

TOWN OF NORTH READING  
COMMONWEALTH OF MASSACHUSETTS  
Code of North Reading Zoning By-Law Amendment

The following By-Law was adopted at the Adjourned Annual Town Meeting held January 27, 2025 is hereby published in accordance with the provisions pursuant to G.L. c. 40, § 32.

**Article 3                      Amend Code – Zoning Bylaws – Floodplain District**

To see if the Town will vote to amend Section 200-44, Floodplain District, of the Zoning Bylaw, and the overlay district map established therein, by deleting Section 200-44 in its entirety and replacing it with the following:

§ 200-44. Floodplain District.

A. Purposes. The purposes of this section are:

- (1) To provide the lands in the Town of North Reading subject to seasonal or periodic flooding as hereinafter described shall not be altered in such a manner as to endanger the health, safety or welfare of the occupants thereof or of the public.
- (2) To protect, preserve and maintain the water table and water recharge areas within the town so as to preserve present and potential water supplies for the public health, safety and welfare of the residents of the Town of North Reading.
- (3) To assure the continuation of the natural flow of the watercourses within the Town of North Reading; and to maintain adequate and safe floodwater storage capacity in order to protect persons and property against the hazards of flood inundation.
- (4) To ensure that all new subdivisions are designed and constructed to minimize flood damage potential, that all public utilities and facilities are located and constructed to minimize or eliminate flood damage, and that adequate drainage is provided to reduce exposure to flood hazards.

B. District locations.

- (1) The Floodplain District is herein established as an overlay district. The underlying permitted uses are allowed provided that they meet the following additional requirements as well as those of the Massachusetts State Building Code 780 CMR 120.G dealing with construction in floodplains. The Floodplain District includes all special flood hazard areas within the Town of North Reading designated as Zone A and AE on the Middlesex County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program dated **July 8, 2025**. The exact boundaries of the District are defined by the 100-year base flood elevations shown on the FIRM and further defined by the Middlesex 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, Community Planning Commission, Building Department, and Conservation Commission.
- (2) These maps as well as the accompanying Flood Insurance Study are incorporated herein by reference.

C. Designation of Community Floodplain Administrator.

The Town of North Reading hereby designates the position of Conservation Agent to be the official floodplain administrator of the Town.  
District use regulations.

- (1) The Floodplain District is established as an overlay district superimposed on all other existing zoning districts. The Town of North Reading 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.

Activities requiring an administrative permit from the Building Inspector are detailed in Section 3 of this bylaw. Activities requiring a Special Permit by the Community Planning Commission are detailed in Section 4 of this bylaw.

All uses and development in the Floodplain District, including structural and non-structural activities, whether permitted in the underlying district by right or by special permit shall be subject to all of the provisions of this section, and must also be in compliance with the following:

- (a) Chapter **131**, Section 40 of the Massachusetts General Laws;
- (b) Those provisions of the Massachusetts State Building Code which address floodplain and coastal high hazard areas as they may be in effect from time to time, including but not limited to, 780 CMR 120.G of the Massachusetts State Building Code which addresses construction in floodplains and floodways;
- (c) Massachusetts Department of Environmental Protection (DEP), Wetland Protection Regulations, 310 CMR 10.00, as they are in effect from time to time;
- (d) 310 CMR 13.00, Inland Wetlands Restrictions, Department of Environmental Protection, as they are in effect from time to time;
- (e) 310 CMR 12.00, Coastal Wetlands Restriction, Department of Environmental Protection, as they are in effect from time to time;
- (f) DEP Minimum Requirements for the Subsurface Disposal of Sanitary Sewers, 310 CMR 15, Title 5, as they are in effect from time to time;
- (g) Any variances of the above referenced state regulations granted in accordance with the required variance procedures established in said regulations.

1. Variances to building code floodplain standards.

a. The Town 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.

b. The Town 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

2. Variances to local Zoning Bylaws related to community compliance with the National Flood Insurance Program (NFIP).

a. A variance from the requirements of this floodplain bylaw, whether issued in the course of a special permit or an administrative floodplain permit, must meet the requirements for such variance set out by State law, specifically

G.L. c.40A, s.10, and in addition 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.

