

NEEDHAM PLANNING BOARD

Tuesday, February 4, 2025

7:00 p.m.

Charles River Room

Public Services Administration Building, 500 Dedham Avenue

AND

Virtual Meeting using Zoom

Meeting ID: **880 4672 5264**

(Instructions for accessing below)

To view and participate in this virtual meeting on your phone, download the “Zoom Cloud Meetings” app in any app store or at www.zoom.us. At the above date and time, click on “Join a Meeting” and enter the following Meeting ID: **880 4672 5264**

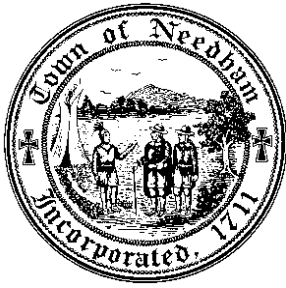
To view and participate in this virtual meeting on your computer, at the above date and time, go to www.zoom.us click “Join a Meeting” and enter the following ID: **880 4672 5264**

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US: +1 312 626 6799 or +1 646 558 8656 or +1 301 715 8592 or +1 346 248 7799 or +1 669 900 9128 or +1 253 215 8782 Then enter ID: **880 4672 5264**

Direct Link to meeting: <https://us02web.zoom.us/j/88046725264>

1. Decision: Amendment to Major Project Site Plan Special Permit No. 1997-08: EP 63 Kendrick Realty, LLC, c/o Edgewater Properties, LLC, 14 Mica Lane, Suite 202, Wellesley, MA, 02481, Petitioner. (Property located at 63 Kendrick Street, f/k/a 155 Fourth Avenue, Needham, Massachusetts). Regarding request to make certain revisions to the site and building.
2. May Special Town Meeting Zoning By-law Amendment: National Flood Insurance Program (NFIP).
3. Minutes.
4. Report from Planning Director and Board members.
5. Correspondence.

(Items for which a specific time has not been assigned may be taken out of order.)



PLANNING & COMMUNITY DEVELOPMENT
PLANNING DIVISION

**MAJOR PROJECT SITE PLAN REVIEW SPECIAL PERMIT
AMENDMENT TO DECISION
Application No. 1997-08**

February 4, 2025

(Original Decision dated August 5, 1997, amended March 17, 1998, and December 19, 2006)

**EP 63 Kendrick Realty, LLC, c/o Edgewater Properties, LLC
63 Kendrick Street, f/k/a 155 Fourth Avenue**

DECISION of the Planning Board (hereinafter referred to as the Board) on the petition of EP 63 Kendrick Realty, LLC, c/o Edgewater Properties, LLC, 14 Mica Lane, Suite 202, Wellesley, MA, 02481, (hereinafter referred to as the Petitioner) for property located at 63 Kendrick Street, f/k/a 155 Fourth Avenue, Needham, Massachusetts. Said property is shown on Assessors Plan No. 300 as Parcel 6, containing a total of 261,361 square feet in the New England Business Center Zoning District.

This Decision is in response to an application submitted to the Board on December 13, 2024, by the Petitioner for: (1) a Special Permit under Section 1.4.6 of the Zoning By-Law for the change, extension and alteration of a pre-existing, non-conforming use or building under Zoning By-Law; (2) a Special Permit under Section 4.8.3 to waive the requirements of Section 4.8.1 concerning the setback of surface parking from the intersection of the exterior street lines of a corner lot up to a maximum percentage of 25%; and (3) a Major Project Site Plan Review Special Permit amendment under Section 7.4 of the By-Law and Section 4.2 of Major Project Site Plan Review Special Permit No. 1997-08, dated August 5, 1997, amended March 17, 1998 and December 19, 2006.

The requested Major Project Site Plan Review Special Permit Amendment, would, if granted, permit the Petitioner to modify and alter the building and the site, as follows. First, the Petitioner is proposing two small additions, one in front of the building and one in the rear. These will create new and improved entryways. Second, the existing loading area, in the northeast corner of the building will be reconfigured. Third, a new loading area will be added to the northwest corner of the building. Fourth, the open courtyard area, in the middle of the structure, will be enclosed to make new, interior, first floor space. Fifth, a portion of the existing second floor space will be removed and left open to the floor below. Sixth, the entire exterior of the building will be renovated and given an updated aesthetic treatment. Seventh, the two parking areas and the landscaping will be altered and updated.

After causing notice of the time and place of the public hearing and of the subject matter thereof to be published, posted and mailed to the Petitioner, abutters and other parties in interest as required by law, the hearing was called to order by the Chair, Natasha Espada, on Tuesday, January 21, 2025 in the Charles River Room, Public Services Administration Building, 500 Dedham Avenue, Needham, Massachusetts and via remote meeting using Zoom ID 880 4672 5264. Board members Natasha Espada, Artie Crocker, Adam Block, Paul S. Alpert and Justin McCullen were present throughout the

January 21, 2025 proceedings. The record of the proceedings and the submission upon which this Decision is based may be referred to in the office of the Town Clerk or the office of the Board.

Submitted for the Board's deliberation prior to the close of the public hearing were the following exhibits:

- Exhibit 1** Application for an Amendment to Major Project Special Permit No. 1997-08, with Exhibit A and Addendum A, dated December 13, 2025.
- Exhibit 2** Cover Letter from Attorney George Giunta Jr., dated December 12, 2024.
- Exhibit 3** Letter from Mitchell A. Kassler, Manager, Edgewater Properties, LLC, dated November 25, 2024.
- Exhibit 4** Plan entitled 63 Kendrick Street, prepared by STA Design, Inc., 308 Congress Street, 5th Floor, Boston, MA 02210, R.E. Cameron & Associates, Inc., 681 Washington Street, Norwood, MA, 02062, Site Design Engineering, LLC, 11 Cushman Street, Middleboro, MA 02346, Gregory Lombardi Design Incorporated, 221 Boston Road, North Billerica, MA 01862, Engineered Systems, Inc., 304 Cambridge Road, Suite 510, Woburn, MA 01801, Bouchard Engineering, PLLC, 561 Windsor Ave, A402, Somerville, MA 02143, consisting of 26 sheets: Sheet 1, cover sheet, dated November 20, 2024; Sheet 2, Sheet V.101, entitled "Locus Plan," dated November 20, 2024; Sheet 3, Sheet V.102, entitled "Existing Conditions," dated November 20, 2024; Sheet 4, Sheet V.103, entitled "Plot Plan," dated November 20, 2024; Sheet 5, Sheet C1.10, entitled "Site Plan," dated November 20, 2024; Sheet 6, Sheet C1.20, entitled "Grading, Drainage & Utility Plan," dated November 20, 2024; Sheet 7, Sheet L1.0, entitled "Site Preparation Plan," dated November 20, 2024; Sheet 8, Sheet L2.0, entitled "Landscape Plan," dated November 20, 2024; Sheet 9, Sheet L3.0, entitled "Planting Plan," dated November 20, 2024; Sheet 10, Sheet L3.1, entitled "Planting Plan Enlargements," dated November 20, 2024; Sheet 11, Sheet L4.0, entitled "Planting Palette Images," dated November 20, 2024; Sheet 12, Sheet L4.1, entitled "Site Improvement Details," dated November 20, 2024; Sheet 13, Sheet L4.2, entitled "Site Improvement Details," dated November 20, 2024; Sheet 14, Sheet EX.101, entitled "Existing First Floor Plan," dated November 20, 2024; Sheet 15, Sheet EX.102, entitled "Existing Second Floor Plan," dated November 20, 2024; Sheet 16, Sheet EX.103, entitled "Existing Roof Plan," dated November 20, 2024; Sheet 17, Sheet EX.200, entitled "Existing Elevations," dated November 20, 2024; Sheet 18, Sheet EX.300, entitled "Existing Building Photos," dated November 20, 2024; Sheet 19, Sheet EX.301, entitled "Existing Building Photos," dated November 20, 2024; Sheet 20, Sheet A.101, entitled "Proposed First Floor Plan," dated November 20, 2024; Sheet 21, Sheet A.102, entitled "Proposed Second Floor Plan," dated November 20, 2024; Sheet 22, Sheet A.103, entitled "Proposed Roof Plan," dated November 20, 2024; Sheet 23, Sheet A.200, entitled "Proposed Exterior Elevations," dated November 20, 2024; Sheet 24, Sheet A.201, entitled "Signage Details," dated November 20, 2024; Sheet 25, Sheet A.300, entitled "Materials," dated November 20, 2024; Sheet 26, Sheet L-1, entitled Photometric Calculation," dated November 19, 2024.
- Exhibit 5** Renderings consisting of 9 sheets, undated.
- Exhibit 6** Design Review Board comments dated December 16, 2024.

Exhibit 7 Interdepartmental Communication (IDC) to the Board from Chief Tom Conroy, Needham Fire Department, dated January 17, 2025; IDC to the Board from Chief John Schlittler, Police Department, dated January 17, 2025; IDC to the Board from Tara Gurge, Needham Health Department, dated January 17, 2025; IDC to the Board from Thomas Ryder, Town Engineer, dated January 17, 2025; and IDC to the Board from Joe Prondak, Building Commissioner, dated January 17, 2025.

EXHIBITS 1, 2, 3, 4 and 5 are referred to hereinafter as the Plan.

FINDINGS AND CONCLUSIONS

- 1.1. The property is the subject of Major Project Site Plan Review Special Permit No. 1997-08, dated August 5, 1997, amended March 17, 1998 and December 19, 2006. The original decision permitted the conversion of the existing 84,243 square foot office and warehouse building into a single use office building of 103, 358 square feet with 353 parking spaces. The March 17, 1998 amendment permitted certain minor modifications to the previously approved plans. The December 19, 2006 amendment permitted the Petitioner to install a rooftop generator.
- 1.2 The Petitioner is now requesting to modify and alter the building and the site, as follows. First, the Petitioner is proposing two small additions, one in front of the building and one in the rear. These will create new and improved entryways. Second, the existing loading area, in the northeast corner of the building will be reconfigured. Third, a new loading area will be added to the northwest corner of the building. Fourth, the open courtyard area, in the middle of the structure, will be enclosed to make new, interior, first floor space. Fifth, a portion of the existing second floor space will be removed and left open to the floor below. Sixth, the entire exterior of the building will be renovated and given an updated aesthetic treatment. Seventh, the two parking areas and the landscaping will be altered and updated.
- 1.3 The building has been used primarily for office purposes since it was first permitted and constructed in or about 1997. The current intention and proposal is for such use to generally continue, although it is contemplated that such use may include aspects of light manufacturing and assembly. Pursuant to Section 3.2.4.1(c) of the Zoning By-Law, professional, business, and administrative offices are all allowed by right, and pursuant to Section 3.2.4.1(h), light non-nuisance manufacturing, including but not limited to the manufacture of electronics, pharmaceutical, bio-pharmaceutical, medical, robotic, and micro-biotic products, are also permitted as of right. Therefore, the contemplated use of the premises will comply with the By-Law and will not require any special permit or other zoning relief.
- 1.4 The existing building, which contains approximately 105,900 square feet of floor area, consists of a one-story portion and a smaller two-story portion, as well as an open courtyard area in the approximate middle of the structure. The building is served by two separate parking areas; a smaller area in the front of the building, accessed from Kendrick Street, and a larger area at the rear of the building, accessed from Fourth Avenue. The balance of the site is occupied by landscaping and walkways.
- 1.5 As indicated in the Zoning Table shown on the Plan, the lot conforms to zoning requirements as to area and frontage. As indicated in the Zoning Table shown on the Plan, the proposed building will comply with all the applicable dimensional and density requirements of the New England Business Center Zoning District (NEBC), including setbacks, maximum floor area ratio, ~~minimum open space~~, maximum building height, maximum number of stories and

maximum lot coverage for the building, except only side setback¹ and minimum open space. All dimensional requirements are further detailed below.

The premises contains approximately 261,361 square feet of area, with approximately 372.99 feet of frontage on Kendrick Street and approximately 739.89 of frontage on Fourth Avenue. Pursuant to Section 4.8 of the By-Law, lots in the NEBC District are required to contain a minimum of 40,000 square feet of area and to consist of a minimum of 100 feet of frontage. Therefore, the premises exceeds both the minimum frontage and the minimum area requirements and is in compliance with the By-Law.

The existing building is set back from Kendrick Street, a distance of 70.9 feet and from Fourth Avenue a distance of 34.9 feet, at the closest points. It is set back from the boundary line on the northwest side a distance of 290.6 feet and from the southwest side, a distance of 19.6 feet. At the time the building was permitted and constructed, there was no applicable side yard setback. However, the By-Law was subsequently amended to include a minimum side yard setback requirement of 20 feet. As a result, the southwest side of the building is now lawful, pre-existing, non-confirming as to the subsequently adopted side yard setback requirement.

Pursuant to Section 4.8 of the By-Law, a minimum front yard setback of 15 feet is required. Whereas the building, as modified and altered, will be set back 70.9 feet from Kendrick Street and 39.8 feet from Fourth Avenue at its closest points, it will comply with such requirement.

Pursuant to Section 4.8 of the By-Law, a minimum side yard setback of 20 feet is required. Whereas the building, as modified and altered, will be set back 278.7 feet from the sideline on the northwesterly side, it will comply with such requirement relative to that side. However, as discussed above, the southwesterly side of the existing building is set back only 19.6 feet from the boundary line; less than the applicable requirement. No alteration is being made to this setback, and the building will not be expanded any closer to this lot line. However, whereas the building is non-confirming in this regard, a special permit pursuant to Section 1.4.6 for the change, extension and alteration of a lawful, pre-existing, non-confirming building is required.

Pursuant to Section 4.8 of the By-Law, the maximum floor area ratio ("FAR") applicable to the premises is 1.0 and the maximum lot coverage is 65%. Following completion of the proposed alterations, the FAR of the building will be .374 and the lot coverage will be 32.6%. Therefore, the premises will more than comply with the applicable FAR and lot coverage requirements.

Pursuant to Section 4.8 of the By-Law, the maximum height applicable to the premises is 72 feet. The building height is currently 29.6 feet, and this will not be changed or altered as a result of the proposed modifications to the building. Therefore, the building will continue to comply with such requirement.

