

SECTION 18: FLOODPLAIN OVERLAY DISTRICT

18.1 Purpose

The purposes of the Floodplain Overlay District are to:

- 18.1.1 Ensure public safety through reducing flood threats to life and personal injury;
- 18.1.2 Eliminate new hazards to emergency response officials;
- 18.1.3 Prevent the contamination and pollution of water resources resulting from flooding, so as to protect public safety and avoid damage to wildlife habitat;
- 18.1.4 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;
- 18.1.5 Eliminate costs associated with the response and cleanup of flooding conditions; and
- 18.1.6 Reduce damage to public and private property resulting from flood waters.

18.2 Floodplain District

The Floodplain Overlay District is herein established as an overlay district. The District includes all special flood hazard areas designated on the Town of Colrain's Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency for the administration of the National Flood Insurance Program, dated July 2, 1980 and on the Flood Boundary & Floodway Map (FBFM) dated July 2, 1980. 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 January 1980 prepared by the U.S. Department of Housing & Urban Development Federal Insurance Administration and any amendments thereto. The effective FIRM, FBFM, and FIS report are incorporated herein by reference and are on file with the Town Clerk and Building Inspector. (<https://msc.fema.gov/portal/advanceSearch>)

18.3 General Information

The floodplain management regulations found in this Floodplain Overlay District section shall take precedence over any less restrictive conflicting local laws, bylaws or codes. The degree of flood protection required by this bylaw is considered reasonable by the Town but does not imply total flood protection.

If any section, provision or portion of this bylaw is deemed to be unconstitutional or invalid by a court, the remainder of the bylaw shall be effective.

18.4 Designation of a Community Floodplain Administrator

The Town of Colrain hereby designates the position of Building Inspector to be the official Floodplain Administrator for the Town. The duties of the Floodplain Administrator include:

- 18.4.1 Applying the regulations for development in the Floodplain Overlay District;
- 18.4.2 Ensuring that permits are applied for when development of any kind is proposed in the Floodplain Overlay District;
- 18.4.3 Oversight of the application and review process for development in the Floodplain Overlay District;
- 18.4.4 Coordination with other local departments and municipal officials including the Building Inspector, Highway Department, Planning Board, Zoning Board of Appeals, and Conservation Commission;
- 18.4.5 Notifying adjacent communities prior to any alteration of a watercourse;
- 18.4.6 Coordinating compliance issues and enforcement actions with the Building Inspector such as activities to correct violations of the zoning bylaw, and working with the appropriate local staff to coordinate such efforts;
- 18.4.7 Maintaining records of floodplain development, and keeping current and historic FEMA maps available for public inspection; and
- 18.4.8 Notifying FEMA if the Town acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, within 6 months of such changes by submitting the technical or scientific data that supports the changes to:

FEMA Region I Risk Analysis Branch Chief 99
High St., 6th Floor, Boston, MA 02110

and copy of notification to:

Massachusetts NFIP State Coordinator
MA Dept. of Conservation & Recreation,
251 Causeway Street, Boston, MA 02114

18.5 State Variances to Building Code Floodplain Standards

The Colrain Floodplain Administrator will request from the State Building Code Appeals Board a written and/or audible copy of the portion of any hearing related to a State Building Code variance granted for a property in the Town of Colrain, and will maintain this record in the Town's files.

The Floodplain Administrator 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 Town official that

- 18.5.1 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 each \$100 of insurance coverage and
- 18.5.1 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.

18.6 Variances from the Colrain Zoning Bylaw related to Community Compliance with the National Flood Insurance Program (NFIP)

An application for a variance from the requirements of the Floodplain Overlay District, requested from the Zoning Board of Appeals, must meet all the requirements set out by State law and the Zoning Bylaw (see Section 11.2). In addition to those requirements, a variance may only be granted if:

- 18.6.1 good and sufficient cause and exceptional non-financial hardship exist;
- 18.6.2 the variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public; and
- 18.6.3 the variance is the minimum action necessary to afford relief.

18.7 Review by the Conservation Commission

The Town of Colrain, in addition to any Building Permit or other local, state or federal permits needed, requires a review and approval by the Conservation Commission for all proposed construction or other development in the Floodplain Overlay District. This includes new construction or changes to existing buildings, placement of manufactured homes, placement of agricultural facilities (with such review to be consistent with and to the extent permitted by G.L. c. 40A, §3), 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 application for review by the Conservation Commission is available from the Conservation Commission or Floodplain Administrator.

18.8 Other Necessary Permits

The proponent must submit documentation that all necessary local, state and federal permits have been received in order to receive approval for the proposed development in the Floodplain Overlay District. Documentation must be submitted to the Town's Floodplain Administrator for their review and approval.

18.9 Subdivision & Development Proposals

All subdivision proposals and development proposals subject to Site Plan Review or requiring a Special Permit for property in the Floodplain Overlay District shall be reviewed by the Planning Board and/or Zoning Board of Appeals to assure that:

18.9.1 Such proposals minimize flood damage potential and, to the maximum extent feasible, locate all structures, roads, utilities and other infrastructure out of the Floodplain Overlay District;

18.9.2 Public utilities and facilities are located and constructed so as to minimize flood damage potential; and

18.9.3 Adequate drainage is provided.

Where such development is subject to a Special Permit or Development Site Plan Review under Sections 12 and 13 and any other sections of the Colrain Zoning Bylaws, the Planning Board or Zoning Board of Appeals shall incorporate these standards into their review. Where such development is subject to the Subdivision Regulations of the Town of Colrain, the Planning Board shall incorporate these standards into their Subdivision Plan review.

18.10 Base Flood Elevation Data for Subdivision Proposals

When proposing a subdivision or other development greater than 50 lots or 5 acres (whichever is less), the proponent must provide technical data to establish base flood elevations for each developable parcel shown on the design plans.

