



TOWN OF FOXBOROUGH
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May 13, 2025

To Whom It May Concern:

This is to certify that the Annual Town meeting of the Town of Foxborough was held May 12, 2025 at the Foxborough High School, 120 South Street, Foxborough, Massachusetts. The meeting was called to order at 7:13 P.M. with one hundred twenty-nine (129) registered voters recorded as present [a quorum being one hundred (100) registered voters]. The following action took place:

ARTICLE 23: MOVED, that the Town will vote to amend Section 9.3 of Chapter 275 of The Code of the Town of Foxborough By-Laws, by deleting Section 9.3 Flood Plain Overlay District (FPOD) in its entirety and replacing it with the below,

9.3. Flood Plain Overlay District (FPOD).

9.3.1. Purpose. The purpose of the Floodplain Overlay District (FPOD) is to:

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 that if damaged by flooding would disrupt or shut down the utility network and impact regions of the Town 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.

9.3.2. Definitions. The following terms as used in this Section 9.3. shall have the respective meanings as indicated:

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.

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.

FUNCTIONALLY DEPENDENT USE. A use that 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.

HISTORIC STRUCTURE. Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the United States Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. 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 of the Interior to qualify as a registered historic district;
3. 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
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either (i) by an approved state program as determined by the Secretary of the Interior, or (ii) 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.

RECREATIONAL VEHICLE. A vehicle that is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. 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.

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.

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.

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 fifty percent (50%) of the perimeter of the base of the foundation measured in linear feet, or repair or replacement of fifty percent (50%) of the piles, columns or piers of a pile, column or pier supported foundation, the Building Commissioner shall determine it to be substantial repair of a foundation. Applications determined by the Building Commissioner to constitute substantial repair of a foundation shall require all existing portions of the entire building or structure to meet the requirements of the Massachusetts State Building Code (780 CMR).

VARIANCE. A grant of relief from the terms of a flood plain management regulation.

VIOLATION. The failure of a structure or other development to be fully compliant with the Town's flood plain management regulations. A structure or other development without the elevation certificate, other certifications or other evidence of compliance as required in 44CFR 60.3 is presumed to be in violation until such time as that documentation is provided.

- 9.3.3. Overlay District. The FPOD is established as an overlay district. The FPOD includes all special flood hazard areas within the Town designated as Zone A, AE, AH, AO, A99, V or VE on the Norfolk 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 FPOD shall be defined by the one-percent-chance base flood elevations shown on the FIRM and further defined by the Norfolk 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 Town Clerk and Building Department.
- 9.3.4. Floodplain Administrator. The Building Commissioner shall be the FPOD administrator for the Town but may delegate FPOD responsibilities to a suitably qualified employee of the Town.
- 9.3.5. Floodplain Permitting.
1. Permits are required for all proposed construction or other development in the FPOD, 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.
 2. The permit review process includes the use of a checklist of all Town, state and federal permits that will be necessary in order to carry out proposed construction or other development in the FPOD. The Applicant must acquire all necessary permits and must submit the completed checklist demonstrating that all necessary permits have been acquired.
 3. All construction or other development in the FPOD, including structural and non-structural activities, whether permitted by right or by special permit shall comply with each of the following: Massachusetts General Laws Chapter 131, Section 40; those sections of the Massachusetts State Building Code (780 CMR) that address floodplain areas; the Wetlands Protection Regulations of the Massachusetts Department of Environmental Protection (310 CMR 10.00); Inland Wetlands Restrictions of the Massachusetts Department of Environmental Protection (310 CMR 13.00); the Minimum Requirements for the Subsurface Disposal of Sanitary Sewage of the Massachusetts Department of Environmental Protection (310 CMR 15, Title 5); the Code of the Town of Foxborough, Massachusetts, Chapter 267: Wetlands Protection; and the Town of Foxborough Conservation Commission's Wetlands Protection Regulations.

9.3.6. Requirements.

1. All buildings and structures erected in areas prone to flooding, as designated on the Flood Insurance Rate Maps (FIRM) or as further enumerated, shall be constructed and elevated as required by the Massachusetts State Building Code.
2. In A Zones of the FPOD in the absence of FEMA BFE data and floodway data, the Inspections Department shall 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 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.
3. The following provisions shall apply in the floodway that is designated on the Flood Insurance Rate Map:
 - a. Encroachments are prohibited, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has 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. If the requirements of Section 9.3.5. are satisfied, all new construction and substantial improvements shall comply with all provisions of Sections 9.3.6.1. and 9.3.6.2.
4. In Zones A and AE of the FPOD along watercourses that have not had a regulatory floodway designation, the best available federal, state and local or other floodway data shall be used to prohibit encroachments in the floodways that would result in any increase in flood levels within the Town during the occurrence of the base flood discharge.
5. In a riverine situation, the Conservation Agent shall notify the following of any alteration or relocation of a watercourse: municipalities that are adjacent to the Town; the NFIP State Coordinator, Massachusetts Department of Conservation and Recreation; and the NFIP Program Specialist, Federal Emergency Management Agency, Region I.
6. If the Town acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, the Town shall within six months notify FEMA of these changes by submitting the technical or scientific data that supports the change(s) to EMA Region I Risk Analysis Branch Chief, and shall copy such notification to Massachusetts NFIP State Coordinator, MA Dept. of Conservation & Recreation.
7. Subdivision proposals shall be designed to assure that such proposals minimize flood damage, all public utilities and facilities are located and constructed to minimize or eliminate flood damage, and adequate drainage is provided to reduce exposure to flood hazards.
8. 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.
9. All recreational vehicles that are placed on a site in A, A1-30, AH and AE Zones of the FPOD shall 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.

9.3.7. Variances from Floodplain Development Regulations.

1. Variances from the Massachusetts State Building Code. A variance from the provisions of the Massachusetts State Building Code shall comply with the following requirements:
 - a. The Building Department shall 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 Town's files.
 - b. The Building Department shall issue a written letter signed by the Building Commissioner to the property owner regarding potential impacts to the annual premiums for the flood insurance policy covering that property, which such letter shall provide 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.


- c. Such notification shall be maintained with the record of all variance actions for the referenced development in the FPOD.
2. Variances from these bylaws. A variance from the provisions of this Section 9.3. shall comply with the requirements set out by State law and shall also comply with and satisfy the applicable provisions of Section 10.2.2.3. of these bylaws and, in addition, may only be granted if (i) good and sufficient cause and exceptional non-financial hardship exist, (ii) the variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public, and (iii) the variance is the minimum action necessary to afford relief.

9.3.8. Administrative.

1. Abrogation and greater restriction. The bylaws that are set forth in this Section 9.3. shall take precedence over any less restrictive conflicting bylaws, rules or regulations of the Town.
2. Disclaimer of liability. The degree of flood protection required by this Section 9.3. is considered reasonable but does not imply total flood protection.
3. Severability. If any section, provision or portion of this Section 9.3. is determined to be invalid by a court of competent jurisdiction, such invalidity shall not affect any other section, provision or portion thereof that can be given effect without that which is held invalid, provided that the result of such invalidity would not be contrary or detrimental to the purpose of such section.

ADOPTED UNANIMOUSLY 105 AFFIRMATIVE 0 NEGATIVE 9:28 P.M.

A True Copy Attest:


Robert E. Cutler, Jr., Town Clerk