1.6 With respect to Section 4.8.1 of the Zoning By-Law, Supplemental Dimensional Regulations:

Pursuant to Section 4.8.1(1), surface parking lots may not be located within 50 feet of the intersection of the exterior street lines of a corner lot. Whereas the existing surface parking lot in the front of the building, on the Kendrick Street side is less than 50 feet from the

¹ Whereas the premises is located on a corner, it has two fronts and two sides, and no applicable rear yard.
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intersection of Kendrick Street and Fourth Avenue, the existing lot does not comply with such a requirement. However, this requirement did not exist in 1997 when the building and associated site improvements were permitted and constructed. Therefore, this parking lot is a lawful pre-existing, non-confirming use and/or structure. While the distance between the lot and the intersection is not being reduced, the interior of the lot is being reconfigured. Therefore, a special permit, pursuant to Section 1.4.6 for the change, extension and alteration of a lawful, pre-existing, non-confirming use and/or structure is required, and/or a special permit pursuant to Section 4.8.3 waiving the aforesaid requirement up to a maximum percentage of 25%.

Pursuant to Section 4.8.1 (2), all surface parking shall be located to the side or rear of the principal building and a landscaped buffer area of not less than 20 feet is required along the street frontage. Whereas the existing parking lot on the Kendrick Street side of the building is located in the front of the building, same does not comply with such a requirement. However, this requirement did not exist in 1997 when the building and associated site improvements were permitted and constructed. Therefore, the location of the Kendrick Street parking area in the front of the building constitutes a lawful pre-existing, non-confirming use and/or structure. And while this parking area is not being expanded the interior is being altered and reconfigured. Therefore, a special permit, pursuant to Section 1.4.6 for the change, extension and alteration of a lawful, pre-existing, non-confirming use and/or structure is required.

Pursuant to Section 4.8.1(4), a minimum of 25% of the total lot area must be landscaped open space. The total amount of existing landscaped open space is currently 19.8%, and in connection with the proposed alterations, this will be increased slightly, to 19.9%. Whereas this landscaped open space requirement did not exist when the building and associated site improvements were permitted and constructed in 1997, the current non-conformity is lawful, pre-existing. And while the proposed alterations will reduce the amount of the non-conformity, the premises will still not comply with the requirement. Therefore, a special permit, pursuant to Section 1.4.6 for the change, extension and alteration of a lawful, pre-existing, non-confirming use and/or structure is required.

Pursuant to Section 4.8.1(5), the building must have a public entrance facing one or more of the streets on which the building fronts. Whereas the building at present and following completion of the proposed alterations will have a public entrance on the Kendrick Street side, the building will comply with this requirement.

Pursuant to Section 4.8.1(6), the building cannot have an uninterrupted facade length greater than 300 feet. Whereas the longest uninterrupted facade length of the building following the proposed alterations and modifications will be 279 feet, along the southwest side, the building will comply with this requirement.

- 1.7 The Petitioner is proposing to reduce the on-site parking by 23 spaces. Pursuant to Section 5.1.2 of the By-Law, total parking demand for the premises, based on its contemplated use for office purposes, will be 327 spaces, calculated as follows: 97,886 square feet @ 1 space/300 square feet: $97,886/300 = 327$ (rounded up). There are currently a total of 353 parking spaces provided on site. However, in connection with the proposed alterations, 23 spaces will be removed. As a result, the total number of spaces will be reduced to 330. Whereas this is still greater than the number of spaces required, the premises, as modified and altered, will comply with the applicable off-street parking demand requirements.
- 1.8 As affected by the proposed modification and alterations, and except for the non-confirming aspects of the Kendrick parking area discussed above, both the front parking area and the rear

parking will comply with all applicable design requirements as set forth at Section 5.1.3 of the By-Law and no waiver will be required.

- 1.9 The Engineering Division, in its comments dated January 21, 2025, recommended that the Petitioner review the pending Environmental Protection Agency (EPA) Stormwater Permit (AKA as the 2024 Draft CII General Permit). This proposed EPA permit may subject Commercial, Industrial, and Institutional properties with greater than 1-acre of impervious area to additional stormwater management requirements. The site at 63 Kendrick Street currently has a compliant stormwater recharge system with the existing requirements and does not need to make modifications currently.
- 1.10 The Engineering Division, in its comments dated January 21, 2025, requested the Petitioner prepare an Operation and Maintenance plan for the existing stormwater management system and to provide existing and future inspection reports to the DPW of the operation and maintenance to ensure the system is functioning.
- 1.11 The Petitioner appeared before the Design Review Board on December 16, 2024, and received approval for the project.
- 1.12 Adjoining premises will be protected against serious detrimental uses on the site by provision of surface water drainage, sound and site buffers, and preservation of views, light and air. The continued use of the premises for office purposes does not constitute a “seriously detrimental use” within the terms of the By-Law. The premises is bounded on two sides by streets and on the remaining two sides by fully developed commercial properties. Therefore, no additional sound and sight buffers are required, and views, light and air are not materially affected and certainly not in any negative way.
- 1.13 Convenience and safety of vehicular and pedestrian movement within the site and on adjacent streets, the location of driveway openings in relation to traffic or to adjacent streets and, when necessary, compliance with other regulations for the handicapped, minors and the elderly has been assured. Existing curb cuts and site access have been maintained. The site is fully developed and the existing driveway openings that serve the two parking areas are not being relocated or modified in any material way and are of adequate width and situated in appropriate locations.
- 1.14 Adequacy of the arrangement of parking and loading spaces in relation to the proposed uses of the premises has been assured. The site is currently fully developed with parking located in two separate areas: one in the front of the building and one at the rear of the property. The location and general function of the existing parking areas are not being altered or changed in any material way. While the number of spaces is being reduced, so too is the amount of required parking, with more parking being provided than required. The building is readily accessible from both parking areas and updated and expanded loading areas are being provided. Therefore, based on the contemplated use of the building and the proposed reconfiguration of the interior of the existing parking areas, the arrangement of parking and loading spaces is adequate.
- 1.15 Adequate methods for disposal of refuse and waste will be provided. As part of the proposed alterations to the loading area in the northeast corner of the building a dumpster and a trash compactor will be installed. These are expected to be sufficient to serve the contemplated use of the building for office purposes. Therefore, the methods of waste disposal are adequate for the premises and its proposed use.

- 1.16 The relationship of structures and open spaces to the natural landscape, existing buildings and other community assets in the area and compliance with other requirements of this By-law has been assured. The premises is situated in a highly developed commercial office and industrial park and is bounded on two sides by fully developed commercial properties. The other two sides are bounded by streets, one of which (Kendrick Street), is a major thoroughfare. While there is a substantial woodland area to the northeast of the premises, across Fourth Avenue, the site is currently fully developed, and the proposed alterations will not materially alter the relationship of the building or site to that area in any material way. As a result, the proposed alterations are not anticipated to have any significant negative effect on any community assets or any adjacent landscape, buildings and structures.
- 1.17 The project has been reviewed and approved by the Design Review Board.
- 1.18 The proposed project will not have any adverse impacts on the Town's resources, including the Town's water supply and distribution system, sewer collection and treatment, fire protection and streets. The project has been reviewed by the Department of Public Works. There are no new sanitary or water connections proposed as part of the project. The premises has been used and occupied for several years for substantially the same purpose as currently contemplated. As a result, the proposed alterations are not anticipated to substantially or materially increase or alter the need for any Town resources
- 1.19 Under Section 7.4 of the By-Law, a Major Project Site Plan Review Special Permit amendment may be granted within the New England Business Center Zoning District provided the Board finds that the proposed development will be in compliance with the provisions of the By-Law. On the basis of the above findings and conclusions, the Board finds the proposed development Plan, as conditioned and limited herein, for the site plan review, to be in harmony with the purposes and intent of the By-Law, to comply with all applicable By-Law requirements, to have minimized adverse impact, and to have promoted a development which is harmonious with the surrounding area.
- 1.20 Under Section 1.4.6 of the By-Law, a Special Permit may be granted for the extension and alteration of a pre-existing, non-conforming use or building under Zoning By-Law, provided the Board finds that the proposed change or extension would not be more detrimental to the neighborhood than the existing non-conforming use. Based on the above findings and conclusions, the Board finds the proposed development Plan, as conditioned and limited herein, to be in harmony with the general purposes and intent of the By-Law, to comply with all applicable By-Law requirements, and to not increase the detriment to the Town's and neighborhood's inherent use.
- 1.21 Under Section 4.8. of the By-Law, a Special Permit to waive the requirements of Section 4.8.1 concerning the setback of surface parking from the intersection of the exterior street lines of a corner lot up to a maximum percentage of 25%, provided the Board finds that the proposed change or extension would not be more detrimental to the neighborhood than the existing non-conforming use. Based on the above findings and conclusions, the Board finds the proposed development Plan, as conditioned and limited herein, to be in harmony with the general purposes and intent of the By-Law, to comply with all applicable By-Law requirements, and to not increase the detriment to the Town's and neighborhood's inherent use.

THEREFORE, the Board voted 5-0 to GRANT: (1) the requested Special Permit under Section 1.4.6 of the Zoning By-Law for the change, extension and alteration of a pre-existing, non-conforming use or building under Zoning By-Law; (3) the requested Special Permit under Section 4.8.34 of the Zoning By-Law to waive the requirements of Section 4.8.1 concerning the setback of surface parking from the intersection of the exterior street lines of a corner lot up to a maximum percentage of 25%; and (3) the requested Major Project Site Plan Review Special Permit amendment under Section 7.4 of the By-Law and Section 4.2 of Major Project Site Plan Review Special Permit No. 1997-08, dated August 5, 1997, amended March 17, 1998 and December 19, 2006, subject to and with the benefit of the following Plan modifications, conditions, and limitations.

PLAN MODIFICATIONS

Prior to the issuance of a building permit or the start of any construction on the site, the Petitioner shall cause the Plan to be revised to show the following additional, corrected, or modified information. The Building Commissioner shall not issue any building permit, nor shall he permit any construction activity on the site to begin on the site until and unless he finds that the Plan is revised to include the following additional corrected, or modified information. Except where otherwise provided, all such information shall be subject to the approval of the Building Commissioner. Where approvals are required from persons other than the Building Commissioner, the Petitioner shall be responsible for providing a written copy of such approvals to the Building Commissioner before the Commissioner shall issue any building permit or permit for any construction on the site. The Petitioner shall submit nine copies of the final Plans as approved for construction by the Building Commissioner to the Board prior to the issuance of a building permit.

- 2.0 The Plans shall be modified to include the requirements and recommendations of the Board as set forth below. The modified plans shall be submitted to the Board for approval and endorsement.
- a. No Plan Modifications required.

CONDITIONS

- 3.0 The following conditions of this approval shall be strictly adhered to. Failure to adhere to these conditions or to comply with all applicable laws and permit conditions shall give the Board the rights and remedies set forth in Section 3.26 hereof.
- 3.1 The conditions and limitations set forth in Major Project Site Plan Review Special Permit No. 1997-08, dated August 5, 1997, amended March 17, 1998, and December 19, 2006, as further amended by this Amendment are ratified and confirmed.
- 3.2 The Board approves the proposed amendments, as shown on the Plan. The development of the site shall be as described under the support materials provided under Exhibits 1, 2, 3, 4 and 5 of this decision. Any changes, revision or modifications to the Plan shall require approval by the Board.
- 3.3 The buildings, parking areas, driveways, walkways, landscape areas, and other site and off-site features shall be constructed in accordance with the Plan, as modified by this decision. Any changes, revisions or modifications to the Plan beyond this decision shall require approval by the Board.

- 3.4 All new utilities, including telephone and electrical service, shall be installed underground from the street line.
- 3.5 330 parking spaces shall be provided at all times.
- 3.6 All required handicapped parking spaces shall be provided including above-grade signs at each space that include the international symbol of accessibility on a blue background with the words "Handicapped Parking Special Plate Required Unauthorized Vehicles May Be Removed at Owners Expense". The quantity and design of spaces, as well as the required signage shall comply with the Massachusetts State Building Code, 780 CMR, the Massachusetts Architectural Access Board Regulations, 521 CMR, and the Town of Needham General By-Laws, both as may be amended from time to time.
- 3.7 Sufficient parking shall be provided on the site at all times in accordance with the Plan, as modified by this decision, and there shall be no parking of motor vehicles off the site at any time to meet the parking requirements of this Decision.
- 3.8 All solid waste shall be removed from the property by a private contractor. Snow shall also be removed or plowed by private contractor. All snow shall be removed or plowed such that the total number and size of required parking spaces remain available for use.
- 3.9 The Petitioner shall seal all abandoned drainage connections and other drainage connections where the Petitioner cannot identify the sources of the discharges. Sealing of abandoned drainage facilities and abandonment of all utilities shall be carried out as per the Town requirements.
- 3.10 The Petitioner shall connect the sanitary sewer line only to known sources. All sources which cannot be identified shall be disconnected and properly sealed.
- 3.11 The Petitioner shall secure from the Needham Department of Public Works a Sewer Connection Permit and shall pay an impact fee, if applicable.
- 3.12 The construction, operation, and maintenance of the subsurface infiltration facility, on-site catch basins and pavement areas, shall conform to the requirements outlined in the Town's Stormwater By-Law.
- 3.13 The Petitioner shall implement the following maintenance plan:
- a. Parking lot sweeping - sweep twice per year; once in spring after snowmelt, and early fall.
 - b. Catch basin cleaning - inspect basins twice per year, in late spring and fall. Clean basins in spring.
 - c. Oil/grit separators - inspect bi-monthly and clean four times per year of all oil and grit.
- 3.14 The maintenance of parking lot landscaping and site landscaping, as shown on the Plan, shall be the responsibility of the Petitioner and the site and parking lot landscaping shall be maintained in good condition.
- 3.15 The Petitioner shall comply with the Public Outreach & Education and Public Participation & Involvement control measures required under NPDES. The Petitioner has submitted a letter

