



**City of Fitchburg
Massachusetts 01420**

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Amy Green

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Anthony M. Zarrella

July 2, 2025

To whom it may concern:

At the Regular City Council meeting held on Tuesday, July 1, 2025, the following ORDINANCE was passed to a third and final reading and adopted to be enrolled and ordained by unanimous consent 9/0. 9 members present. Board consists of 11 members.

Ordinance signed by the Mayor July 2, 2025

134-25. AN ORDINANCE: Chapter 181.85 Floodplain Protection Overlay District (FPOD), of the Code of the City of Fitchburg Zoning Ordinance, be amended by deleting the entire section 181.85 and replacing it in its entirety as enclosed in the Ordinance.

Very truly yours,

Joanna Bilotta-Simeone

Joanna Bilotta-Simeone

City Clerk

In City Council,

July 1, 2025

Passed to be ordained.

Anthony M. Zavello

President

Mayor's Office,

Fitchburg, Mass., JUL 02 2025

Approved.

Samantha M. Squitria
Mayor

A TRUE COPY ATTEST

Joanna Bilotta-Simeone
City Clerk

134-2025

AN ORDINANCE

Chapter 181.85 Floodplain Protection Overlay District (FPOD), of the Code of the City of Fitchburg Zoning Ordinance, be amended by deleting the entire section 181.85 as enclosed in the Ordinance. (Ref. petition 094-25)

In City Council,

Examined by the Committee on Enrollment, and found correctly Enrolled.

Chairman of Committee on Enrollment

In City Council June 17, 2025 Ordinance was sent to a first and second reading and ordered advertised by unanimous consent 8/0. 8 members present. Board consists of 11 members. Joanna Bilotta-Simeone, Clerk

In City Council July 1, 2025 Ordinance was sent to a third and final reading, adopted to be enrolled and ordained by unanimous consent 9/0. 9 members present. Board consists of 11 members. Joanna Bilotta-Simeone, Clerk

CITY OF FITCHBURG A TRUE COPY ATTEST

IN THE YEAR

Joanna Bilotta-Simeone
City Clerk

2025

AN ORDINANCE

Be it ordained by the City Council of the City of Fitchburg, as follows:

BE IT ORDAINED THAT

Chapter 181.85 Floodplain Protection Overlay District (FPOD), of the Code of the City of Fitchburg Zoning Ordinance, be amended by deleting the entire section 181.85 and replacing it in its entirety as follows:

181.85 FLOODPLAIN PROTECTION OVERLAY DISTRICT (FPOD).

181.851 Purpose.

The purpose of the Floodplain Overlay District is to:

- A. Ensure public safety through reducing the threats to life and personal injury
- B. Eliminate new hazards to emergency response officials
- C. Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding
- D. 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
- E. Eliminate costs associated with the response and cleanup of flooding conditions
- F. Reduce damage to public and private property resulting from flooding waters

181.852 Overlay District.

The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within Fitchburg designated as Zone A and AE on the Worcester County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency for the administration of the National Flood Insurance Program dated July 8th, 2025. These maps indicate the 1%-chance regulatory floodplain. The exact boundaries of the 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 8th, 2025. The effective FIRM, and FIS report are incorporated herein by reference and are on file with the City Clerk, Department of Community Development and Planning, and Building Commissioner.

181.853 General.

The Floodplain Protection Overlay District (FPOD) shall be in all portions of the city as indicated on the Flood Insurance Rate Maps as the Floodplain District. The City'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 submit a list demonstrating that all necessary permits have been acquired.

181.854 Administration

- A. Designation of Floodplain Administrator. The Building Commissioner is the designated floodplain administrator (FPA) and shall maintain the maps and records and administer, interpret and enforce the provisions of this Section. Where there is a conflict between a mapped boundary and actual field conditions, the Building Commissioner shall determine the boundaries of the Floodplain District.
- B. Acquiring Permitting within a designated Flood Plain. The Building Commissioner as

181.853 General.

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181.854 Administration

A. Designation of Floodplain Administrator. The Building Commissioner is the designated floodplain administrator (FPA) and shall maintain the maps and records and administer, interpret and enforce the provisions of this Section. Where there is a conflict between a mapped boundary and actual field conditions, the Building Commissioner shall determine the boundaries of the Floodplain District.

B. Acquiring Permitting within a designated Flood Plain. The Building Commissioner as the Administrator of the provisions of this ordinance shall review all permits that propose any land disturbance and or construction activity within the flood plain district.

C. Requirement to submit new technical data. If the City acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, the floodplain administrator (FPA), 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
- NFIP Program Specialist

Watercourse alterations or relocations in riverine areas. In a riverine situation, the floodplain administrator (FPA), shall notify the following of any alteration or relocation of a watercourse:

- Adjacent Communities, especially upstream and downstream
- Bordering States, if affected
- NFIP State Coordinator, Massachusetts Department of Conservation and Recreation
- NFIP Program Specialist, Federal Emergency Management Agency, Region I

D. Issuance of a Variance A variance from the floodplain ordinance 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.