(2) Each person proposing to change, alter, or expand an existing structure or use of land within the Floodplain District, or to make a new use of or construct a new structure on such land, shall, as a prerequisite to commencing such development: 1) obtain all local, state and federal permits and approvals necessary to carry out the proposed development; and 2) identify and provide evidence of having obtained all such required permits and approvals to the Floodplain Administrator and the Building Inspector.

(3) Permitted uses. The following uses shall be allowed by right within the district, but subject to an administrative permit issued by the Building Inspector once reviewed for compliance with this bylaw:

- (a) Uses directly related to the conservation of water, plants and wildlife, including facilities for municipal water supply purposes, provided these are in compliance with all state building code requirements;
- (b) Outdoor recreation activities and facilities, such as unpaved play areas, nature study, boating, fishing and hunting where otherwise legally permitted;
- (c) Wildlife management areas, landings, foot, bicycle and/or horse paths and bridges, provided such uses do not affect the natural flow patterns of any watercourse;
- (d) Grazing and farming, including truck gardening and harvesting of crops;
- (e) Forestry and nurseries;
- (f) Small non-residential structures of less than one hundred (100) square feet of floor area in connection with recreation or the growing, harvesting, storage or sale of crops raised on the premises;
- (g) Storage of recreational vehicles, subject to the following: 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) The following additional uses are permitted by right, provided that no such use may commence until the Floodplain Administrator has reviewed and approved a sufficiently detailed proposal for the use, and the Building Inspector has issued a permit for the use. Such use may require notification to FEMA for alteration of a watercourse or otherwise, and the Floodplain Administrator may require a proponent to obtain and submit such technical information as FEMA or the Administrator may require to establish current conditions and the effect of such proposed use on the Floodplain District.
  - (1) Creation of ponds or detention areas, and associated structures, with a total water surface area at peak elevation not in excess of 40,000 square feet
  - (2) Removal of silt and other accumulated debris from a watercourse which tends to interfere with the natural flow patterns of the watercourse;
  - (3) Construction, alteration, repair and maintenance of municipal infrastructure including water system, sewer system, drainage, roadways and public utilities.
  - (i) In a riverine situation, the Conservation Agent 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 1
  - (4) Special permit uses.
    - (a) Except as specifically permitted in Subsection **C(3)**, in the floodplain district no new building shall be erected or constructed, and no existing structure shall be altered, enlarged or moved; no dumping, filling or earth transfer or relocation shall be permitted without first obtaining a special permit from the Community Planning Commission.
    - (b) The Community Planning Commission may allow the permitted uses of the underlying district within the Floodplain District upon issuance of a special permit subject to the following conditions:

[1] That the applicant first obtain a permit from the North Reading Conservation Commission.

[2] That all encroachments including fill, new construction, substantial improvements to existing structures, earth transfer, and other development be certified by a registered professional engineer that such encroachments shall not result in any increase in flood levels during the occurrence of the one-hundred-year flood, as demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering Practice.

[3] Base flood elevation data. Base flood elevation data is required for each developable parcel shown on subdivision proposals or other developments greater than fifty (50) lots or five (5) acres, whichever is the lesser, within unnumbered A zones.

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

[4] 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.

[5] All subdivision proposals and development proposals in the floodplain overlay district shall be reviewed to assure that:

- (a) Such proposals minimize flood damage.
- (b) Public utilities and facilities are located & constructed so as to minimize flood damage.
- (c) Adequate drainage is provided.

(5) Prohibited uses. The following uses are prohibited within the Floodplain District.

- (a) Structures located in or alterations to the regulatory floodway.
- (b) Accessory buildings or accessory structures used for human abode.
- (c) 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] In Zones A and AE, along watercourses that have a regulatory floodway designated on the Town's/City's FIRM or Flood Boundary & Floodway Map (choose map which delineates floodways for your community) encroachments are prohibited, 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 result in any increase in flood levels within the community during the occurrence of the base flood discharge.

