

Amendments shown in **RED: struck-through** text is to be removed and **underlined** text is to be added.



Town of Lexington

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**EXCERPT OF THE TOWN OF LEXINGTON
ANNUAL TOWN MEETING
HELD MONDAY, MARCH 24, 2025, 7:30 P.M.
CARY MEMORIAL BUILDING – BATTIN HALL
WITH ADJOURNED SESSIONS HELD
MARCH 26, APRIL 2, APRIL 7, APRIL 9, AND APRIL 14, 2025**

**ARTICLE 31 AMEND ZONING BYLAW -NATIONAL FLOOD INSURANCE
(NFI) DISTRICT**

MOTION:

Mr. Schanbacher moves that the Zoning Bylaw, Chapter 135 of the Code of the Town of Lexington, be amended as follows, where ~~struck-through text~~ is to be removed and underlined text is to be added, and further that non-substantive changes to the numbering of this Bylaw be permitted to comply with the numbering format of the Code of the Town of Lexington.

1) Amend § 135-7.1 as follows:

7.1 NATIONAL FLOOD INSURANCE (NFI) DISTRICT.

7.1.1 Purpose. ~~The purpose of this district is to insure public safety through 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 reduce damage to public and private property resulting from flooding waters.~~

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, and

6. Reduce damage to public and private property resulting from flooding waters.

7.1.2 Overlay District. The NFI District shall not supersede other zoning districts but shall be deemed to be superimposed over these other zoning districts.

7.1.3 Location. The NFI District includes all special flood hazard areas within the Town of Lexington designated as Zone A and AE on the Middlesex County, Massachusetts 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 map panels of the Middlesex County FIRM that are wholly or partially within the Town of Lexington are panel numbers 0382F, 0384F, 0392E, 0401E, 0402E, 0403E, 0404E, 0408E, 0411E, 0412E, 0414E, and 0416E, in effect as of July 6, 2016.~~ The exact boundaries of the District may be defined by the 1%-change (one-hundred-year) base flood elevations shown on the FIRM and further defined by the Middlesex County Flood Insurance Study (FIS) report, ~~in effect dated July 8, 2025 6, 2016.~~ The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Official, Conservation Commission, and Engineering office and available on the Town website.

7.1.4 Base Flood Elevation and Floodway Data.

1. Floodway data. In Zones A and AE, along watercourses within the Town of Lexington 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. Base flood elevation data. Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or five acres (whichever is less), the proponent must provide technical data to determine base flood elevations for each developable parcel shown on the design plans. ~~, whichever is the lesser, within unnumbered A Zones.~~

7.1.5 Notification of Watercourse Alteration. In a riverine situation, the Conservation Floodplain Administrator shall notify the following of any alteration or relocation of a watercourse: ~~adjacent communities, NFIP State Coordinator, and NFIP Program Specialist.~~

1. Adjacent communities,

2. NFIP State Coordinator, Massachusetts Department of Conservation and Recreation, and

3. NFIP Program Specialist, Federal Emergency Management Agency, Region I.

7.1.6 Use Regulations.

1. All man-made changes to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations in the NFI District, including structural and nonstructural activities, whether permitted by right or by special permit must be in compliance with MGL c. 131, § 40 and with the following:

a. Sections of the Massachusetts State Building Code (780 CMR) which address

floodplain and coastal high hazard areas;

b. Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);

c. Inland Wetlands Restriction, DEP (currently 310 CMR 13.00);

d. Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5);

2. Any variances from the provisions and requirements of the above-referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

3. In Zones AE, along watercourses within the Town of Lexington that have a regulatory floodway designated on the Middlesex County FIRM Map, encroachments are prohibited in the regulatory floodway 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 ~~which would~~ result in any increase in flood levels within the community during the occurrence of the base flood discharge.

4. All subdivision proposals must be designed to assure that:

a. Such proposals minimize flood damage;

b. All public utilities and facilities are located and constructed to minimize or eliminate flood damage; and

c. Adequate drainage is provided to reduce exposure to flood hazards.

5. Existing contour intervals of site and elevations of existing structures must be included on plan proposal.

7.1.7 Floodplain Administrator.

The Town Manager or their designee shall serve as the official Floodplain Administrator for the Town of Lexington.

7.1.8 Permits Required.

Permits are required for all proposed development in the Floodplain Overlay District, as required by the Floodplain Administrator or their designee. The Town requires a permit 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.

7.1.9 Assure that all necessary permits are obtained.

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 overlay district. The proponent must acquire all necessary permits, and must demonstrate that all necessary permits have been acquired.

7.1.10 In A Zones, 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.

7.1.11 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.