E. Variances to building code floodplain standards. For the City of Fitchburg, the State Building Code Appeals Board issues a variance to the state building code. When a local building official's interpretation of the flood-resistant standards under the building code are contested through the appeal process, the community must keep written documentation of both:

1. the justification for local decision to deny the permit, and
2. the results of the state's appeal/variance hearing (either in agreement with the local community, or having granted the variance through appeal.)

F. Municipal Requirements for variance actions.

1. The City 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.
2. The City 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.
3. Such notification shall be maintained with the record of all variance actions for the referenced development in the floodplain overlay district.

181.855 Permits are required for all proposed development in the Floodplain Overlay District.

The City of Fitchburg 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.

The following development provisions shall apply:

- A. In Zone AE, along watercourses that have a regulatory floodway designated on the City's FIRM, All encroachment within the Floodway, including fill, new construction, substantial improvements to existing structures and all other development within the regulatory floodway is prohibited 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.
- B. Floodway encroachment.
 1. In Zones A 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. Any encroachment meeting the above standard shall comply with the floodplain requirements of the Massachusetts State Building Code.
- C. The placement of mobile homes, except in an existing mobile home park or mobile home subdivision, is prohibited in the floodway.
- D. Within Zone A and AE, all mobile homes shall comply with the provisions of the Massachusetts State Building Code in addition to providing that:
 1. Stands or lots are elevated on compacted fill or on pilings so that the lowest floor of the mobile home and its associated utilities will be at or above the elevation required for all permanent structures in accordance with the MA State Building Code;
 2. Adequate surface drainage and access for a hauler are provided; and
 3. In the instance of elevation on pilings, lots are large enough to permit steps, piling foundations are placed in stable soil no more than ten (10) feet apart and reinforcement is provided for piers more than six (6) feet above ground level.
- E. Subdivision and development proposals shall be reviewed to assure that such proposals minimize flood damage, adequate drainage is provided, and that public utilities and facilities are located and constructed so as to minimize flood damage.
- F. 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.
- G. Recreational vehicles. 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.
- H. Unnumbered A Zones. 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.
- I. Compensatory storage shall be provided for all flood storage volume that will be lost as the result of a proposed project within Bordering Land Subject to Flooding, when in the judgment of the issuing authority said loss will cause an increase or will contribute incrementally to an increase in the horizontal extent and level of flood waters during peak flows.

181.856 Related Development Regulations.

The degree of flood protection required by this ordinance is considered reasonable but does not imply total flood protection. The following requirements apply in the FPOD within all residential and nonresidential construction, land disturbances, and any substantial improvements shall comply with the following:

- Provisions of the Massachusetts State Building Code which address floodplain areas (currently 780 CMR 3107.0, "Flood Resistant Construction").

- Wetlands Protection Regulations (currently 310 CMR 10.00).
- Minimum Requirement for the Subsurface Disposal of Sanitary Sewage (currently 310 CMR 15, Title V).
- Stormwater Management and Regulations (Per City of Fitchburg City Code – Chapter 154).

181.857 Enforcement

The Floodplain Administrator (FPA), will actively monitor and ensure compliance with the requirements of the FPOD District, in conjunction with the Federal Emergency Management Agency (FEMA) National Flood Insurance Program (NFIP) to qualify for flood insurance access; this includes reviewing permit applications, inspecting construction, and taking enforcement actions against violations. Penalties for violations shall be administered in accordance with Section 181.912 of the City of Fitchburg Zoning Ordinance.

181.858 Abrogation & Severability.

1. The floodplain management regulations found in this Floodplain Overlay District section shall take precedence over any less restrictive conflicting local laws, ordinances or codes.
2. If any section, provision or portion of this ordinance is deemed to be unconstitutional or invalid by a court, the remainder of the ordinance shall be effective.

181.859 Definitions.

COMPENSATORY STORAGE means a volume not previously used for flood storage and shall be incrementally equal to the theoretical volume of flood water at each elevation, up to and including the 100-year flood elevation, which would be displaced by the proposed project. Such compensatory volume shall have an unrestricted hydraulic connection to the same waterway or water body. Further, with respect to waterways, such compensatory volume shall be provided within the same reach of the river, stream or creek.

DEVELOPMENT means 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]

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]

FUNCTIONALLY DEPENDENT USE means 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 means 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 means 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 means 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. 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]

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 means, 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 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 means a grant of relief by the State Building Code Appeals Board from the terms of a flood plain management regulation. [US Code of Federal Regulations, Title 44, Part 59]

VIOLATION 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 Title 44 CFR §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 means an area of special flood hazard without water surface elevations determined

ZONE A1-30 and ZONE AE means area of special flood hazard with water surface elevations determined