- to the Needham Department of Public Works identifying the measures selected and the dates by which the measures will be completed.
- 3.16 The Petitioner shall prepare an Operation and Maintenance plan for the existing stormwater management system and shall provide existing and future inspection reports to the Needham Department of Public Works of the operation and maintenance to ensure the system is functioning.
 - 3.17 In constructing and operating the proposed buildings and parking area on the property pursuant to this decision, due diligence shall be exercised, and reasonable efforts be made at all times to avoid damage to the surrounding areas or adverse impact on the environment.
 - 3.18 Excavation material and debris, other than rock used for walls and ornamental purposes and fill suitable for placement elsewhere on the property, shall be removed from the property.
 - 3.19 All construction staging shall be on-site. No construction parking shall be on public streets except for the planned improvements to public roadways contemplated by the project. Construction parking shall be all on-site or a combination of on-site and off-site parking at locations in which the Petitioner can make suitable arrangements. Construction staging plans shall be included in the final construction documents prior to the filing of a building permit and shall be subject to the review and approval of the Building Commissioner.
 - 3.20 The Petitioner shall secure from the Needham Department of Public Works a Street Opening Permit, if applicable.
 - 3.21 The following interim safeguards shall be implemented during construction:
 - a. The hours of any exterior construction shall be 7:00 a.m. to 5:00 p.m. Monday through Saturday.
 - b. The Petitioner's contractor shall provide temporary security chain-link or similar type fencing around the portions of the Project property which require excavation or otherwise pose a danger to public safety.
 - c. The Petitioner's contractor shall designate a person who shall be responsible for the construction process. That person shall be identified to the Police Department, the Department of Public Works, the Building Commissioner, and the abutters and shall be contacted if problems arise during the construction process. The designee shall also be responsible for assuring that truck traffic and the delivery of construction material does not interfere with or endanger traffic flow on B Street, Third Avenue or Kendrick Street.
 - d. The Petitioner shall take the appropriate steps to minimize, to the maximum extent feasible, dust generated by the construction including, but not limited to, requiring subcontractors to place covers over open trucks transporting construction debris and keeping B Street, Third Avenue and Kendrick Street clean of dirt and debris and watering appropriate portions of the construction site from time to time as may be required.
 - 3.22 No building permit shall be issued in pursuance of the Special Permit and Site Plan approval for the proposed amendments until:

- a. The final plans are in conformity with those approved by the Board, and a statement certifying such approval shall have been filed by this Board with the Building Commissioner.
 - b. A construction management and staging plan has been submitted to the Police Chief and Building Commissioner for their review and approval.
 - c. The Petitioner has recorded with the Norfolk County Registry of Deeds a certified copy of this decision granting this Special Permit and Site Plan Approval with the appropriate reference to the book and page number of the recording of the Petitioner's title deed or notice endorsed thereon.
- 3.23 No portion of the proposed new construction shall be occupied or utilized until the following conditions are met:
- a. An as-built plan supplied by the engineer of record certifying that the on-site and off-site project improvements pertaining to the project were built according to the approved documents has been submitted to the Board and Department of Public Works. The as-built plan shall show the building, all finished grades and final construction details of the driveways, parking areas, drainage systems, utility installations, and sidewalk and curbing improvements in their true relationship to the lot lines. In addition, the as-built plan for the Project shall show the final location, size, depth, and material of all public and private utilities on the site and their points of connection to the individual utility, and all utilities which have been abandoned for the project. In addition to the engineer of record, said plan shall be certified by a Massachusetts Registered Land Surveyor.
 - b. There shall be filed, with the Building Commissioner and Board, a statement by the registered professional engineer of record certifying that the finished grades and final construction details of the driveways, parking areas, drainage systems, utility installations, and sidewalk and curbing improvements on-site and off-site, have been constructed to the standards of the Town of Needham Department of Public Works and in accordance with the approved Plan for the Project.
 - c. There shall be filed with the Board and Building Commissioner an as-built Landscaping Plan showing the final location, number and type of plant material, final landscape features, parking areas, and lighting installations for the Project. Said plan shall be prepared by the landscape architect of record and shall include a certification that such improvements were completed according to the approved documents.
 - d. The Petitioner shall have fulfilled the requirements under Section 3.15 and Section 3.16 of this Decision and a statement approving said measures shall have been received by the Board from the Town Engineer or designee.
 - e. There shall be filed with the Board and Building Commissioner a Final Construction Control Document signed by a registered architect upon completion of construction for the project.
 - f. Notwithstanding the provisions of Sections a, b and c hereof, the Building Commissioner may issue one or more certificates for temporary occupancy of all or portions of the buildings prior to the installation of final landscaping and other site features, provided that the Petitioner shall have first filed with the Board in an amount not less than 135% of the value of the aforementioned remaining landscaping or other work to secure

installation of such landscaping and other site and construction features.

- 3.24 In addition to the provisions of this approval, the Petitioner must comply with all requirements of all state, federal, and local boards, commissions or other agencies, including, but not limited to the Building Commissioner, Fire Department, Department of Public Works, Conservation Commission, Police Department, and Board of Health.
- 3.25 The Petitioner, by accepting this Approval, warrants that the Petitioner has included all relevant documentation, reports, and information available to the Petitioner in the application submitted, and that this information is true and valid to the best of the Petitioner's knowledge.
- 3.26 Violation of any of the conditions of this Approval shall be grounds for revocation of any building permit or certificate of occupancy granted hereunder as follows: In the case of violation of any conditions of this Approval, the Town will notify the owner of such violation and give the owner reasonable time, not to exceed thirty (30) days, to cure the violation. If, at the end of said thirty (30) day period, the Petitioner has not cured the violation, or in the case of violations requiring more than thirty (30) days to cure, has not commenced the cure and prosecuted the cure continuously, the permit granting authority may, after notice to the Petitioner, conduct a hearing in order to determine whether the failure to abide by the conditions contained herein should result in a recommendation to the Building Commissioner to revoke any building permit or certificate of occupancy granted hereunder. This provision is not intended to limit or curtail the Town's other remedies to enforce compliance with the conditions of this Approval including, without limitation, by an action for injunctive relief before any court of competent jurisdiction. The Petitioner agrees to reimburse the Town for its reasonable costs in connection with the enforcement of the conditions of this Approval if the Town prevails in such enforcement action.

LIMITATIONS

- 4.0 The authority granted to the Petitioner by this permit is limited as follows:
- 4.1 This permit applies only to the site improvements, which are the subject of this petition. All construction to be conducted on-site shall be conducted in accordance with the terms of this permit and shall be limited to the improvements on the Plan, as modified by this decision.
- 4.2 There shall be no further development of this site without further site plan approval as required under Section 7.4 of the By-Law. The Board, in accordance with M.G.L., Ch. 40A, Section 9 and said Section 7.4, hereby retains jurisdiction to (after hearing) modify and/or amend the conditions to, or otherwise modify, amend or supplement, this decision and to take other action necessary to determine and ensure compliance with the decision.
- 4.3 This decision applies only to the requested Special Permits and Site Plan Review. Other permits or approvals required by the By-Law, other governmental boards, agencies or bodies having jurisdiction shall not be assumed or implied by this decision.
- 4.4 No approval of any indicated signs or advertising devices is implied by this decision.
- 4.5 The foregoing restrictions are stated for the purpose of emphasizing their importance but are not intended to be all-inclusive or to negate the remainder of the By-Law.
- 4.6 This Site Plan Special Permit shall lapse on February 4, 2027, if substantial use thereof has not sooner commenced, except for good cause. Any requests for an extension of the time

limits set forth herein must be in writing to the Board at least 30 days prior to February 4, 2027. The Board herein reserves its rights and powers to grant or deny such extension without a public hearing. The Board, however, shall not grant an extension as herein provided unless it finds that the use of the property in question or the construction of the site has not begun, except for good cause.

- 4.7 This decision shall be recorded in the Norfolk District Registry of Deeds and shall not become effective until the Petitioner has delivered a certified copy of the document to the Board. In accordance with M.G.L. Chapter 40A, Section 11, this Major Site Plan Review Special Permit shall not take effect until a copy of this decision bearing the certification of the Town Clerk that twenty (20) days have elapsed after the decision has been filed in the office of the Town Clerk and either that no appeal has been filed or the appeal has been filed within such time is recorded in the Norfolk District Registry of Deeds and is indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed Special Permit does so at the risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone.

The provisions of this Special Permit shall be binding upon every owner or owner of the lots and the executors, administrators, heirs, successors and assigns of such owners, and the obligations and restrictions herein set forth shall run with the land, as shown on the Plan, as modified by this decision, in full force and effect for the benefit of and enforceable by the Town of Needham.

Any person aggrieved by this decision may appeal pursuant to the General Laws, Chapter 40A, Section 17, within twenty (20) days after filing of this decision with the Needham Town Clerk.

Witness our hands this 4th day of February 2025.

NEEDHAM PLANNING BOARD

Natasha Espada, Chair

Artie Crocker, Vice Chair

Paul S. Alpert

Justin McCullen

Adam Block

COMMONWEALTH OF MASSACHUSETTS

_____2025

On this ____ day of February, 2025, before me, the undersigned notary public, personally appeared _____, one of the members of the Planning Board of the Town of Needham, Massachusetts, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the proceeding or attached document, and acknowledged the foregoing to be the free act and deed of said Board before me.

Notary Public

My Commission Expires: _____

TO WHOM IT MAY CONCERN: This is to certify that the 20-day appeal period on the Amendment to Decision of the project proposed by EP 63 Kendrick Realty, LLC, c/o Edgewater Properties, LLC, 14 Mica Lane, Suite 202, Wellesley, MA, 02481, for property located at 63 Kendrick Street, f/k/a 155 Fourth Avenue, Needham, Massachusetts , has passed,

____and there have been no appeals filed in the Office of the Town Clerk or
____there has been an appeal filed.

Date

Louise Miller, Town Clerk

Copy sent to:

Petitioner - Certified Mail #
Town Clerk
Building Commissioner
Director, PWD
Board of Health
Conservation Commission

Board of Selectmen
Engineering
Fire Department
Police Department
George Giunta, Jr., Attorney
Parties in Interest



Federal Emergency Management Agency

Washington, D.C. 20472

RECEIVED
TOWN OF NEEDHAM
SELECT BOARD
2025 JAN 14 P 12:54

cc: SB
CAMP
Katie
Dave
→ KP

January 08, 2025

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

IN REPLY REFER TO:
19P

Chairperson Kevin Keane
Chair, Town of Needham Selectboard
Town Hall
1471 Highland Avenue
Needham, MA 02492

Community Name: Town of Needham,
Norfolk County,
MA
Community No.: 255215
Map Panels See FIRM Index
Affected:

Dear Kevin Keane:

This is to notify you of the final flood hazard determination for Norfolk County, Massachusetts (All Jurisdictions), in compliance with Title 44, Chapter I, Part 67, Section 67.11, Code of Federal Regulations (CFR). This section requires that notice of final flood hazards shall be sent to the Chief Executive Officer of the community, all individual appellants, and the State Coordinating Agency, and shall be published in the *Federal Register*.

The statutory 90-day appeal period that was initiated for your community when the Department of Homeland Security's Federal Emergency Management Agency (FEMA) published a notice of proposed flood hazard determinations for your community in the local newspaper has elapsed.

FEMA did not receive any appeals of the proposed flood hazard determinations or submittals regarding the Revised Preliminary Flood Insurance Study (FIS) report and Flood Insurance Rate Map (FIRM) during that time.

Accordingly, the flood hazard determinations for your community are considered final. The final notice for flood hazard determinations will be published in the *Federal Register* as soon as possible. The FIS report and FIRM for your community will become effective on July 08, 2025. Before the effective date, we will send your community final printed copies of the FIS report and FIRM. For insurance purposes, the community number and new suffix code for the panels being revised are indicated on the FIRM and must be used for all new policies and renewals.

Because the FIS report for your community has been completed, certain additional requirements must be met under Section 1361 of the National Flood Insurance Act of 1968, as amended, within 6 months from the date of this letter.

It must be emphasized that all the standards specified in 44 CFR Part 60.3 (c) of the National Flood Insurance Program (NFIP) regulations must be enacted in a legally enforceable document.



Federal Emergency Management Agency

Washington, D.C. 20472

RECEIVED
TOWN OF NEEDHAM
SELECT BOARD
2025 JAN 14 P 12:54

cc: SB
Carmy
Katie
Dave
→ KF

January 08, 2025

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It must be emphasized that all the standards specified in 44 CFR Part 60.3 (c) of the National Flood Insurance Program (NFIP) regulations must be enacted in a legally enforceable document.

This includes adoption of the current effective FIS report and FIRM to which the regulations apply and other modifications made by this map revision. Some of the standards should already have been enacted by your community in order to establish initial eligibility in the NFIP. Your community can meet any additional requirements by taking one of the following actions in this Paragraph of the NFIP regulations:

1. Amending existing regulations to incorporate any additional requirements of 44 CFR Part 60.3 (c);
2. Adopting all the standards of 44 CFR Part 60.3 (c) into one new, comprehensive set of regulations; or
3. Showing evidence that regulations have previously been adopted that meet or exceed the minimum requirements of 44 CFR Part 60.3 (c).

Also, prior to the effective date, your community is required, as a condition of continued eligibility in the NFIP, to adopt or show evidence of adoption of the floodplain management regulations that meet the standards of 44 CFR Part 60.3 (c) of the NFIP regulations by the effective date of the FIRM. These standards are the minimum requirements and do not supersede any State or local requirements of a more stringent nature.

Many states and communities have adopted building codes based on the International Codes (I-Codes); the model I-Codes (2009 and more recent editions) contain flood provisions that either meet or exceed the minimum requirements of the NFIP for buildings and structures. The model codes also contain provisions, currently found in an appendix to the International Building Code, that apply to other types of development and NFIP requirements. In these cases, communities should request review by the NFIP State Coordinator to ensure that local floodplain management regulations are coordinated (not duplicative or inconsistent) with the State or Local building code. FEMA's resource, *Reducing Flood Losses through the International Code: Coordinating Building Codes and Floodplain Management Regulations, 5th Edition (2019)*, provides some guidance on this subject and is available at <https://www.fema.gov/emergency-managers/risk-management/building-science/building-codes/flood>.

Communities that fail to enact the necessary floodplain management regulations will be suspended from participation in the NFIP and subject to the prohibitions contained in Section 202(a) of the Flood Disaster Protection Act of 1973 (Public Law 93-234) as amended, and 44 CFR Part 59.24.

To assist your community in maintaining the FIRM, we have enclosed a Summary of Map Actions (SOMA) to document previous Letters of Map Change (LOMC) actions (i.e., Letters of Map Amendment, Letters of Map Revision) that will be affected when the revised FIRM panels referenced above become effective. If no LOMCs were issued previously for your community, you are receiving a SOMA for informational purposes only.

Once the FIS report and FIRM are printed and distributed, the digital files containing the flood hazard data for the entire county can be provided for use in a computer mapping system. These

files can be used in conjunction with other thematic data for floodplain management purposes, insurance requirements, and many other planning applications. Copies of the digital files of the FIRM panels may be obtained by calling our FEMA Mapping and Insurance eXchange (FMIX), toll free, at (877) 336-2627 (877-FEMA MAP) or by visiting the Map Service Center at <https://www.msc.fema.gov>. In addition, your community may be eligible for additional credits under our Community Rating System if you implement your activities using digital mapping files.

