

PROPOSED AMENDMENTS TO DEERFIELD FLOODPLAIN DISTRICT ZONING BYLAW

Updated 6-4-19

4300. FLOOD PLAIN DISTRICT.

4301. Purpose. The purpose of the Flood Plain District is to promote the health, safety, and general welfare of the community by protecting life and property from the detrimental effects of floods; to ensure an adequate quality and quantity of water; to conserve the natural resources of the Town; and to prevent temporary and permanent contamination of the environment, **to preserve the natural flood control and flood storage characteristics of the floodplain; and to prevent any alterations to the natural flow of the river.**

4302. Definitions. For the purposes of this bylaw, the following definitions apply:

Encroachment - fill, construction of new structures, substantial improvement to existing structures or other development.

Floodway - the channel of a river or other watercourse plus any adjacent areas that must be kept free of encroachment in order that the 100-year flood may be carried without any increase in flood heights, as shown on the Flood Boundary and Floodway Map.

Floodplain - areas which would be flooded during the occurrence of the 100-year flood, shown as Zones A, A1-30 on the Flood Insurance Rate Maps.

Riverine Material - stone, rock, gravel, soil or other materials which comprise the river's bed or riverbank.

Substantial Improvement - improvement to a structure or building which exceeds 25% of the original footprint of such structure or building.

4303. Establishment of Districts. The Flood Plain District includes all special flood hazard areas designated as Zone A, A1-30 on the Deerfield Flood Insurance Rate Map (FIRM) and the Flood Boundary - Floodway Maps, dated July 2, 1980, on file with the Town Clerk, Planning Board, and Building Inspector. All maps are hereby made a part of this Zoning By-Law and are on file in the office of the Town Clerk.

4304. Use Regulations. The Flood Plain District is an overlay district superimposed over the underlying districts set forth in this Zoning By-Law. Within **the** Flood Plain District, the requirements of the underlying district continue to apply, subject to the following additional provisions:

4305. Floodway Regulations. In the floodway designated on the Flood Boundary - Floodway Map, all encroachments, including fill, new construction, substantial improvements to existing structures and other developments, are prohibited.

4306. Floodplain Regulations. All development within the Floodplain District, including structural and non-structural activities, whether permitted as a right or by Special Permit must be in compliance with the Massachusetts River Protection Act and the Massachusetts Wetlands Protection Act, (MGL Ch131 s40), and with the requirements of the Massachusetts State Building Code pertaining to construction in the Flood Plain (currently Section 744).

4307. Permitted Uses. *The following uses in the Floodplain District of low flood damage potential and causing no obstruction to flood flows shall be permitted provided they do not require structures, fill, or storage of material or equipment:*

- a. Agricultural uses such as farming, grazing, and horticulture, including barns or farm-related structures, and irrigation and maintenance of farmlands.*
- b. Forestry uses.*
- c. Outdoor recreational uses, including fishing, boating, play areas and foot, bicycle or horse paths.*
- d. Conservation of water, plants, and wildlife.*
- e. Wildlife management areas.*
- f. Buildings lawfully existing prior to the adoption of these provisions.*

4308. Prohibited Uses.

- a. No altering, dumping, filling, or removal of riverine materials or dredging is permitted. Maintenance of the riverbank may be done under requirements of MGL Ch 131s 40, and any other applicable laws, by-laws, and regulations, and must be done using natural riverbank best management practices. Agricultural uses may restore flooded fields to pre-storm conditions.*
- b. No impoundments, dams, or other water obstructions may be located within the District.*
- c. Commercial or industrial uses are prohibited in the district.*
- d. Parking or storage of vehicles, trailers or equipment within 200 feet of the riverbank is prohibited. The Special Permit Granting Authority may consider whether a variance from this prohibition is warranted, where a hardship exists due to lot size or configuration.*
- e. Dumping of trash, garbage or other materials on or near the riverbank is prohibited.*
- f. Construction of any kind on slopes of greater than 25% within the district is prohibited.*
- g. No discharge of pollutants directly to the any river or water body is permitted.*
- h. All other uses not specifically permitted or allowed by site plan approval within the overlay zone are prohibited.*