D. Regulations and application procedure. After public notice and public hearing the Commission shall promulgate regulations to effectuate the purposes of this bylaw. The regulations shall include the application procedure for a special permit. Failure by the Commission to promulgate such regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this bylaw.

E. Requirement to submit new technical data.

If the Town acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, the town 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 1.

F. Definitions.

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 a community 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 §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]

- G. Review by other Town boards and agencies. Upon receipt of an application for a special permit for activity in the Floodplain District, the Community Planning Commission shall forward a copy of such application to the Conservation Commission and the Town Engineer with a request that they review the application and submit their comments thereon to the CPC prior to or at the public hearing on the application. Failure of the Conservation Commission and/or Town Engineer to make recommendations or comments at or prior to the public hearing shall be deemed lack of opposition to the application.
- H. Public hearing. Special permits shall only be issued following public hearings held as provided for in Section 9 of MGL c. 40A and in accordance with the procedure and timetable set forth therein.
- I. Permits and determinations.
- (1) Conditional decisions. In granting a special permit the Community Planning Commission may impose additional specific conditions, safeguards and limitations on time or use as are deemed necessary to ensure compliance with the intent of this bylaw. The Community Planning Commission, in reaching its decision, will consider the simplicity, reliability and effectiveness of the proposed mitigating measures and the damage likely to result if these measures were to fail.
  - (2) Decision that area does not warrant protection. The Community Planning Commission may decide, after having reviewed the submitted material that although an area is included within the Floodplain District, it does not warrant protection under the stated purpose and intent of this bylaw and as such the application warrants the grant of a special permit having no conditions imposed for the area which does not warrant protection. All such decisions shall require a FEMA letter of map change as a condition of approval.
  - (3) Expiration of special permits. Special permit granted under this section shall lapse within two (2) years. A substantial use under the special permit must have commenced within the two-year period, or the permit shall be deemed expired.
  - (4) Previously authorized work. The special permit requirement established under this article shall not apply to any work which, prior to the effective date of this bylaw, had been authorized by all required orders of conditions under Massachusetts General Laws, Chapter **131**, Section 40, and special permits under the former Section 9.4 of the Zoning Bylaw, provided that such work is performed in accordance with the terms of said orders and special permits, including any amendment or extension of said orders and special permits as may be granted by the issuing authority.
- J. Denial of permit. The Commission is empowered to deny a permit for failure to meet the requirements of this bylaw; for failure to submit necessary information and plans requested by the Commission; and for failure to meet other requirements in regulations of the Commission.
- K. Burden of proof. The applicant for a permit shall have the burden of proving, through use of the best available Federal, state, local or other floodway data, that the work proposed in the application will not increase existing floodplain elevations. Failure to provide adequate evidence to the Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.

- L. Enforcement. The provisions of this bylaw shall be enforced in accordance with Article V of the Zoning Bylaw, Administration & Enforcement (<https://ecode360.com/10384254#10384254>).
- M. Effect of Floodplain Bylaw. The floodplain management regulations found in this Floodplain Overlay District section shall take precedence over any less restrictive conflicting local laws, ordinances or codes.
- N. Disclaimer. The degree of flood protection required by this bylaw is considered reasonable but does not imply total flood protection.
- O. Severability. The invalidity of any section or provisions of this bylaw shall not invalidate any other section or provision thereof, nor shall it invalidate any permit or determination which previously has been issued.

Claims of invalidity by reason of any defect in the procedure of adoption or amendment may only be made within the second publication of said by-laws. Copies of the Zoning Bylaw may be examined and obtained in the Town Clerk's Office, Town Administration Building, 235 North St, North Reading, Mass. during normal business hours Monday through Thursday from 8:00 AM to 4:00PM and Friday from 8:00 AM to 1:00PM.

**VOICE VOTE UNANIMOUS/Passed**

**1/27/25 STM**

**A True Copy.**

**Attest: SUSAN J. DUPLIN / TOWN CLERK**

**Worcester, Mass. July 7, 2025**

**The foregoing amendment to the Town's Code of North Reading Zoning By-Laws adopted under Article 3 is hereby approved.**

**Attorney General Andrea Joy Campbell**