For assistance with your floodplain management ordinance or enacting the floodplain management regulations, please contact Joy Duperault, NFIP State Coordinator for Massachusetts, by telephone at (857) 286-0326 or by email at joy.duperault@mass.gov. If you should require any additional information, we suggest that you contact the Director, Risk Analysis Branch of FEMA, Region I at (617) 956-7576 or kerry.bogdan@fema.dhs.gov for assistance. If you have any questions concerning mapping issues in general or the enclosed SOMA, please call our FMIX at the telephone number shown above. Additional information and resources you may find helpful regarding the NFIP and floodplain management can be found on our website at <https://www.fema.gov/flood-maps>. Copies of these documents may also be obtained by calling our FMIX.

Sincerely,



Luis Rodriguez, P.E.
Engineering and Modeling Division
Risk Management Directorate | Resilience

Enclosure:
Final SOMA

cc: Community Map Repository
Thomas Ryder, Town Engineer, Town of Needham

FINAL SUMMARY OF MAP ACTIONS

Community: NEEDHAM, TOWN OF

Community No: 255215

To assist your community in maintaining the Flood Insurance Rate Map (FIRM), we have summarized below the effects of the enclosed revised FIRM panels(s) on previously issued Letter of Map Change (LOMC) actions (i.e., Letters of Map Revision (LOMRs), Letter of Map Revision based on Fill (LOMR-Fs), and Letters of Map Amendment (LOMAs)) that will be affected when the revised FIRM becomes effective on July 8, 2025.

1. LOMCs Incorporated

The modifications effected by the LOMCs listed below will be reflected on the revised FIRM. In addition, these LOMCs will remain in effect until the revised FIRM becomes effective.

LOMC	Case No.	Date Issued	Project Identifier	Original Panel	Current Panel
			NO CASES RECORDED		

2. LOMCs Not Incorporated

The modifications effected by the LOMCs listed below will not be reflected on the revised FIRM panels or will not be reflected on the revised FIRM panels because of scale limitations or because the LOMC issued had determined that the lot(s) or structure(s) involved were outside the Special Flood Hazard Area, as shown on the FIRM. These LOMCs will remain in effect until the revised FIRM becomes effective. These LOMCs will be revalidated free of charge 1 day after the revised FIRM becomes effective through a single revalidation letter that reaffirms the validity of the previous LOMCs.

FINAL SUMMARY OF MAP ACTIONS

Community: NEEDHAM, TOWN OF

Community No: 255215

2A. LOMCs on Revised Panels

LOMC	Case No.	Date Issued	Project Identifier	Original Panel	Current Panel
LOMA	00-01-1006A	11/30/2000	554 CENTRAL AVENUE	2552150002C	25021C0036F
LOMA	09-01-1318A	09/22/2009	TAX MAP 74, LOT 9 -- 13 HIGHLAND CIRCLE	2552150002C	25021C0037F
LOMA	12-01-2126A	08/14/2012	THE CHARLES COURT EAST CONDOMINIUM -- 1212 GREENDALE AVENUE	25021C0039E	25021C0039F
LOMA	13-01-0012A	10/18/2012	LOT 17A -- 190 EDGEWATER DRIVE	25021C0038E	25021C0038F
LOMA	13-01-0076A	10/16/2012	Lot 31 - 65 Mary Chilton Road	25021C0017E	25021C0017F
LOMA	12-01-2469A	11/01/2012	LOT 32 -- 57 MARY CHILTON ROAD	25021C0017E	25021C0017F
LOMA	13-01-0233A	11/07/2012	Lot 30 - 69 Mary Chilton Road	25021C0017E	25021C0017F
LOMA	13-01-0331A	11/20/2012	LOT 3 -- 30 EDGEWATER DRIVE	25021C0038E	25021C0038F
LOMA	13-01-0321A	12/13/2012	LOT 3 -- 231-233 WEST STREET	25021C0036E	25021C0036F
LOMA	13-01-2006A	06/12/2013	LOT 11 -- 115/117 BOOTH STREET	25021C0036E	25021C0036F
LOMA	13-01-2953A	10/22/2013	LOT 2 -- 21 HIGHLAND AVENUE	25021C0037E	25021C0037F
LOMA	14-01-1868A	05/15/2014	LOT 7A - 144 BROOKSIDE ROAD	25021C0017E	25021C0017F
LOMA	14-01-3202A	10/09/2014	67 Cynthia Road	25021C0036E	25021C0036F
LOMA	15-01-1367A	04/28/2015	LOT 6 -- 120 BROOKSIDE ROAD	25021C0017E	25021C0017F
LOMA	16-01-1100A	05/24/2016	559, 567, 573, & 585 CENTRAL AVENUE	25021C0036E	25021C0036F
LOMA	17-01-1392A	05/16/2017	CARMELO FRAZETTIE PLAN, LOT 1 -- 371 WEST STREET	25021C0036E	25021C0036F

FINAL SUMMARY OF MAP ACTIONS

Community: NEEDHAM, TOWN OF

Community No: 255215

LOMC	Case No.	Date Issued	Project Identifier	Original Panel	Current Panel
LOMA	17-01-2141A	08/22/2017	LOTS 11 & 12 -- 564 CENTRAL AVENUE	25021C0036E	25021C0036F
LOMA	20-01-0358A	02/14/2020	FREMONT PARK, LOTS 28-29 -- 30 CHARLES STREET	25021C0036E	25021C0036F
LOMA	20-01-0600A	02/14/2020	77 Mary Chilton Road	25021C0017E	25021C0017F
LOMA	21-01-0159A	12/10/2020	LOT 8 -- 63 CYNTHIA ROAD	25021C0036E	25021C0036F
LOMA	21-01-1201A	08/02/2021	LOT 6 -- 73 CYNTHIA ROAD	25021C0036E	25021C0036F

2B. LOMCs on Unrevised Panels

LOMC	Case No.	Date Issued	Project Identifier	Original Panel	Current Panel
			NO CASES RECORDED		

3. LOMCs Superseded

The modifications effected by the LOMCs listed below have not been reflected on the Final revised FIRM panels because they are being superseded by new or revised flood hazard information or the information available was not sufficient to make a determination. The reason each is being superseded is noted below. These LOMCs will no longer be in effect when the revised FIRM becomes effective.

LOMC	Case No.	Date Issued	Project Identifier	Reason Determination Will be Superseded
			NO CASES RECORDED	

1. Insufficient information available to make a determination.
2. Lowest Adjacent Grade and Lowest Finished Floor are below the proposed Base Flood Elevation.
3. Lowest Ground Elevation is below the proposed Base Flood Elevation.
4. Revised hydrologic and hydraulic analyses.
5. Revised topographic information.
6. Superseded by another LOMC.

FINAL SUMMARY OF MAP ACTIONS

Community: NEEDHAM, TOWN OF

Community No: 255215

4. LOMCs To Be Redetermined

The LOMCs in Category 2 above will be revalidated through a single revalidation letter that reaffirms the validity of the determination in the previously issued LOMC. For LOMCs issued for multiple lots or structures where the determination for one or more of the lots or structures is no longer valid, the LOMC cannot be revalidated through this administrative process. Therefore, we will review the data previously submitted for the LOMC requests listed below and if appropriate issue a new determination for the affected properties after the effective date of the revised FIRM.

LOMC	Case No.	Date Issued	Project Identifier	Original Panel	Current Panel
			NO CASES RECORDED		

Table of Contents

Section 1.	Introduction
Section 2.	Local Required Bylaws
Section 3.	Required Definitions
Section 4.	Explanations

Section 1. Introduction

After years of devastation from flooding across the nation, Congress created the National Flood Insurance Act of 1968 in an attempt to offer flood disaster relief in the form of insurance. This insurance would be available to residents of communities that voluntarily adopt and enforce floodplain management ordinances that meet at least minimum National Flood Insurance Program (NFIP or the Program) requirements.

According to FEMA's Community Status Book, the first Massachusetts community to officially participate in the NFIP was the Town of Wareham, who joined the NFIP on May 28, 1971. Most other MA communities quickly followed suit in the 1970s and early 1980s. The State NFIP Coordinating Office was created by Executive Order of the Governor in 1978 and is housed under the Water Resources Commission in the Department of Conservation & Recreation's Flood Hazard Management Program.

This document has been prepared in order to assist NFIP communities in Massachusetts to understand the minimum requirements of the NFIP, and to assure that their local bylaws or ordinances contain the necessary and proper language for compliance with the Program.

The local floodplain overlay district is established as an overlay to all other districts. In Massachusetts, the floodplain overlay district bylaw or ordinance is part of a federal requirement for communities that choose to participate in the NFIP. However, the state already administers regulations that take care of many floodplain management requirements and concerns. Referencing existing regulations is important to ensure that projects have been reviewed under the appropriate state regulations and that variances to the conditions of the bylaw do not erroneously allow variances to state requirements.

All development in the floodplain overlay district, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with the following:

- 780 CMR- Massachusetts Statewide Building Code
- 310 CMR- Department of Environmental Protection Regulations

For those NFIP requirements that are not found in the above state regulations, the community must adopt these requirements in their bylaws (towns) or ordinances (cities.) The following section contains all NFIP requirements that must be adopted as local regulations, since they are not found in the above listed regulations.

Section 3 contains floodplain management definitions that FEMA Region I feels are critical for inclusion in local codes.

Section 4 of this document offers explanations to support local understanding of these requirements.

Section 2. Required Local Bylaws

For those National Flood Insurance Program minimum requirements that are not found in existing state law, the following articles must be adopted by the community as a part of their local bylaws or ordinances, if these are not already adopted. The suggested language in this section is compliant with the federal requirements.

1. Stated local purpose for flood resistant standards

The purpose of the Floodplain Overlay District is to:

- 1) Ensure public safety through reducing the threats to life and personal injury
- 2) Eliminate new hazards to emergency response officials
- 3) Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding
- 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
- 5) Eliminate costs associated with the response and cleanup of flooding conditions
- 6) Reduce damage to public and private property resulting from flooding waters

2. Use of FEMA maps and supporting studies

A community must select the appropriate option as follows:

A. Bylaw text for communities with mmunity-Based” FIRMs, FBFM and FIS

The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas designated on the [Town or City]’s Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency for the administration of the National Flood Insurance Program, dated [effective map dates on FIRM] and on the Flood Boundary & Floodway Map (if applicable) dated [FBFM effective date.] 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 [FIS date.] The effective FIRM, FBFM, and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Official, Conservation Commission and [other.]

OR

B. Bylaw text for communities with Countywide FIRMs and FIS

The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within [Community Name] designated as Zone A, AE, AH, AO, A99, V, or VE on the [County Name] Flood Insurance Rate Map (FIRM) dated [FIRM date] issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. 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 [County Name] Flood Insurance Study (FIS) report dated [FIS date]. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Official, Conservation Commission and [other].

3. Designation of community Floodplain Administrator

The Town/City of _____ hereby designates the position of _____ to be the official floodplain administrator for the Town/City.

4. Permits are required for all proposed development in the Floodplain Overlay District

The Town/City of _____ 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.

5. Assure that all necessary permits are obtained

The town's permit review process includes the requirement that the proponent obtain all local, state and federal permits that will be necessary in order to carry out the proposed development in the floodplain overlay district. The proponent must acquire all necessary permits, and

6. 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'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.

7. Unnumbered A Zones

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.

8. AO and AH zones drainage requirements *(if applicable in your community)*

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.

9. Subdivision proposals

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.

10. Base flood elevation data for subdivision proposals

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

11. Recreational vehicles

 A, A1-30, AH, AO, AE Zones,  30, VE, and V 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.

12. Protection of dunes *(if applicable in your community)*

Alteration of sand dunes is prohibited when the alteration would increase potential flood damage.

13. Watercourse alterations or relocations in riverine areas

In a riverine situation, the _____ (appropriate official in community) 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 I

14. Requirement to submit new technical data

If the Town/City acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, the Town/City 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:

-  IP State Coordinator
Massachusetts Department of Conservation and Recreation
- NFIP Program Specialist
Federal Emergency Management Agency, Region I

15. Variances to building code floodplain standards

CHOOSE THE APPROPRIATE OPTION:

 *If the State issues variances to the flood-resistant standards as found in the state building code, the community will use this text for local adoption:*

The Town/City 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.

The Town/City 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.

 *Certain communities have the authority to issue variances to the state building code. If your community has this authority from the BBRS, you will use this text for local adoption:*

Variances to floodplain development regulations shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance 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 or ordinances.

A written justification for the variance will be maintained in the Town's/City's building permit files, delineating the technical reason for the variance, and

stating that the variance is the minimum necessary (considering the flood hazard) to afford relief.

The Town/City 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.

[16. Variances to local Zoning Bylaws related to community compliance with the National Flood Insurance Program \(NFIP\)](#)

A variance from these floodplain bylaws 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.

[17. Abrogation and greater restriction section](#)

The floodplain management regulations found in this Floodplain Overlay District section shall take precedence over any less restrictive conflicting local laws, ordinances or codes.

[18. Disclaimer of liability](#)

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

[19. Severability section](#)

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

20. Local Enforcement

This is not sample bylaw text, but rather an instruction:

Please read the explanation in Section 4 about the importance of being able to point to specific local enforcement procedures for non-compliant floodplain development.

Section 3. Definitions not found in the State Building Code

National Flood Insurance Program (NFIP) definitions are found in Title 44 of the Code of Federal Regulations, section 59.1. The definitions below refer to their source; if the definition is from the MA building code, it is from the 9th Edition, which meets the minimum standards of the NFIP.

In order for the bylaw or ordinance to be clearly understood, it is necessary to define technical terms or key words. An understanding of these terms is a prerequisite to effective administration of the floodplain management bylaw or ordinance.

Per FEMA Region I, these additional definitions must be included in local bylaws or ordinances.

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 done in 1987 and later, the floodway designation is included on the FIRM.) *(if applicable in your community)*

FLOOD HAZARD BOUNDARY MAP (FHBM.) An 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] *(if applicable in your community)*

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,  **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]

ZONEs, FLOOD – *These definitions do not need to be included in local bylaws.*

Definitions of Flood Zones

The community shall use the pertinent definitions for flood zones delineated within the community. 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.)*

ZONE V means area of special flood hazards without water surface elevations determined, and with velocity, that is inundated by tidal floods (coastal high hazard area)

ZONE V1-30 and ZONE VE *(for new and revised maps)* means area of special flood hazards, with water surface elevations determined and with velocity, that is inundated by tidal floods (coastal high hazard area)

Section 4. Explanations

The requirements of the NFIP can be found in the US Code of Federal Regulations, Title 44 Emergency Management, generally in sections 59 through 75, although the requirements that most specifically address development in the floodplain are found in section 60.3. The highlighted bold italic type below states the requirement as found in the federal code and is followed by the code citation.

