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Floodplain Zoning Ordinance Amendment

Amend ARTICLE VII, Overlay District Regulations, SECTION 235-7.3, as follows.

Text that is removed is ~~crossed-out~~ and additions are underlined.

§ 235-7.3 Floodplain District

1. Purpose. The purposes 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 the 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.
2. Establishment
 - a. 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 dealing with construction in floodplains. (moved)~~
 - b. This article is established pursuant to the City of Melrose's compliance with Title 44, Chapter 1, Part 67, Code of Federal Regulations, establishing eligibility in the National Flood Insurance Program (NFIP). Copies of the National Flood Insurance Program and related regulations are on file with the City Clerk. ~~(moved)~~
 - c. The Floodplain District includes all special flood hazard areas designated as Zones 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. The map panels of the Middlesex County FIRM that are wholly or partially within the City of Melrose are panel numbers ~~25017C0427E, 25017C0429E, 25017C0431E, 25017C0433E and 25017C0434E dated June 4, 2010.~~ 25017C0427F, 25017C0429F, 25017C0431F, 25017C0433F and 25017C0434F dated July 8, 2025.
 - d. The exact boundaries of the district may be defined by the ~~one-hundred-year~~ 1%-chance base flood elevations shown on the FIRM and further defined by the Middlesex County Flood Insurance Study (FIS) report dated ~~June 4, 2010.~~ July 8, 2025.
 - e. The FIRM and FIS report are incorporated herein by reference and are on file with the Planning Office~~City Clerk, Building Commissioner, Planning Board, Public Works Engineering Division and Board of Health.~~
3. Local Enforcement
 - a. Floodplain Administrator - The City of Melrose hereby designates the position of Building Commissioner to be official floodplain administrator for the City.

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- b. Building Code- Per CMR 780 Chapter 1 Sections 114 and 115, and M.G.L. c. 143, c. 148, c. 148A, and per the City of Melrose Administrative Code §24-35, it shall be the duty of the Building Commissioner to administer and enforce the provisions of this section.
- c. Wetlands Protection Act- Per 310 CMR section 10.08., Ch. 231 of the Melrose General Code, and § a.20.b of the Melrose Charter and Administrative Code, it shall be the duty of the Conservation Commission to administer and enforce the provisions of this section.
- d. Site Plan Review – As specified in § 235-3.2, Site Plan Review is required for certain types of development.

4. Definitions. As used in this section, the following terms shall have the meanings 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. [US Code of Federal Regulations, Title 44, Part 59]

FLOOD INSURANCE RATE MAP (FIRM) — 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 done in 1987 and later, the floodway designation is included on the FIRM.)

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 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.

HIGHEST ADJACENT GRADE means 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:

- 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:
 - 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 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
- e. 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, AR, AO, or AH.

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 — 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 — 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]

5. Reference to existing regulations Permitting.

- a. The Floodplain District is established as an overlay district to all other districts. Permits are required for all proposed Development in the floodplain overlay district including new construction or changes to existing buildings, 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.
- b. The proponent of the Development must obtain all local, state, and federal permits that will be necessary in order to carry out the proposed development in the floodplain overlay district and must demonstrate that all necessary permits have been acquired.

Additional Regulations Include:

- a. ~~All Development in the district, including structural and nonstructural activities, whether permitted by right or by special permit, must be in compliance with MGL c. 131, § 40, and with the following:~~
 - i. Section of the Massachusetts State Building Code which addresses floodplain and coastal high- hazard areas (currently 780 CMR 120.G, Flood Resistant Construction and Construction in Coastal Dunes) and MGL c. 131, § 40;
 - ii. Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);
 - iii. Inland Wetlands Restriction, DEP (currently 310 CMR 13.00); and
 - iv. Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5).
- e. ~~Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.~~
- d. The floodplain management regulations found in the Floodplain Overlay District shall take precedence over any less restrictive conflicting local laws, ordinances, or codes.

