

ARTICLE 28: ZONING BYLAW AMENDMENT – DEFINITIONS – FLOOD PLAIN OVERLAY DISTRICT

To see if the Town will vote to amend the Ayer Zoning Bylaw, Section 2.0, Definitions by adding the following definitions as indicted by underlined bold text and deleting the ~~strike through bold text~~ as follows to the Flood Plain Overlay District as follows:

The following Definitions shall apply to §320-8.2 Flood Plain Overlay District:

- ACCESSORY DWELLING UNIT: a dwelling unit subordinate in size and accessory to a detached single family dwelling, which may be located within an owner occupied single family dwelling or in a structure accessory thereto, such as in an attached or detached garage or barn, upon the issuance of a Special Permit from the Zoning Board of Appeals (ZBA). A self-contained housing unit, inclusive of sleeping, cooking and sanitary facilities on the same Lot as a Principal Dwelling, subject to otherwise applicable dimensional and parking requirements, that: (i) maintains a separate entrance, either directly from the outside or through an entry hall or corridor shared with the Principal Dwelling sufficient to meet the requirements of the state building code for safe egress; (ii) is not larger in Gross Floor Area than 1/2 the Gross Floor Area of the Principal Dwelling or 900 square feet, whichever is smaller; and (iii) is subject to such additional restrictions as may be imposed by a municipality, including, but not limited to, additional size restrictions and restrictions or prohibitions on Short-term Rental; provided, however, that no Municipality shall unreasonably restrict the creation or rental of an ADU that is not a short-term Rental.
- 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] (as used in Section 8.2)
- 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. [Base Code, Chapter 2, Section 202] (as used in section 8.2)
- 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] (as used in section 8.2)

- **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] (as used in section 8.2)
- **HISTORIC STRUCTURE:** 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.**
- **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] (as used in section 8.2)
- **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;**

For more information, please visit the Town's website: www.qver.ma.us/townmeeting

(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.

[US Code of Federal Regulations, Title 44, Part 59] (as used in section 8.2)

- REGULATORY FLOODWAY: see FLOODWAY. (as used in section 8.2)
- 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 . [Base Code, Chapter 2, Section 202] (as used in section 8.2)
- 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. [Base Code, Chapter 2, Section 202] (as used in section 8.2)
- STRUCTURE: A combination of materials assembled at a fixed location to give support or shelter, such as a building, retaining wall which retains more than four (4) feet of unbalanced fill, tent of one hundred twenty (120) sq. ft. or more and for the use of ten (10) or more persons, reviewing stand, platform, fence six (6) feet or more in height, sign, flagpole, recreational tramway, mast for radio antenna, solar panel arrays and their supports, or the like. 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 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

For more information, please visit the Town’s website: www.qyer.ma.us/townmeeting

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. [As amended by MA in 9th Edition BC] (as used in section 8.2)

- **VARIANCE (Floodplain): 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] (as used in section 8.2)**
- **VIOLATION (Floodplain): 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 is presumed to be in violation until such time as that documentation is provided. [US Code of Federal Regulations, Title 44, Part 59] (as used in section 8.2)**

Or take any action thereon or in relation thereto.

Planning Board: To report at Town Meeting

Select Board: Recommends

Two-Thirds Majority Vote Required

Explanatory Note: This Article would amend Section 2.0, Definitions of the Ayer Zoning Bylaw to be in compliance with FEMA Region 1. The Planning Board held a Public Hearing on March 11, 2025 and March 25, 2025. Brief presentation to be made at Town Meeting.