1. Stated local purpose for flood resistant standards

To justify the community's reasoning behind local floodplain overlay district zoning bylaws, the NFIP requires:

A purpose section citing health, safety, and welfare reasons for adoption [44 CFR 59.22(a)(1)]

The statement of purpose should set forth the goals and objectives to be achieved through the bylaw or ordinance. In other words, the statement of purpose enumerates what the community intends to accomplish by enacting regulations. The underlying purpose of the floodplain management regulations is to protect the public health, safety, and general welfare and to minimize the harmful impacts of flooding upon the community

These stated purposes will be ever more critical as community liabilities increase due to climate changes and increased flooding/ flood damages. The community is responsible to assure that all development is implemented in a safe, healthy, and socially/economically acceptable manner.

2. Use of FEMA maps and supporting studies

For local adoption of current effective FEMA flood maps and Flood Insurance Studies (FIS), the NFIP requirements state:

Adopt or reference correct Flood Insurance Rate Map (and where applicable, Flood Boundary Floodway Map) and date. [44CFR 60.2(h)]

and

Adopt or reference correct Flood Insurance Study and date. [44CFR 60.2(h)]

FEMA guidance (publication #495) states:

“The basis of your community’s floodplain management regulations is the flood hazard data FEMA provides. In support of the NFIP, FEMA identifies flood hazards nationwide and publishes and periodically updates flood hazard data. These data are provided to communities in the form of a Flood Insurance Rate Map (FIRM) and Flood Insurance Study (FIS) report...”

and “Each time FEMA provides your community with new or revised flood hazard data, you must either adopt new floodplain management regulations to incorporate the data into your ordinance or amend the existing ones to reference the new FIRM and FIS report.”

Communities that fail to enact the necessary floodplain management regulations will be suspended from participation in the NFIP and subject to the prohibitions contained in Section 202(a) of the 1973 Act as amended. (Text from actual FEMA Letter of Final Determination.)

3. Designation of community Floodplain Administrator

Designate the official responsible to submit a report to the Federal Insurance Administrator concerning the community participation in the Program, including, but not limited to the development and implementation of floodplain management regulations. [44CFR 59.22 (b)]

The community must designate by title one person to act as the community’s floodplain administrator (sometimes referred to as the FPA.). This is so that FEMA can use this information in their local contacts database, and so that this person can act on behalf of the community when implementing certain tasks under the National Flood Insurance Program. For example, the local FPA would sign the Community Acknowledgement Form when a property owner wishes to file for a Letter of Map Revision (LOMR).

The designation refers to a local staff position and can be anyone with the local authority to assure that the community is meeting its obligations as a participant in the National Flood Insurance Program. The FPA does not need to be someone who is directly involved in local development, but it should be someone who has at least a general concept of NFIP requirements and of the community’s obligations under the Program. Typically, across the nation the FPA can be a building commissioner, town manager, town engineer, director of planning, environmental planner, etc.

Typical duties of an FPA include but are not limited to:

- a) Understanding the regulations for development in the floodplain overlay district
- b) Ensuring that permits are applied for when development of any kind is proposed in the floodplain overlay district

- c) Involvement with the permit process and/or permit application review for development in the floodplain overlay district
- d) Coordinating with other local departments such as public works, stormwater/engineering, planning & zoning, conservation commission, or housing
- e) Notifying adjacent communities prior to alteration of a watercourse
- f) Dealing with compliance issues and enforcement actions such as correcting violations, or working with the appropriate local staff to correct violations
- g) Maintaining records of floodplain development, and keeping FEMA current and historic maps available for public inspection

4. Permits are required for all proposed development in the Floodplain Overlay District

Require permits for all proposed construction and other developments including the placement of manufactured homes [44CFR 60.3(b)(1)]

NFIP requirements are focused on “development” in the floodplain. The NFIP definition of development is *“any manmade 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.”* [44CFR 59.1]

Most Massachusetts communities have long used building permits to review construction in their floodplain overlay district, and conservation commissions use several documents for review of other types of development, but the regulation of all development in a floodplain is essential so that flood risks are not increased either on the site or to adjacent or upstream/downstream properties.

Some communities use a ‘Floodplain Development Review Form’ in addition to the traditional building permit, so they can document the review of all activities in the floodplain such as filling and grading; excavation, mining and drilling, storage of materials or equipment, placement of recreational vehicles or temporary stream crossings, and the review of activities conducted by other agencies such as roads or bridges built by state or federal government.

In Massachusetts, the local conservation commission reviews many of the above-listed activities, but use of a floodplain development review form for all floodplain overlay district proposals ensures that nothing slips through the cracks. This NFIP permitting requirement is not prescriptive, but the documentation of some kind of permit or review process is mandatory for all floodplain development.

An additional benefit of documenting all floodplain development is that when a violation is discovered, the community can demonstrate that they did not approve the development as constructed, or that the developer did not come in for a full review of the development activity.

5. Assure that all necessary permits are obtained

Assure that all other State and Federal permits are obtained [44CFR 60.3(a)(2)]

While the community does not have to participate in the acquisition or review of all necessary state and federal permits for floodplain development, the community is obligated to assure that all necessary permits have been obtained by the proponent. The use of a checklist facilitates awareness for the proponent of which other permits must be obtained, generally prior to beginning the development project.

6. Floodway encroachment

310 CMR 10.57(4) General Performance Standards.

(a) Bordering Land Subject to Flooding.

1. Compensatory storage shall be provided for all flood storage volume that will be lost as the result of a proposed project within Bordering Land Subject to Flooding, when in the judgment of the issuing authority said loss will cause an increase or will contribute incrementally to an increase in the horizontal extent and level of flood waters during peak flows.

Compensatory storage shall mean a volume not previously used for flood storage and shall be incrementally equal to the theoretical volume of flood water at each elevation, up to and including the 100-year flood elevation, which would be displaced by the proposed project. Such compensatory volume shall have an unrestricted hydraulic connection to the same waterway or water body. Further, with respect to waterways, such compensatory volume shall be provided within the same reach of the river, stream or creek.

2. Work within Bordering Land Subject to Flooding, including that work required to provide the above-specified compensatory storage, shall not restrict flows so as to cause an increase in flood stage or velocity.

This standard is found in the Wetlands Protection Act (WPA), and essentially means that there is no rise allowed in the elevation of the base flood anywhere in the entire floodplain. While an official certification is not required in floodways that are not regulated (shown on the FEMA map), for the intent of the WPA to be fulfilled the community must be sure that there will be no rise in the base flood elevation. If the area is located in an unnumbered A zone, a BFE must be determined before the development is designed, so that the “no rise” standard can be demonstrated.

Prohibit encroachments, 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. [44CFR 60.3(b)(6)]

Under federal NFIP requirements, the community must require certification from a registered professional that shows there will be no rise in the base flood elevation when development takes place in the regulated floodway. This cannot be accomplished by showing compensatory alone; the documentation must include a hydrologic and hydraulic (H&H) analysis.

7. Unnumbered A Zones

In A Zones, in the absence of FEMA BFE data and floodway data, obtain, review and reasonably utilize base flood elevation and floodway data available from available from a Federal, State, or other source as criteria for requiring new construction, substantial improvements, or other development in Zone A 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. [44CFR 60.3(b)(4)]

If the community has the engineering resources required to determine the base flood elevation in an unnumbered A zone, these resources can be used to meet this requirement. For those communities that do not have these resources, and even in communities that do, the permitting office can require that the proponent pay for resources to determine the base flood elevation when a development is being proposed. Historical records can be used, as well as any other data that reasonably indicates the 1% chance flood event. Two notes about this requirement:

- a) FEMA does allow a “defacto” elevation of two (2) feet above the highest adjacent grade in cases where the BFE cannot be reasonably determined, but the 9th Edition of the Massachusetts building code requires an additional foot of freeboard. This means that the top of the lowest floor would have to be three (3) feet above the highest adjacent grade.
- b) The 9th Edition of the MA building code allows communities to use preliminary FEMA maps once the Letter of Final Determination has been issued. These maps may indicate a BFE where none existed before, by virtue of the map update process.

8. AO and AH zones drainage requirements

In Zones AO and AH, require drainage paths around structures on slopes to guide water away from structures. [44CFR 60.3(c)(11)]

Guiding water away from the structure must also consider adjacent properties, where drainage cannot impact those lots or structures.

9. Subdivision proposals

Review subdivision proposals and development proposals 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.

[44CFR 60.3(a)(4) (I thru iii)]

10. Base flood elevation data for subdivision proposals

Require base flood elevation data for subdivision proposals or other developments greater than 50 lots or 5 acres. [44CFR 60.3(b)(3)]

If a subdivision fitting this size description is proposed in the floodplain overlay district where there are not already base flood elevations (BFEs) for each parcel, then the developer must provide BFEs for each parcel so that flood-resistant standards can be appropriately applied. The developer is responsible for providing the necessary technical data to support the base flood elevations shown on his/her design drawings.

11. Recreational vehicles

Obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other source, including data developed pursuant to paragraph (b)(3) of this section, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the community's FHBM or FIRM meet the standards in paragraphs (c)(2), (c)(3), (c)(5), (c)(6), (c)(12), (c)(14), (d)(2) and (d)(3) of this section [44 CFR 60.3 (b) (4)]

When the Federal Insurance Administrator has provided a notice of final base flood elevations within Zones A1-30 and/or AE on the community's FIRM and, if appropriate, has designated AO zones, AH zones, A99 zones, and A zones on the community's FIRM, and has provided data from which

the community shall designate its regulatory floodway, the community shall:

(1) Meet the requirements of paragraphs (c) (1) through (14) of this section;[60.3 (d)(1)]

In A1-30, AH, and AE Zones, all recreational vehicles to be placed on a site must be elevated and anchored or be on the site for less than 180 consecutive days or be fully licensed and highway ready. [44CFR 60.3(c)(14)]

In V1-30, VE, and V Zones, all recreational vehicles to be placed on a site must be elevated and anchored or be on the site for less than 180 consecutive days or be fully licensed & highway ready. [44CFR 60.3(e)(9)]

“Fully licensed and highway ready” means that wheels must be inflated; the vehicle must be self-propelled or towable by a light-duty truck; have no attached deck, porch or shed; and have quick-disconnect sewage, water and electrical connections. In other words, the vehicle must be ready to relocate immediately upon notification of the possibility of flooding in the area.

12. Protection of dunes

Prohibit alteration of sand dunes which would increase potential flood damage. [44CFR 60.3(e)(7)]

13. Watercourse alterations or relocations in riverine areas

In riverine areas, notify neighboring communities of watercourse alterations or relocations. [44CFR 60.3(b)(6)]

Neighboring communities (and possibly a neighboring state) need to know in advance if the alteration or relocation of a watercourse might change their floodplain or flood risk. Send plans for this development to the CEOs of those communities, as well as to the Massachusetts NFIP State Coordinator and to the FEMA Regional Office.

14. Requirement to submit new technical data

Within 6 months, notify FEMA of changes in the base flood elevation by submitting technical or scientific data so insurance & floodplain management can be based on current data. [44CFR 65.3]

Many development changes to the floodplain will trigger the requirement to file a Letter of Map Revision or other type of Letter of Map Change. When the development does not trigger the LOMC requirement but impacts the heights or extents of the base flood (usually to lower the risk), FEMA should be notified that a change was made so that in future map studies/updates this can be adequately addressed.

15. Variances to building code floodplain standards

44CFR 60.6(a)(3-6):

(3) Variances shall only be issued by a community upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance 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 or ordinances;

(4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;

(5) A community shall notify the applicant 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 a record of all variance actions as required in paragraph (a)(6) of this section.

(6) A community shall (i) maintain a record of all variance actions, including justification for their issuance

Because a variance can lead to an increased risk to life and property, variances from flood elevation requirements or other floodplain management requirements should be granted only rarely. Variances for floodplain development regulations must show that:

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

In Massachusetts, typically the State Building Code Appeals Board issues a variance to the state building code, unless your community is one of those approved by BBRS for local variance authority. When a local building official's interpretation of the flood-resistant standards under the building code are contested through the appeal process, the community must keep written documentation of both:

- a. the justification for local decision to deny the permit, and
- b. the results of the state's appeal/variance hearing (either in agreement with the local community, or having granted the variance through appeal.)

The community must also send a letter to the property owner stating that the implications of this variance may adversely impact the cost of the flood insurance policy covering the structure.

A FEMA suggestion for language to be used in such a letter is as follows:

"The granting of this variance may result in increased flood insurance premium rates, up to \$25 per \$100 of coverage, and such construction below the base flood level increases risks to life and property."

The justification for the variance (or the denial of the variance) and the community letter must be maintained as documentation that these actions were taken.

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

Please note: This section addresses local Zoning Board variances only, and applies only when other variance procedures (such as those under the state building code) do not cover the variance request.

§60.6 Variances and exceptions. Excerpts:

(a) The Federal Insurance Administrator does not set forth absolute criteria for granting variances from the criteria set forth in §§60.3, 60.4, and 60.5. The issuance of a variance is for flood plain management purposes only.

The community, after examining the applicant's hardships, shall approve or disapprove a request.

The Federal Insurance Administrator may review a community's findings justifying the granting of variances, and if that review indicates a pattern inconsistent with the objectives of sound flood plain management, the Federal Insurance Administrator may take appropriate action under §59.24(b) of this subchapter.

Procedures for the granting of variances by a community are as follows:

(1) Variances shall not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result;

(3) Variances shall only be issued by a community upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance 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 or ordinances;

(4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;

(5) A community shall notify the applicant 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 a record of all variance actions as required in paragraph (a)(6) of this section; and

(6) A community shall (i) maintain a record of all variance actions, including justification for their issuance, and (ii) report such variances issued in its annual or biennial report submitted to the Federal Insurance Administrator.

(7) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that (i) the criteria of paragraphs (a)(1) through (a)(4) of this section are met, and (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

For further information, see FEMA publication P-993, "Variances & the National Flood Insurance Program."