4309. Uses by Special Permit

- a. No structure or building in the Floodplain District shall be erected, constructed, substantially improved, reconstructed, or otherwise created or moved; no earth or other materials dumped, filled, excavated, or transferred, unless a Special Permit is granted by the Planning Board.*
- b. The following uses may be allowed by Special Permit in accordance with the Special Permit regulations of this Zoning By-Law, and additional restriction and criteria contained herein:*
 - i. Single family residences.*
 - ii. Residential accessory uses including garages, driveways, private roads, utility rights-of-way and on-site waste-water disposal systems.*
 - iii. Enlargement or alteration of an existing structure, provided that the addition is no more than 25% larger than the footprint of the structure that existed at the time of the adoption of this bylaw.*
 - iv. Moving of riverine materials to protect municipal infrastructure.*

4310. Special Permit Procedures

- a. The following Special Permit requirements apply in the Floodplain District:*
 - i. With Zone A 1-30, where base flood elevation is not provided on the FIRM, the applicant shall obtain any existing base flood elevation data. These data will be reviewed by the Building Inspector for their reasonable utilization toward meeting the elevation or flood proofing requirements, as appropriate, of the State Building Code.*

- ii. *No encroachments (including fill, new construction, substantial improvements to existing structures, or other development shall be allowed unless it is demonstrated by the applicant that the proposed development, as a result of compensating actions, will not result in any increase in flood levels during the occurrence of a 100-year flood in accordance with the Federal Emergency Management Agency's regulation for the National Flood Insurance Program.*
 - iii. *The proposed use shall comply in all respects to the provisions of the underlying District in which the land is located.*
 - iv. *The Board may specify such additional requirements and conditions as it finds necessary to protect the health, safety and welfare of the public and the occupants of the proposed use.*
 - v. *Within 10 days of the receipt of the application the Board shall transmit one copy of the development plan to the Conservation Commission, Board of Health and Building Inspector. Final action shall not be taken until reports have been received from the above Boards or until thirty-five (35) days have elapsed.*
 - vi. *On-site wastewater disposal systems shall be located as far from rivers or water bodies as is feasible.*
- b. *In addition to the provisions of Section 4310-a, in order to issue a Special Permit, the Planning Board must find that the proposed use is compliant with the following provisions:*
- i. *In the Floodplain District, proposed uses must:*
 - 1. *Not create increased flood hazards which are detrimental to the public health, safety and welfare;*
 - 2. *Comply in all respects with the provisions of the underlying District or Districts within which the land is located;*
 - 3. *Comply with all applicable State and Federal laws, including the Massachusetts Wetlands Protection Act (MGL Ch 131 s40) and the Massachusetts State Building Code, including:*
 - a. *All buildings or structures erected or substantially improved within a flood-hazard zone shall be elevated so that the lowest floor is located at or above the base flood elevation. All basement/ cellar floor surfaces shall be located at or above the base flood elevations.*
 - b. *The structural systems of all buildings or structures shall be designed, connected and anchored to resist floatation, collapse or permanent lateral movement due to structural loads and stresses from flooding equal to the base flood elevation.*
 - 4. *Be situated in a portion of the site that will conserve riverfront vegetation and maximize open space retention;*
 - 5. *Be integrated into the existing landscape through features such as vegetative buffers and through retention of the natural shorelines;*
 - 6. *Not result in water pollution, erosion or sedimentation;*
 - 7. *Minimize obstruction of scenic views from publicly accessible locations;*
 - 8. *Preserve unique natural and historical features;*
 - 9. *Minimize tree, vegetation and soil removal and grade changes.*

4311. Nonconforming Uses

- a. Any lawful use, building, structures, premises, land or parts thereof existing at the effective date of this By-Law or amendments thereof and not in conformance with the provisions of this By-Law shall be considered to be a nonconforming use.***
- b. Any existing use or structure may continue and may be maintained, repaired, and improved, but in no event made larger.***
- c. Any nonconforming structure which is destroyed may be rebuilt on the same location but no larger than its overall original square footage.***