6. Development Regulations.

- a. The underlying permitted uses are allowed provided that they meet the following additional requirements ~~as well as those of the Massachusetts State Building Code dealing with construction in floodplains. (moved)~~
- b. Within Zone A, where the base flood elevation is not provided on the FIRM, the applicant shall obtain any existing base flood elevation data, including the highest adjacent grade, and it shall be reviewed by the ~~Planning Board and the Building Commissioner~~ for its reasonable utilization ~~toward meeting the elevation or floodproofing requirements, as appropriate, of the State Building Code. for requiring new construction, substantial improvements, or other~~

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development in Zone A to elevate residential structures to or above base flood level, floodproof or elevate nonresidential structures to or above base flood level, and prohibit encroachments in floodways.

- c. Within Zones A and AE, no new construction, substantial improvements to existing structures, filling or other land development shall be permitted unless it is demonstrated by the applicant that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood elevation.
- d. ~~Floodway data encroachment.~~ 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.
- e. ~~In Zone AE, along watercourses that have a regulatory floodway designation within the City of Melrose on the Middlesex FIRM, encroachments are prohibited in the regulatory floodway 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 City's FIRM Map 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.

- f. Subdivisions and new Development.
 - i. Base flood elevation data. Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or five acres, whichever is the lesser, for each developable parcel within unnumbered A Zones. (moved)
 - ii. All subdivision proposals and other proposed new Development shall be reviewed to determine whether such proposals will be reasonably safe from flooding. If any part of a subdivision proposal or other new development is located within the Floodplain District established under this article, it shall be reviewed to assure that:
 - 1. The proposal is designed consistent with the need to minimize flood damage;
 - 2. All public utilities and facilities, such as sewer, gas, electrical and water systems, shall be located and constructed to minimize or eliminate flood damage; and
 - 3. Adequate drainage systems shall be provided to reduce exposure to flood hazards;
 - 4. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system; and, (moved)

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5. New and replacement sanitary sewer systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharges of exfiltration from the system into floodwaters. *(moved)*
6. ~~A building, except a boathouse, shall not be erected in a floodway or in any area subject to periodic flooding unless the first floor elevation is higher than the highest flood recorded. If such flood elevation shall have been reduced by construction of dams at the headwaters, or by other means, the first floor elevation may be correspondingly lowered to the reduced flood level.~~

g Recreational vehicles

In A, A1-30, AH, AO, 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.

7. ~~Health regulations *(moved)*~~

- h. ~~The Board of Health and/or the Public Works Department, in reviewing all proposed water and sewer facilities to be located in the Floodplain District established under this article, shall require that:~~
 - ~~New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system; and~~
 - ~~New and replacement sanitary sewer systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharges of exfiltration from the system into floodwaters.~~

7. ~~Authority:~~

- i. ~~This article is established pursuant to the City of Melrose's compliance with Title 44, Chapter 1, Part 67, Code of Federal Regulations, establishing eligibility in the National Flood Insurance Program (NFIP). Copies of the National Flood Insurance Program and related regulations are on file with the City Clerk. *(moved)*~~

7. Variances to building code floodplain standards

- a. If a variance is required from the State Building Code Appeals Board:
 - i. The property owner shall submit a written and/or audible copy of the portion of the hearing related to the variance, and it will maintain this record in the community's files.
 - ii. The City shall 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

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and property. Such notification shall be maintained with the record of all variance actions for the referenced development in the floodplain overlay district.

8. Zoning Variances related to community compliance with the National Flood Insurance Program (NFIP)
 - a. A variance from these Floodplain Overlay District requirements 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.
9. Notification Requirements ~~Notification of watercourse alteration.~~
 - a. In a riverine situation, the City Engineer shall notify the following of any alteration or relocation of a watercourse: adjacent communities, the NFIP State Coordinator (Massachusetts Department of Conservation and Recreation), and the NFIP Program Specialist (Federal Emergency Management Agency, Region 1). *(moved)*
 - b. If the City acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, the City will, within six months, notify FEMA of these changes by submitting the technical or scientific data that supports the change. Notification shall be submitted to: NFIP State Coordinator, Massachusetts Department of Conservation and Recreation, and NFIP Program Specialist, Federal Emergency Management Agency, Region I.
10. Disclaimer of liability.
The degree of flood protection required by this ordinance is considered reasonable but does not imply total flood protection.
11. Severability.
If any section, provision or portion of this ordinance is deemed to be unconstitutional or invalid by a court, the reminder of the ordinance shall be effective.