From the State NFIP Coordinating Office: For all variances to floodplain development regulations, the community must maintain documentation that includes the variance request; determinations made by the entity granting the request that the three criterium listed above have been met; a copy of the letter to the property owner

regarding possible insurance premium impacts; and that all appropriate flood protection and hazard mitigation measures were taken where applicable and possible, as specifically described in the variance file.

17. Abrogation and greater restriction section

The community must provide that floodplain management regulations take precedence over any less restrictive conflicting local laws, ordinances or codes. [44CFR 60.1(b)]

This is a legal provision that specifies that the floodplain management bylaw, ordinance, regulations, and building codes take precedence over less restrictive requirements.

18. Disclaimer of liability

The community must state that the degree of flood protection required by the ordinance is considered reasonable but does not imply total flood protection.

19. Severability section

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

20. Local Enforcement

The NFIP requires that the floodplain management ordinance be legally enforceable and enforced uniformly throughout the community. [44 CFR 60.1(b)]

Sample bylaw language has not been offered regarding local enforcement of flood-resistant and flood reduction standards because enforcement is typically already addressed elsewhere in codes that are locally enforced.

As a part of implementing the NFIP in a local community, however, FEMA will need to know how the community enforces these regulations and standards. Each NFIP community should be prepared to answer the following questions:

1. How do you enforce the building code in your community? What specific actions are taken, and how are these actions documented? What penalties are specified?
[Definitions and regulations related to building code enforcement are found in

CMR 780 Chapter 1 Sections 114 and 115, which refer to M.G.L. c. 143, c. 148, and M.G.L. c. 148A, and specifically M.G.L. c. 143, section 94(a.)]

2. How do you enforce the Wetlands Protection Act? What actions and documentation exist to prove that enforcement was implemented? *[Enforcement regulations related to the Wetlands Protection Act are found in 310 CMR section 10.08.]*
3. How are other NFIP floodplain development requirements enforced, such as fencing that increases flood risk, the placement of recreational vehicles in the floodplain, re-grading of large commercial properties, construction of agricultural structures, placement of tanks, pools, temporary construction offices, etc.?

FEMA will expect to hear about a rigorous enforcement program that includes specific actions taken by the community for non-compliant floodplain development.

Enforcement provisions establish the responsibilities of persons, enforcement authority, what makes a violation, notice of violation, stop work and other orders, and citation and penalties for violations. These penalties may include fines and/or jail sentences.

Explanations for Definitions found in Section 3

Development. FEMA's minimum standards for the NFIP require review of, and possibly permitting for all activities defined as development within the Special Flood Hazard Area (SFHA.) Some of these activities might not normally require permitting under existing state or local regulations, and not all of these activities might be reviewed by the building department in a community.

Flood Boundary & Floodway Map. Some communities with older mapping (typically 1987 and prior) have two sets of flood maps, the familiar Flood Insurance Rate Map (FIRM) and the Flood Boundary & Floodway Map (FBFM). The floodway is delineated only on the FBFM. Communities with a FBFM must include it in the district definition in order to enforce floodway standards.

Flood Hazard Boundary Map. Communities with very old mapping (usually prior to 1980) might have a Flood Hazard Boundary Map (FHBM). This map must be referenced in the community's floodplain district definition. In most cases the FHBM has been converted to a FIRM by letter but the map will still say "Flood Hazard Boundary Map."

Floodway, Regulatory Floodway. The floodway, or regulatory floodway, is established by regulation and through hydraulic analysis. It is not a natural, physical feature of the watercourse. It is part of the 100-year floodplain but has specific requirements that exceed those in the floodplain fringe (the rest of the floodplain). The NFIP standards for floodway encroachments (for example including no-rise analysis) are not in state regulations.

Functionally dependent use. This term is used in the evaluation of variances to floodplain management standards. Sometimes variances can be issued for functionally dependent uses.

Highest adjacent grade. In an AO zone, the base flood elevation is determined by adding the depth indicated on the FIRM to the highest adjacent grade, or two feet if no depth is indicated (and if no alternative floodplain analysis is conducted and applied.)

Historic structure. NFIP standards for substantial improvement include an exception for structures that are identified as historic structures. Only those structures meeting this definition are eligible for this exception.

New construction. NFIP minimum standards apply to all new construction, which includes improvements to structures defined as new construction. as follows: (1) new construction, including subsequent work to such structures, and (2) work classified as

substantial improvement of an existing structure that is not an historic structure. [ASCE 24-14]

Recreational vehicle. NFIP elevation standards can sometimes apply to these vehicles when they are placed in the SFHA.

Special Flood Hazard Area (SFHA). The flood-prone areas on the FEMA maps (and subsequently adopted in a community's Floodplain Overlay District) where NFIP minimum standards apply. within special flood hazard areas.

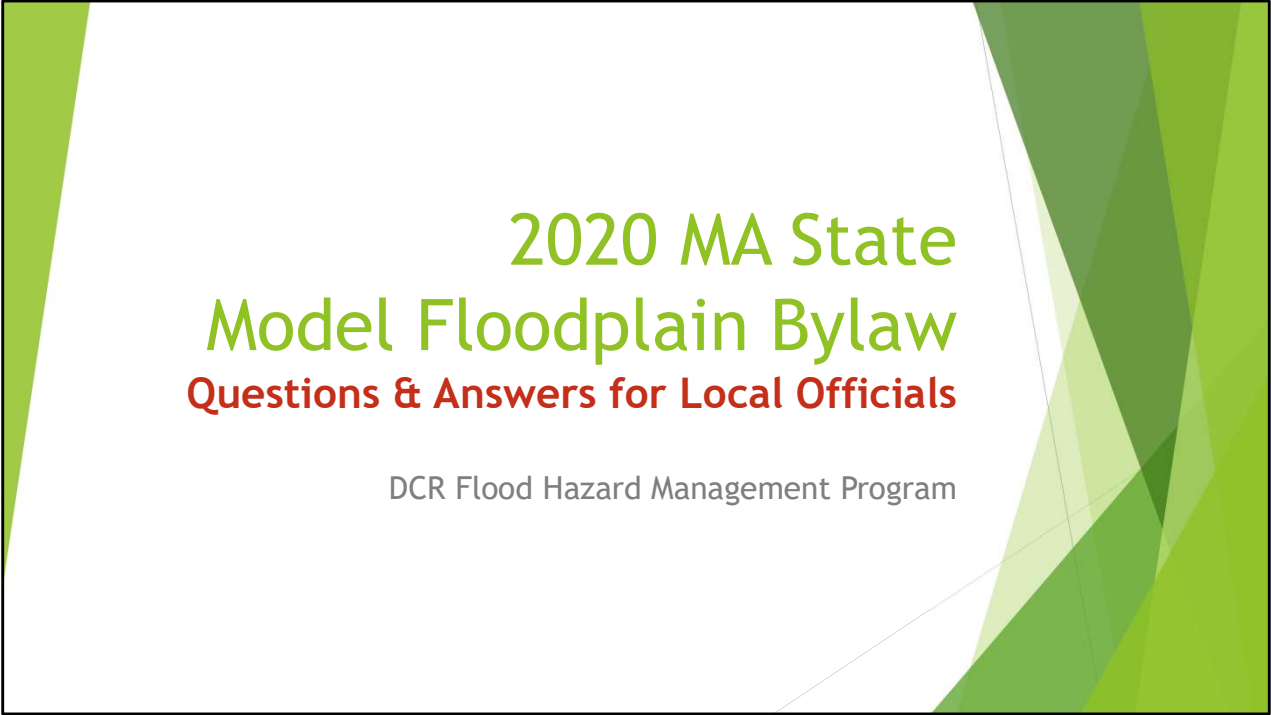
Start of construction. Knowing the start of construction, as defined, can sometimes determine which version of a FIRM or regulation is used in situations where the FIRM or the regulation has been or is being updated.

Structure. NFIP minimum standards apply to all structures meeting this definition.

Substantial Repair of a Foundation. This is a Massachusetts unique definition included in the 9th Edition Building Code. It is important to be familiar with this definition as Building Code standards will apply.

Variance. It is important to understand the term in order to properly administer, consider and potentially issue variances. Note that variances are not the same as (and shouldn't be confused with) similar terms and/or processes such as special permits, exceptions or exemptions. Variances to standards enforced under state regulations must be administered through the proper state authority.

Violation. Violations can affect the community's standing in the NFIP and will likely result in higher flood insurance premiums. Violations can also prevent a community from entering participating in the Community Rating System.



2020 MA State Model Floodplain Bylaw

Questions & Answers for Local Officials

DCR Flood Hazard Management Program

Purpose of the Model

This document has been prepared in order to assist NFIP communities in Massachusetts to understand the minimum requirements of the NFIP, and to assure that their local bylaws or ordinances contain the necessary and proper language for compliance with the Program.

Facts:

1. All NFIP communities participate voluntarily.
2. All NFIP communities agree to locally adopt and enforce NFIP requirements as found in the Title 44 CFR.
3. Congress wrote the rules, FEMA administers the program, the State assists communities to enforce the program.
4. **This model is a tool to help** communities know and understand the NFIP requirements that are not already found elsewhere in mandatory MA regulations (e.g. building code or Wetlands Protection Act.)

Key Dates

- ▶ Congress created the National Flood Insurance Act of 1968
- ▶ First Massachusetts community to officially participate in the NFIP was the Town of Wareham, who joined the NFIP on May 28, 1971.
- ▶ Most other MA communities quickly followed suit in the 1970s and early 1980s.
- ▶ State NFIP Coordinating Office was created by Executive Order of the Governor in 1978.

The Model-

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- ▶ Section 2. **Required** Local Bylaws
- ▶ Section 3. **Required** Definitions
- ▶ Section 4. Explanations



The Model-

Section 2. Local Required Bylaws

The bylaw language in this section is compliant with the federal requirements.

The requirements of the NFIP can be found in the US Code of Federal Regulations, Title 44 Emergency Management, generally in sections 59 through 75, although the requirements that most specifically address development in the floodplain are found in section 60.3.

These requirements are not new, but have been in place under the NFIP for decades. For various reasons, MA communities have not previously been required to adopt all of the NFIP requirements as local bylaws or ordinances, so this is a sort of “catching up” to bring us all into compliance. For all future bylaw and ordinance reviews, FEMA will no longer accept local codes that are lacking these mandatory NFIP requirements.

As we go through each of the 19 bylaw sections, please note that sections which have been required per the 2012 model bylaw are named in green. The sections named in red may be new to you. And some of these may already exist in your other local codes, but FEMA is now requiring that you cite them for us when we conduct floodplain bylaw reviews.

Note

For each of the 19 bylaw sections, please note that sections which were required in the 2012 model bylaw are named in green. The sections named in red may be new to you.

If some of these already exist in your other local enforceable codes, FEMA will require that you cite them when your bylaw is reviewed for compliance.

1. Stated local purpose for flood-resistant standards

The purpose of the Floodplain Overlay District is to:

- ▶1) Ensure public safety through reducing the threats to life and personal injury
- ▶2) Eliminate new hazards to emergency response officials
- ▶3) Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding
- ▶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
- ▶5) Eliminate costs associated with the response and cleanup of flooding conditions
- ▶6) Reduce damage to public and private property resulting from flooding waters

To justify the community's reasoning behind local floodplain overlay district zoning bylaws, the NFIP requires:

A purpose section citing health, safety, and welfare reasons for adoption [44 CFR 59.22(a)(1)]

The statement of purpose should set forth the goals and objectives to be achieved through the bylaw or ordinance. In other words, the statement of purpose enumerates what the community intends to accomplish by enacting regulations. The underlying purpose of the floodplain management regulations is to protect the public health, safety, and general welfare and to minimize the harmful impacts of flooding upon the community.

These stated purposes will be ever more critical as community liabilities increase

due to climate changes and increased flooding/ flood damages. The community is responsible to assure that all development is implemented in a safe, healthy, and socially/economically acceptable manner.

2. Use of FEMA maps and supporting studies

The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within [Community Name] designated as Zone A, AE, AH, AO, A99, V, or VE on the [County Name] Flood Insurance Rate Map (FIRM) dated [FIRM date] issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. 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 [County Name] Flood Insurance Study (FIS) report dated [FIS date]. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Official, Conservation Commission and [other].

For local adoption of current effective FEMA flood maps and Flood Insurance Studies (FIS), the NFIP requirements state:

Adopt or reference correct Flood Insurance Rate Map (and where applicable, Flood Boundary Floodway Map) and date. [44CFR 60.2(h)]

and

Adopt or reference correct Flood Insurance Study and date. [44CFR 60.2(h)]

FEMA guidance (publication #495) states:

“The basis of your community’s floodplain management regulations is the flood hazard data FEMA provides. In support of the NFIP, FEMA identifies flood hazards nationwide and publishes and periodically updates flood hazard data.

These data are provided to communities in the form of a Flood Insurance Rate Map (FIRM) and Flood Insurance Study (FIS) report...”

and “Each time FEMA provides your community with new or revised flood hazard data, you must either adopt new floodplain management regulations to incorporate the data into your ordinance or amend the existing ones to reference the new FIRM and FIS report.”

Communities that fail to enact the necessary floodplain management regulations will be suspended from participation in the NFIP and subject to the prohibitions contained in Section 202(a) of the 1973 Act as amended. (Text from actual FEMA Letter of Final Determination.)

Note: The community must have at least one place where residents or visitors can access the local FEMA flood maps. This place must be inserted into the end of the last sentence in this bylaw text. (The list shown on this slide are suggested examples.)

3. Designation of community Floodplain Administrator (FPA)

The Town/City of _____ hereby designates
the position of _____ to be the
official floodplain administrator for the
Town/City.

Designate the official responsible to submit a report to the Federal Insurance Administrator concerning the community participation in the Program, including, but not limited to the development and implementation of floodplain management regulations. [44CFR 59.22 (b)]

The community must designate by title one person to act as the community's floodplain administrator (sometimes referred to as the FPA.). This is so that FEMA can use this information in their local contacts database, and so that this person can act on behalf of the community when implementing certain tasks under the National Flood Insurance Program. For example, the local FPA would sign the Community Acknowledgement Form when a property owner wishes to file for a Letter of Map Revision (LOMR).

The designation refers to a local staff position and can be anyone with the local authority to assure that the community is meeting its obligations as a participant in the National Flood Insurance Program. The FPA does not need to be someone who is directly involved in local development, but it should be someone who has at least a general concept of NFIP requirements and of the community's obligations under the Program. Typically, across the nation the FPA can be a building commissioner, town manager, town engineer, director of planning, environmental planner, etc.