7.1.12 If the Town acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, the Town of Lexington 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:

- NFIP State Coordinator, Massachusetts Department of Conservation and Recreation
- NFIP Program Specialist, Federal Emergency Management Agency, Region I

7.1.13 Variances to Floodplain Standards Issued by the State Building Code

The Town of Lexington 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 of Lexington 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.

7.1.14 Other Variances

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.

7.1.15 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.

7.1.16 Disclaimer of Liability

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

7.1.18 Definitions. The following words shall be defined as in this subsection 7.1.18 for the purposes of this Section 7.1.

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 federal agency administering the National Flood Insurance Program.

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 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 erosion hazards.

FLOODWAY

The channel of a river 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.

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:

- (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.

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

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:

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

REGULATORY FLOODWAY – See Floodway

SPECIAL FLOOD HAZARD AREA

An area having special flood and/or flood-related erosion hazards, and shown on a FHBM or FIRM as Zone A, AO, A1-30, AE, A99, AH, V, V1-30, V. [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. [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]

STRUCTURE (NATIONAL FLOOD INSURANCE DISTRICT)

A walled and roofed building, including a gas or liquid storage tank, which is principally above ground, as well as a manufactured home. "Structure," for insurance coverage purposes, means a walled and roofed building, other than a gas or liquid storage tank, which is principally above ground and affixed to a permanent site, as well as a manufactured home on foundation. For the latter purpose, the term includes a building while in the course of construction, alteration, or repair, but does not include building materials or supplies intended for use in such construction, alteration, or repair, unless such materials or supplies are within an enclosed building on the premises.

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. [As amended by MA in 9th Edition BC]

VARIANCE

For floodplain management purposes, means 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

For floodplain management purposes, means 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]

ZONE A (NATIONAL FLOOD INSURANCE DISTRICT)

The one-hundred-year floodplain area where the base flood elevation (BFE) has not been determined. To determine the BFE, use the best available federal, state, local, or other data.

ZONE A1-30 AND ZONE AE (FOR NEW AND REVISED MAPS) (NATIONAL FLOOD INSURANCE DISTRICT)

The one-hundred-year floodplain where the base flood elevation has been determined.

ZONES B, C, AND X (NATIONAL FLOOD INSURANCE DISTRICT)

Areas identified in the community Flood Insurance Study as areas of moderate or minimal flood hazard. Zone X replaces Zones B and C on new and revised maps.

- 3) Amend §135-10.0 Definitions by deleting the following:

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)

The federal agency administering the National Flood Insurance Program.

FLOOD HAZARD BOUNDARY MAP (FHBM)

An Official Map of a community issued by FEMA where the boundaries of the flood and related erosion areas having special hazards have been designated as Zone A or E.

SPECIAL FLOOD HAZARD AREA

~~An area having special flood and/or flood-related erosion hazards, and shown on a FHBM or FIRM as Zone A, AO, A1-30, AE, A99, AH, V, V1-30, V.~~

~~**STRUCTURE (NATIONAL FLOOD INSURANCE DISTRICT)**~~

~~A walled and roofed building, including a gas or liquid storage tank, which is principally above ground, as well as a manufactured home. "Structure," for insurance coverage purposes, means a walled and roofed building, other than a gas or liquid storage tank, which is principally above ground and affixed to a permanent site, as well as a manufactured home on foundation. For the latter purpose, the term includes a building while in the course of construction, alteration, or repair, but does not include building materials or supplies intended for use in such construction, alteration, or repair, unless such materials or supplies are within an enclosed building on the premises.~~

~~**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 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 erosion hazards.~~

~~**FLOODWAY**~~

~~The channel of a river 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.~~

~~**ZONE A (NATIONAL FLOOD INSURANCE DISTRICT)**~~

~~The one hundred year floodplain area where the base flood elevation (BFE) has not been determined. To determine the BFE, use the best available federal, state, local, or other data.~~

~~**ZONE A1-30 AND ZONE AE (FOR NEW AND REVISED MAPS) (NATIONAL FLOOD INSURANCE DISTRICT)**~~

~~The one hundred year floodplain where the base flood elevation has been determined.~~

~~**ZONES B, C, AND X (NATIONAL FLOOD INSURANCE DISTRICT)**~~

~~Areas identified in the community Flood Insurance Study as areas of moderate or minimal flood hazard. Zone X replaces Zones B and C on new and revised maps.~~

Motion to Approve Article 31 – Amend Zoning Bylaw – National Flood Insurance (NFI) District

Adopted by a vote of:

Yes	No	Abstain
174	0	3

MOTION CARRIES WITH MORE THAN NECESSARY 2/3RDS