will be required as part of a special permit application associated with the Water Resources Protection Overlay District.
- (5) 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.