Typical duties of an FPA include but are not limited to:

- a) Understanding the regulations for development in the floodplain overlay district
- b) Ensuring that permits are applied for when development of any kind is proposed in the floodplain overlay district
- c) Involvement with the permit process and/or permit application review for development in the floodplain overlay district
- d) Coordinating with other local departments such as public works, stormwater/ engineering, planning & zoning, conservation commission, or housing
- e) Notifying adjacent communities prior to alteration of a watercourse
- f) Dealing with compliance issues and enforcement actions such as correcting violations, or working with the appropriate local staff to correct violations
- g) Maintaining records of floodplain development, and keeping FEMA current and historic maps available for public inspection

4. Permits are required for all proposed development in the Floodplain Overlay District

The Town/City of _____ 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.

Require permits for all proposed construction and other developments including the placement of manufactured homes [44CFR 60.3(b)(1)]

NFIP requirements are focused on “development” in the floodplain. The NFIP definition of development is “*any manmade 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.*” [44CFR 59.1]

Most Massachusetts communities have long used building permits to review construction in their floodplain overlay district, and conservation commissions use several documents for review of other types of development, but the regulation of all development in a floodplain is essential so that flood risks are

not increased either on the site or to adjacent or upstream/downstream properties.

Some communities use a ‘Floodplain Development Review Form’ in addition to the traditional building permit, so they can document the review of all activities in the floodplain such as filling and grading; excavation, mining and drilling, storage of materials or equipment, placement of recreational vehicles or temporary stream crossings, and the review of activities conducted by other agencies such as roads or bridges built by state or federal government.

In Massachusetts, the local conservation commission reviews many of the above-listed activities, but use of a floodplain development review form for all floodplain overlay district proposals ensures that nothing slips through the cracks. This NFIP permitting requirement is not prescriptive, but the documentation of some kind of permit or review process is mandatory for all floodplain development.

An additional benefit of documenting all floodplain development is that when a violation is discovered, the community can demonstrate that they did not approve the development as constructed, or that the developer did not come in for a full review of the development activity.

5. Assure that all necessary permits are obtained

The town's permit review process includes the requirement that the proponent obtain all local, state and federal permits that will be necessary in order to carry out the proposed development in the floodplain overlay district. The proponent must acquire all necessary permits, and must demonstrate that all necessary permits have been acquired.

Assure that all other State and Federal permits are obtained [44CFR 60.3(a)(2)]

While the community does not have to participate in the acquisition or review of all necessary state and federal permits for floodplain development, the community is obligated to assure that all necessary permits have been obtained by the proponent.

6. 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's/City's 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.

310 CMR 10.57(4) General Performance Standards.

(a) Bordering Land Subject to Flooding.

1. Compensatory storage shall be provided for all flood storage volume that will be lost as the result of a proposed project within Bordering Land Subject to Flooding, when in the judgment of the issuing authority said loss will cause an increase or will contribute incrementally to an increase in the horizontal extent and level of flood waters during peak flows.

Compensatory storage shall mean a volume not previously used for flood storage and shall be incrementally equal to the theoretical volume of flood water at each elevation, up to and including the 100-year flood elevation, which would be displaced by the proposed project. Such compensatory volume shall have an unrestricted hydraulic connection to the same waterway or water body. Further, with respect to waterways, such compensatory volume shall be provided within the same reach of the river, stream or creek.

2. Work within Bordering Land Subject to Flooding, including that

work required to provide the above-specified compensatory storage, shall not restrict flows so as to cause an increase in flood stage or velocity.

This standard is found in the Wetlands Protection Act (WPA), and essentially means that there is no rise allowed in the elevation of the base flood anywhere in the entire floodplain. While an official certification is not required in floodways that are not regulated (shown on the FEMA map), for the intent of the WPA to be fulfilled the community must be sure that there will be no rise in the base flood elevation. If the area is located in an unnumbered A zone, a BFE must be determined before the development is designed, so that the “no rise” standard can be demonstrated.

Prohibit encroachments, 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.
[44CFR 60.3(b)(6)]

Under federal NFIP requirements, the community must require certification from a registered professional that shows there will be no rise in the base flood elevation when development takes place in the regulated floodway. This cannot be accomplished by showing compensatory alone; the documentation must include a hydrologic and hydraulic (H&H) analysis.

7. Unnumbered A Zones

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 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.

In A Zones, in the absence of FEMA BFE data and floodway data, obtain, review and reasonably utilize base flood elevation and floodway data available from available from a Federal, State, or other source as criteria for requiring new construction, substantial improvements, or other development in Zone A 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. [44CFR 60.3(b)(4)]

If the community has the engineering resources required to determine the base flood elevation in an unnumbered A zone, these resources can be used to meet this requirement. For those communities that do not have these resources, and even in communities that do, the permitting office can require that the proponent pay for resources to determine the base flood elevation when a

development is being proposed. Historical records can be used, as well as any other data that reasonably indicates the 1% chance flood event. Two notes about this requirement:

- a) FEMA does allow a “defacto” elevation of two (2) feet above the highest adjacent grade in cases where the BFE cannot be reasonably determined, but the 9th Edition of the Massachusetts building code requires an additional foot of freeboard. This means that the top of the lowest floor would have to be three (3) feet above the highest adjacent grade.
- b) The 9th Edition of the MA building code allows communities to use preliminary FEMA maps once the Letter of Final Determination has been issued. These maps may indicate a BFE where none existed before, by virtue of the map update process.

8. 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.

In Zones AO and AH, require drainage paths around structures on slopes to guide water away from structures. [44CFR 60.3(c)(11)]

Guiding water away from the structure must also consider adjacent properties, where drainage cannot impact those lots or structures.

9. Subdivision proposals

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.

Review subdivision proposals and development proposals 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.***

[44CFR 60.3(a)(4) (I thru iii)]

10. Base flood elevation data for subdivision proposals

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

Require base flood elevation data for subdivision proposals or other developments greater than 50 lots or 5 acres. [44CFR 60.3(b)(3)]

If a subdivision fitting this size description is proposed in the floodplain overlay district where there are not already base flood elevations (BFEs) for each parcel, then the developer must provide BFEs for each parcel so that flood-resistant standards can be appropriately applied. The developer is responsible for providing the necessary technical data to support the base flood elevations shown on his/her design drawings.

11. Recreational vehicles

In A1-30, AH, AE Zones, V1-30, VE, and V 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.

In A1-30, AH, and AE Zones, all recreational vehicles to be placed on a site must be elevated and anchored or be on the site for less than 180 consecutive days or be fully licensed and highway ready. [44CFR 60.3(c)(14)]

In V1-30, VE, and V Zones, all recreational vehicles to be placed on a site must be elevated and anchored or be on the site for less than 180 consecutive days or be fully licensed & highway ready. [44CFR 60.3(e)(9)]

“Fully licensed and highway ready” means that wheels must be inflated; the vehicle must be self-propelled or towable by a light-duty truck; have no attached deck, porch or shed; and have quick-disconnect sewage, water and electrical connections. In other words, the vehicle must be ready to relocate immediately

upon notification of the possibility of flooding in the area.

NOTE: Non-coastal communities should remove reference to VE and V zones.

12. Protection of dunes

Alteration of sand dunes is prohibited when the alteration would increase potential flood damage.

Prohibit alteration of sand dunes which would increase potential flood damage. [44CFR 60.3(e)(7)]

Note: Non-coastal communities should not include this coastal bylaw for dunes.

13. Watercourse alterations or relocations in riverine areas

In a riverine situation, the _____ (appropriate official in community) 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
- FEMA NFIP Program Specialist
Federal Emergency Management Agency, Region I

In riverine areas, notify neighboring communities of watercourse alterations or relocations. [44CFR 60.3(b)(6)]

Neighboring communities (and possibly a neighboring state) need to know in advance if the alteration or relocation of a watercourse might change their floodplain or flood risk. Send plans for this development to the CEOs of those communities, as well as to the Massachusetts NFIP State Coordinator and to the FEMA Regional Office.

14. Requirement to submit new technical data

If the Town/City acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, the Town/City 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:

FEMA Region I Risk Analysis Branch Chief

And copy of notification to:

Massachusetts NFIP State Coordinator

MA Dept. of Conservation & Recreation

Within 6 months, notify FEMA of changes in the base flood elevation by submitting technical or scientific data so insurance & floodplain management can be based on current data. [44CFR 65.3]

Many development changes to the floodplain will trigger the requirement to file a Letter of Map Revision or other type of Letter of Map Change. When the development does not trigger the LOMC requirement but impacts the heights or extents of the base flood (usually to lower the risk), FEMA should be notified that a change was made so that in future map studies/updates this can be adequately addressed.

15. Variances to building code floodplain standards

The Town/City 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.

The Town/City 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.

44CFR 60.6(a)(3-6):

(3) Variances shall only be issued by a community upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance 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 or ordinances;

(4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;

(5) A community shall notify the applicant 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 a record of all variance actions as required in paragraph (a)(6) of this section.

(6) A community shall (i) maintain a record of all variance actions, including justification for their issuance

Because a variance can lead to an increased risk to life and property, variances from flood elevation requirements or other floodplain management requirements should be granted only rarely.

In Massachusetts, typically the State Building Code Appeals Board issues a variance to the state building code. When a local building official's interpretation of the flood-resistant standards under the building code are contested through the appeal process, the community must keep written documentation of both:

- a. the justification for local decision to deny the permit, and
- b. the results of the state's appeal/variance hearing (either in agreement with the local community, or having granted the variance through appeal.)

The community must also send a letter to the property owner stating that the implications of this variance may adversely impact the cost of the flood insurance policy covering the structure.

A FEMA suggestion for language to be used in such a letter is as follows:

"The granting of this variance may result in increased flood insurance premium rates, up to \$25 per \$100 of coverage, and such construction below the base flood level increases risks to life and property."

The justification for the variance (or the denial of the variance) and the community letter must be maintained as documentation that these actions were taken.

16. Variances to local Zoning Bylaws related to community compliance with the National Flood Insurance Program

A variance from these floodplain bylaws 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.

Please note: This section addresses local Zoning Board variances only, and applies only when other variance procedures (such as those under the state building code) do not cover the variance request.

Variances for floodplain development regulations must show that:

Good and sufficient cause and exceptional hardship exist;

The variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public; and

The variance is the minimum action necessary to afford relief.

§60.6 Variances and exceptions. Excerpts:

(a) The Federal Insurance Administrator does not set forth absolute

criteria for granting variances from the criteria set forth in §§60.3, 60.4, and 60.5. The issuance of a variance is for flood plain management purposes only.

The community, after examining the applicant's hardships, shall approve or disapprove a request.

The Federal Insurance Administrator may review a community's findings justifying the granting of variances, and if that review indicates a pattern inconsistent with the objectives of sound flood plain management, the Federal Insurance Administrator may take appropriate action under §59.24(b) of this subchapter.

Procedures for the granting of variances by a community are as follows:

(1) Variances shall not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result;

(3) Variances shall only be issued by a community upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional [and non-financial] hardship to the applicant, and (iii) a determination that the granting of a variance 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 or ordinances;

(4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;

(5) A community shall notify the applicant 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 a record of all variance actions as required in paragraph (a)(6) of this section; and

(6) A community shall (i) maintain a record of all variance actions, including justification for their issuance, and (ii) report such variances issued in its annual or biennial report submitted to the Federal Insurance Administrator.

(7) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that (i) the criteria of paragraphs (a)(1) through (a)(4) of this section are met, and (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

For further information, see FEMA publication P-993, “Variances & the National Flood Insurance Program.”

From the State NFIP Coordinating Office: For all variances to floodplain development regulations, the community must maintain documentation that includes the variance request; determinations made by the entity granting the request that the three criterium listed above have been met; a copy of the letter to the property owner regarding possible insurance premium impacts; and that all appropriate flood protection and hazard mitigation measures were taken where applicable and possible, as specifically described in the variance file.

17. Abrogation and greater restriction section

The floodplain management regulations found in this Floodplain Overlay District section shall take precedence over any less restrictive conflicting local laws, ordinances or codes.

The community must provide that floodplain management regulations take precedence over any less restrictive conflicting local laws, ordinances or codes. [44CFR 60.1(b)]

This is a legal provision that specifies that the floodplain management bylaw, ordinance, regulations, and building codes take precedence over less restrictive requirements.

18. Disclaimer of liability

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

The community must state that the degree of flood protection required by the ordinance is considered reasonable but does not imply total flood protection.

19. Severability section

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

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

Local Enforcement

This is not sample bylaw text, but rather an instruction:

Please read the explanation in Section 4 about the importance of being able to point to specific local enforcement procedures for non-compliant floodplain development.

The NFIP requires that the floodplain management ordinance be legally enforceable and enforced uniformly throughout the community. [44 CFR 60.1(b)]

Sample bylaw language has not been offered regarding local enforcement of flood-resistant and flood reduction standards because enforcement is typically already addressed elsewhere in codes that are locally enforced.

As a part of implementing the NFIP in a local community, however, FEMA will need to know how the community enforces these regulations and standards.

Each NFIP community should be prepared to answer the following questions:

1. How do you enforce the building code in your community? What specific actions are taken, and how are these actions documented? What penalties

are specified? *[Definitions and regulations related to building code enforcement are found in CMR 780 Chapter 1 Sections 114 and 115, which refer to M.G.L. c. 143, c. 148, and M.G.L. c. 148A, and specifically M.G.L. c. 143, section 94(a.)]*

2. How do you enforce the Wetlands Protection Act? What actions and documentation exist to prove that enforcement was implemented?
[Enforcement regulations related to the Wetlands Protection Act are found in 310 CMR section 10.08.]
3. How are other NFIP floodplain development requirements enforced, such as fencing that increases flood risk, the placement of recreational vehicles in the floodplain, re-grading of large commercial properties, construction of agricultural structures, placement of tanks, pools, temporary construction offices, etc.?

FEMA will expect to hear about a rigorous enforcement program that includes specific actions taken by the community for non-compliant floodplain development. Enforcement provisions establish the responsibilities of persons, enforcement authority, what makes a violation, notice of violation, stop work and other orders, and citation and penalties for violations. These penalties may include fines and/or jail sentences.

The Model-

Section 3. Required Definitions

Per FEMA Region I, these additional definitions must be included in local bylaws or ordinances.

National Flood Insurance Program (NFIP) definitions are found in Title 44 of the Code of Federal Regulations, section 59.1.

The definitions below refer to their source;
if the definition is from the MA building code,
it is from the 9th Edition,
which meets the minimum standards of the NFIP.