18.11 Unnumbered A Zones

In A Zones, in the absence of FEMA base flood elevation data and floodway data, the Building Inspector 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 to comply with one or more of the following: elevating residential structures to or above base flood level; flood proofing or elevating nonresidential structures to or above base flood level; and prohibiting encroachments in floodways.

18.12 Floodway Encroachment

In Zones A, A1-30, 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.

In Zones A1-30 and AE, along watercourses that have a regulatory floodway designated on the Town of Colrain's FIRM Maps, encroachments in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge are prohibited.

18.13 Watercourse Alterations or Relocations or in Riverine Areas

In a riverine situation, the Floodplain Administrator shall notify the following of any alteration or relocation of a watercourse:

- 18.13.1 Adjacent Communities, especially upstream and downstream
- 18.13.2 Bordering States, if affected
- 18.13.3 NFIP State Coordinator
Massachusetts Department of Conservation and Recreation
251 Causeway Street, 8th floor
Boston, MA 02114
- 18.13.4 NFIP Program Specialist
Federal Emergency Management Agency, Region I
99 High Street, 6th Floor
Boston, MA 02110

18.14 AO and AH Zones Drainage Requirements

Within Zones AO and AH on the FIRM, adequate drainage paths must be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

18.15 Recreational Vehicles

In A1-30, AH, 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.

18.16 Local Enforcement

The Floodplain Administrator and/or Zoning Enforcement Officer will be responsible for issuing a notice of non-compliance to the property owner for any non-compliant floodplain development in the Floodplain Overlay District. Such notice will identify the non-compliant development and will contain instructions regarding the actions that the property owner must take in order to come into compliance. Such actions may include, but are not limited to, removal of the structures or

paving that might increase flooding or adversely impact flood risks to other properties. Any person violating the Floodplain Overlay District Bylaw shall be subject to a penalty of \$300.00 for each offense. Each day that such violation continues shall constitute a separate offense.

18.17 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]

FLOOD BOUNDARY AND FLOODWAY MAP means an official map of a community issued by FEMA that depicts, based on detailed analyses, the boundaries of the 100-year and 500-year floods and the 100-year floodway. (For maps prepared in 1987 and later, the floodway designation is included on the FIRM.)

FLOOD HAZARD BOUNDARY MAP (FHBM) is the official map of a community issued by the Federal Insurance Administrator, where the boundaries of the flood and related erosion areas having special hazards have been designated as Zone A or E. [US Code of Federal Regulations, Title 44, Part 59]

FLOODWAY means 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 – 2015 International Building 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:

- 18.17.1 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;
- 18.17.2 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 to qualify as a registered historic district;
- 18.17.3 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

18.17.4 Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

18.17.4.1 By an approved state program as determined by the Secretary of the Interior or

18.17.4.2 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 these provisions of the Colrain Floodplain Overlay District bylaw June 4, 2024. In addition, any subsequent substantial improvements to structures existing on or after June 4, 2024 will also be subject to the provisions of this bylaw. [New construction includes work determined to be substantial improvement. Referenced Standard ASCE 24-14]

RECREATIONAL VEHICLE means a vehicle which is:

18.17.5 Built on a single chassis;

18.17.6 Four hundred (400) square feet or less when measured at the largest horizontal projection;

18.17.7 Designed to be self-propelled or permanently towable by a light duty truck; and,

18.17.8 Designed primarily for use as temporary living quarters for recreational, camping, travel, or seasonal use but not for use as a permanent dwelling.

[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 – 2015 International Building Code, Chapter 2, Section 202]

START OF CONSTRUCTION. The date of issuance of a building permit 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 date of 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.

For the purposes of establishing the Start of Construction, 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 – 2015 International Building 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 9th Edition of the State Building Code]

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 floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in U.S. Code of Federal Regulations, Title 44, Part 60, §60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided. [US Code of Federal Regulations, Title 44, Part 59]

18.18 Definitions of Flood Zones

The Town shall use the pertinent definitions for flood zones delineated within the Town. All of these terms are defined in the US Code of Federal Regulations, Title 44, Part 64.3.

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.

ZONE AH means areas of special flood hazards having shallow water depths and/or unpredictable flow paths between (1) and (3) feet, and with water surface elevations determined.

ZONE AO means area of special flood hazards having shallow water depths and/or unpredictable flow paths between (1) and (3) ft. (Velocity flow may be evident; such flooding is characterized by ponding or sheet flow.)

ZONE A99 means area of special flood hazard where enough progress has been made on a protective system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. (Flood elevations may not be determined.)

ZONES B, C, and X means areas of minimal or moderate flood hazards or areas of future-conditions flood hazard. (Zone X replaces Zones B and C on new and revised maps.)

18.19 Regulations

The Floodplain Administrator may adopt regulations and standard forms for the purpose of administering and implementing this bylaw.

And amend Section 3.4 to read:

3.4-Flood Plain Overlay District: The Flood Plain Overlay District is herein established as an overlay district. The underlying permitted uses are allowed provided that they meet the requirements of Section 18 of this Bylaw as well as those of the Massachusetts State Building Code dealing with construction in flood plains. The Flood Plain District includes all special flood hazard areas designated as Zone A, A1-30 on the Colrain Flood Insurance Rate Maps (FIRM), and the Flood Boundary and Floodway Maps, dated July 2, 1980, on file with the Town Clerk, Planning Board and Building Commissioner. These maps as well as the accompanying Colrain Flood Insurance Study are incorporated herein by reference.

And amend Section 8.6 to read:

8.6 Additional requirements apply in the Flood Plain Overlay District (See Section 18)

And remove 8.6.1 – 8.6.2.2.