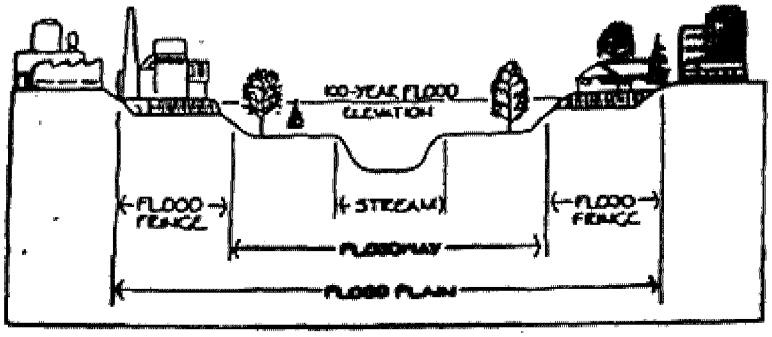
SECTION 6 - FLOOD PLAIN DISTRICTS
(overlay to all other districts)

6.1 Purpose

The purpose of the Flood Plain Districts are to protect the public health, safety and general welfare, to protect human life and property from the hazards of periodic flooding, to preserve the natural flood control characteristics, and the flood storage capacity of the flood plain, and to preserve and maintain the ground water table and water recharge areas within the flood plain.



(for illustration purposes only)

6.2 District Delineation

The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Grafton designated as Zones A and AE, on the Worcester 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 Worcester County FIRM that are wholly or partially within the Town of Grafton are panel numbers 25027C0639E, 25027C0643E, 25027C0826E, 25027C0827E, 25027C0828E, 25027C0829E, 25027C0831E, 25027C0832E, 25027C0833E, 25027C0834E, 25027C0836E, 25027C0837E, 25027C0841E and 25027C0842E dated July 4, 2011. The exact boundaries of the Floodplain District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Worcester County Flood Insurance Study (FIS) report dated July 4, 2011. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk and the Planning Department. (TM 05-09-11)

Within this District, if the FIRM map and other documentation of FEMA do not provide the 100-year flood elevation data, the applicant shall obtain an existing flood elevation data, which shall be submitted to and reviewed by the Town Engineer. If the Town Engineer determines that the data is sufficiently detailed and accurate, it shall be relied upon to establish compliance with this Bylaw. If the determination is that the land is in the Flood Plain, the Town Engineer shall so notify the Planning Board. (TM 10-18-99)

6.3 Regulations

The Floodplain District is established as an overlay district to all other districts. All development in the district, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the following:

- 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");
- Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);
- Inland Wetlands Restriction, DEP (currently 310 CMR 13.00);
- Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5);

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. (TM 05-09-11)

Permitted Uses - The following uses of low flood damage potential and causing no obstruction to flood flows shall be allowed provided that are permitted in the underlying district and they do not require structures, fill or storage of materials or equipment:

a) Agricultural uses such as farming, grazing, truck farming, horticulture and the like.

b) Forestry and nursery uses.

c) Outdoor recreational uses, including fishing, boating, play areas, and the like.

d) Conservation of water.

e) Wildlife management areas, foot, bicycle, and/or horse paths.

f) Temporary non-residential structures used in connection with fishing, growing, harvesting, storage or sale of crops raised on the premises.

g) Buildings lawfully existing prior to the adoption of these provisions.

6.4 Special Permits

No structure or building shall be erected, constructed, substantially improved, 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. Said Board may issue a special permit hereunder (subject to other applicable provisions of this By-Law) and of the Massachusetts General Laws if the application is in compliance with the following provisions:

a) The proposed use shall comply in all respects with the provisions of the underlying district, and

b) Within five (5) business days of receipt of the application, the Board shall transmit one copy of the development plan to the Board of Selectmen, Board of Health, Conservation Commission, Town Engineer and Inspector of Buildings. Final Action shall not be taken until reports have been received from the above Boards and officers or until forty-five (45) days have elapsed, and

c) All encroachments, including fill, new construction, substantial improvements to existing structures, and other developments are prohibited unless certification by a registered professional engineer is provided by the applicant demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the one hundred (100) year flood.

d) In considering an application to determine whether a site is reasonably free from flooding, the Planning Board shall, to a degree consistent with a reasonable use of the site, find the following requirements to be fulfilled:

1. The location and construction of the utilities will minimize or eliminate flood damage.
2. The method of disposal of sewage, refuse and other wastes, resulting from the use permitted on the site, and the methods for providing adequate drainage will minimize flood damage.
3. A good and sufficient case is demonstrated.
4. A determination that failure to grant the special permit would result in exceptional hardship to the applicant.
5. The granting of a special permit will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws.
6. A determination that the special permit is for the minimum construction necessary, considering the flood hazard, to afford relief.

e) 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.

f) Special permits may be issued for structures to be erected on a lot of one-half (1/2) acre or less in size, if otherwise permitted by law, contiguous to and surrounded by lots with existing structures constructed below the base flood level.

g) A special permit shall not be issued within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

h) If a special permit is granted, the Planning Board shall notify the applicant in writing above their signature that:

1. The issuance of such a special permit to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as determined by National Flood Insurance Coverage.

2. Such construction below the base flood level increases risks to life and property.

i) The Planning Board will maintain a record of all special permit actions including justification for their issuance and reports such special permits in the Annual Report submitted to the Federal Insurance Administration.

6.5 Application for a Variance

The Zoning Board of Appeals may grant a variance from these flood plain district requirements upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief in the case of:

6.5.1. New structures to be erected on a lot contiguous to and surrounded by lots within existing structures constructed below the flood protection elevation, or

6.5.2. The restoration or reconstruction of a structure listed on the National Register of Historic Places or an Official State Inventory of Historic Places.

6.5.3. Variances shall not be issued for any new construction, substantial improvement, or other development in a designated flood zone which would result in an increase in flood heights within the community during the occurrence of the 100 year flood. (T.M. 10-17-88)

6.5.4. Variances shall not be issued except (i) that the Zoning Board of Appeals specifically finds that owing to circumstances relating to the soil conditions, shape or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this By-Law would involve substantial hardship, financial or otherwise, to the petitioner or appellant and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this By-Law. (ii) A determination that the variance issuance will not result in significantly increased flood heights, additional threats to public safety, extraordinary, public expense, nuisances, fraud on or victimization of the public, or conflicts with existing local laws or ordinances.

6.5.5. The applicant must be notified that the issuance of a variance to locate a structure at an elevation below the 100 year flood level will result in increased actuarial rates for flood insurance coverage.

6.6 Administrative Duties

Upon the granting of such variance, the Zoning Board of Appeals shall require that:

6.6.1. A notice be recorded with the title records of the property at the Worcester County Registry of Deeds, stating that the proposed construction will be located in a flood hazard area. (T.M. 10-17-88)

6.6.2. The Town Clerk maintains a record of all variance actions, including justification for their issuance and the number of variances issued. The Clerk shall also send an Annual Report to the Flood Insurance Administration of the number of variances granted.

6.7 Authority and Interpretation

Where these flood area provisions impose greater or lesser restrictions or requirements than those of other applicable By-Laws or regulations, the more restrictive shall apply.

6.8 Validity and Severability

The invalidity of any section or provision of this By-Law shall not invalidate any other section or provision thereof.

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