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]

Development. FEMA's minimum standards for the NFIP require review of, and possibly permitting for all activities defined as development within the Special Flood Hazard Area (SFHA.) Some of these activities might not normally require permitting under existing state or local regulations, and not all of these activities might be reviewed by the building department in a community.

FLOOD BOUNDARY AND FLOODWAY MAP

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.)

Flood Boundary & Floodway Map. Some communities with older mapping (typically 1987 and prior) have two sets of flood maps, the familiar Flood Insurance Rate Map (FIRM) and the Flood Boundary & Floodway Map (FBFM). The floodway is delineated only on the FBFM. Communities with a FBFM must include it in the district definition in order to enforce floodway standards.

NOTE: Do not include this definition if your community does not have this type of FEMA map.

FLOOD HAZARD BOUNDARY MAP (FHBM)

An 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]

Flood Hazard Boundary Map. Communities with very old mapping (usually prior to 1980) might have a Flood Hazard Boundary Map (FHBM). This map must be referenced in the community's floodplain district definition. In most cases the FHBM has been converted to a FIRM by letter but the map will still say "Flood Hazard Boundary Map."

NOTE: Do not include this definition if your community does not have this type of FEMA map.

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]

Floodway, Regulatory Floodway. The floodway, or regulatory floodway, is established by regulation and through hydraulic analysis. It is not a natural, physical feature of the watercourse. It is part of the 100-year floodplain but has specific requirements that exceed those in the floodplain fringe (the rest of the floodplain). The NFIP standards for floodway encroachments (for example including no-rise analysis) are not in state regulations.

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.

[US Code of Federal Regulations, Title 44, Part 59] Also

[Referenced Standard ASCE 24-14]

Functionally dependent use. This term is used in the evaluation of variances to floodplain management standards. Sometimes variances can be issued for functionally dependent uses.

HIGHEST ADJACENT GRADE

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]

Highest adjacent grade. In an AO zone, the base flood elevation is determined by adding the depth indicated on the FIRM to the highest adjacent grade, or two feet if no depth is indicated (and if no alternative floodplain analysis is conducted and applied.)

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:

(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]

Historic structure. NFIP standards for substantial improvement include an exception for structures that are identified as historic structures. Only those structures meeting this definition are eligible for this exception.

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]

New construction. NFIP minimum standards apply to all new construction, which includes improvements to structures defined as new construction. as follows: (1) new construction, including subsequent work to such structures, and (2) work classified as substantial improvement of an existing structure that is not an historic structure. [ASCE 24-14]

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 quarters for recreational, camping, travel, or seasonal use.

[US Code of Federal Regulations, Title 44, Part 59]

Recreational vehicle. NFIP elevation standards can sometimes apply to these vehicles when they are placed in the SFHA.

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]

Special Flood Hazard Area (SFHA). The flood-prone areas on the FEMA maps (and subsequently adopted in a community's Floodplain Overlay District) where NFIP minimum standards apply. within special flood hazard areas.

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]

Start of construction. Knowing the start of construction, as defined, can sometimes determine which version of a FIRM or regulation is used in situations where the FIRM or the regulation has been or is being updated.

STRUCTURE

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]

Structure. NFIP minimum standards apply to all structures meeting this definition.

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]

Substantial Repair of a Foundation. This is a Massachusetts unique definition included in the 9th Edition Building Code. It is important to be familiar with this definition as Building Code standards will apply.

VARIANCE

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]

Variance. It is important to understand the term in order to properly administer, consider and potentially issue variances. Note that variances are not the same as (and shouldn't be confused with) similar terms and/or processes such as special permits, exceptions or exemptions. Variances to standards enforced under state regulations must be administered through the proper state authority.

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(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]

Violation. Violations can affect the community's standing in the NFIP and will likely result in higher flood insurance premiums. Violations can also prevent a community from entering participating in the Community Rating System.

DCR Flood Hazard Management Program office

Nadia Madden, Floodplain Specialist
(774) 261-1813 or Nadia.madden@mass.gov

Eric Carlson, Floodplain Engineer
617-626-1362 or eric.carlson@mass.gov

Joy Duperault, CFM, Floodplain Manager
617-626-1406 or joy.duperault@mass.gov



2020 MA Model Floodplain Bylaw **Frequently Asked Questions**

These questions were posed during the 2020 Model Bylaw training sessions offered by the state and FEMA in early October 2020. To access the Model and the presentation, go to:

<https://www.mass.gov/guides/floodplain-management>

Adoption deadline

By what date will these bylaws need to be adopted?

If your community will be receiving new maps, then the 2020 Model will be used to review your bylaws (or ordinances) as a part of your map adoption process by the effective date of the new maps.

If the state or FEMA conducts a monitoring visit or interview with your community, the 2020 Model will be used in reviewing your bylaws, and you will need to provide a date by which you will adopt them.

If neither of the above applies to your community within the next year, then we will expect that you will adopt the 2020 Model bylaws at your next earliest convenience.

Location of bylaws in local codes

In what part of the local code should a community place these floodplain bylaws?

This decision is up to the community, but the bylaws need to reside in an adopted and enforceable part of your codes (bylaws or ordinances.) You may gather them together under your Floodplain Overlay District section of your zoning bylaws, put them together in your wetlands bylaws, or other reasonable location where citizens and floodplain developers can find them. Some of these pertain to subdivisions, and may go in that section. Wherever the bylaws reside, we will need you to cite them for us when we review your code if we cannot find them.

What about towns that don't have wetlands bylaws?

Many communities put these bylaws in their zoning regulations, typically under a Floodplain Overlay District section.

If we address subdivisions and flood elevations in the Subdivisions Rules & Regulations, do we also need to include the subdivision language in our Floodplain Overlay District zoning bylaw?

The bylaws do not need to be duplicated in different parts of your local codes, but you will need to enforce them throughout your floodplains, so it would be best to put them where developers can find them for proposed projects.

Map references

How do we know whether to use the community or county map references section?

On your community's flood maps, the name of the community (town, city, or county) is shown on the title panel at the lower right corner. If you need assistance in making this determination, you can contact Eric Carlson at eric.carlson@mass.gov.

Do we still need to insert all the panel numbers and dates as we did before?

FEMA is no longer requiring that each map panel be separately referenced. The date of the Index (of maps) and the Flood Insurance Study must each be referenced. Using the provided bylaw text should make this easy.

Legal purpose bylaws

What if we have these (abrogation/ greater restriction, disclaimer of liability, severability) in a different part of our local codes? Do we have to move or add them to the Floodplain Overlay District section?

No. As long as you can cite them from an enforceable part of your adopted code, they can stay right where they are. No need to add to another section.

Floodplain Administrator (FPA)

Can a Floodplain Administrator be designated as more than one position?

No. The purpose of designating an FPA is so that both FEMA and the state will have one contact for the community for communication regarding NFIP and floodplain matters. While we understand that best practice floodplain management means that an integrated team of people will review and enforce floodplain development, we will still need the position (and thereby the name, title, and contact information) of your designated FPA.

For FPA, is it acceptable for a community to designate an entire board or committee?

No, it's not acceptable for an entire board or committee to be the FPA. You may, however, designate the head of that group as the FPA, or perhaps the staff contact for the group.

Does the floodplain administrator need to be a Certified Floodplain Manager (CFM)?

No, but that's a worthy goal as this certification indicates both the person's and the community's desire to put forth the best floodplain management possible. Also, there are additional points for a CRS community that has certified staff.

Can you define the role of the Administrator more specifically?

The role of the FPA is more fully explained in the 2020 Model Bylaw, section 4.

Variances

Which communities have the authority to issue a variance to the state building code? How do we know if we are one of them?

There are very few. These communities have local Building Code Appeals Boards (in contrast to a Zoning Code Appeals Board.) If you aren't sure, you're probably not one of them. To find out, contact the staff at the Board of Building Regulations and Standards: Dan Walsh, Chief of Inspections, 617-826-5236 or dan.p.walsh@mass.gov

If building code variances are issued by the state, why is the town held responsible?

The community is not held responsible for actions by the state. The variance sections found in the 2020 Model Bylaw are there to assure that 1) the community is aware of the request for a variance from floodplain regulations; 2) if the variance is granted, that the community notify the applicant in writing that there may be increased flood risk associated with the variance, and an increase in annual flood insurance premiums; and 3) the community documents the variance and notification in their permit files for future reference.

Would allowing a variance disqualify a community from the Community Rating System?

The allowance of a variance does not disqualify a community from the Community Rating System (CRS.) A pattern of allowing frequent or unjustified variances may impact a community's standing in the NFIP (and therefore CRS), however, and may be investigated in order to find a way to reduce this practice. If the state is approving the variances, the state will be involved in such an inquiry.

Is a variance also required from the ordinance/bylaw itself?

Yes, if the variance is to the floodplain development regulations found in your local code. See the explanation for bylaw #9 in the Model, section 4.

Permit for all development

The suggested bylaw states that the community will require "a permit for all proposed construction or other development in the floodplain..." Does this mean that we have to institute a new permit form and fees for things other than the building code?

Not necessarily. Different communities use different methods to assure that all floodplain development is reviewed. The intention here is to assure that all development in the floodplain is reviewed by the community, using whatever tools the community deems best for this practice. For example, some communities use an integrated online review tool for every activity in their floodplains. Others use a checklist showing that pertinent departments and boards have signed off on the development as proposed. You may develop or use a form if that best fits your needs—whatever assures that appropriate review is being conducted for all development in the floodplain. Please see the NFIP definition of "development" in the Model to understand the reach of this bylaw.

Can things like fences and driveways be permitted through a building permit, rather than a special permit?

Your local building official knows which things can be permitted through the building code. Paving is generally covered under local bylaws; some communities put these in their zoning regulations and some in their stormwater management plans. If the pavement is to be placed where it will impact a resource area, the conservation commission will most likely need to review the proposal to determine its impact on area resources including the floodplain. However your community reviews these development types, the review needs to be documented.

Do solar arrays need to be permitted?

If the development (e.g. proposed solar arrays) is in the floodplain, then yes—it needs to be fully reviewed using some kind of documentable process such as described above.

All permits must be acquired

How do we know what other permits would apply to a particular development?

There is currently no complete checklist for permits required, but relevant state and federal agencies can help you determine what permits might be required. Here are a few suggestions:

MA Office of Coastal Zone Management (CZM) can assist with understanding coastal permits: <https://www.mass.gov/orgs/massachusetts-office-of-coastal-zone-management>

MA Dept. of Environmental Protection regional coordinators can advise on soil, water and air quality permits: <https://www.mass.gov/orgs/massachusetts-department-of-environmental-protection> DEP can also advise for mining, dredging and drilling operations, as well as federal permits required by the EPA.

The US Army Corps of Engineers has permits for some work in waterways and tidal wetlands: <https://www.usace.army.mil/> CZM will often know about these, too.

Who is responsible to get these permits?

The applicant is responsible to get the permits, but this bylaw states that the community will assure that the necessary permits are obtained for all development in the floodplain.

More restrictive codes—compensatory storage vs. hydrologic & hydraulic study-- Floodway Encroachments

Is the NFIP requirement more restrictive than the MA Wetlands Protection Act for compensatory storage in the floodplain?

Possibly. The Wetlands Protection Act requires that *“Compensatory storage shall be provided for all flood storage volume that will be lost as the result of a proposed project within Bordering Land Subject to Flooding...”* [310 CMR 10.57(4)(a)]

The NFIP requires that the developer prove that a) in floodplains without a regulatory floodway, the development will cause no more than one foot of rise in the base flood, or b) in regulatory floodways the development will cause absolutely no rise in the base flood. This certification needs to be demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice. For more information, see the Model, section 4, item 15, or contact the state or FEMA references at the bottom of this document.

Submitting technical data & watercourse alteration notifications

What's the difference between these two bylaws? (See bylaws #7 and #16 in the Model)

Bylaw #7 regards the submission of new technical data that the community may have about the floodplain maps. This needs to go to FEMA for their files. Bylaw #16 regards changes in a watercourse (if this is allowed to happen in a community)—this information needs to be shared with adjacent communities and FEMA for their awareness. In both cases, the information should be copied to the state NFIP coordinator. See section 4 of the model for further explanation.

How do you define watercourse alteration?

A watercourse is any natural channel conveying water such as a river, stream, or creek. The alteration of this might include such practices as channelization, culverting, diversion or even daylighting a stream that was previously channeled underground.

Does the watercourse alteration bylaw apply when changing a water course in land subject to coastal storm flowage?

This bylaw (#16) is specifically for riverine situations, but if changes will affect up or downstream neighbors, these should still be notified. And of course, if there is new technical data involved, this would be submitted to FEMA under bylaw #7, Requirement to submit new technical data.

Does this only apply to watercourses within the mapped flood zones?

Good question! Most watercourses will be found in the mapped floodplain, but yes, in any case the alteration of a watercourse must be notified as written in the bylaw requirement.

Local Enforcement

Is there model language for bylaws item #20 on local enforcement?

No. A community can describe their process of local enforcement, but many of those “pieces” are found in existing codes such as the building code. Please see the explanation for this in section 4 in the Model.

What about towns that don't have non-criminal disposition to be able to issue fines?

Even if your community has not adopted the provisions of Mass General Law chapter 40, section 21D (non-criminal disposition), you must still be able to levy some type of penalty for non-compliant floodplain development. The NFIP community should work with their attorney to assure that non-compliant floodplain development will be addressed through both violation notifications and penalties. *"The NFIP requires that the floodplain management ordinance be legally enforceable and enforced uniformly throughout the community."* [44 CFR 60.1(b)]

Recreational Vehicles

Is recreational vehicle defined? Would it apply to food trucks?

Yes, the definition for a recreational vehicle is found in section 3 of the Model. Since part of the definition includes *"designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use,"* a food truck may or may not be considered a recreational vehicle.

Is there a difference between a recreational vehicle and a park model?

Typically a park model is treated like a manufactured home, and would need to be installed on a permanent foundation. The primary concern with a park model is that to fit under the definition of recreational vehicle, it must be self-propelled or towable by a "light-duty truck." A light-duty truck is a United States designation for trucks and vehicles that have a gross vehicle weight of up to 8500 pounds and payload capacities of up to 4000 pounds.

[<https://www.epa.gov/moves/how-does-moves-define-light-duty-trucks>]

Is there a grandfather clause for recreational vehicles?

No. All RVs must be either installed on a permanent foundation (as would a manufactured home), or be highway ready.

What about an RV sales operation?

Great question. In most cases the RV dealership will have temporary tags so they can move the RVs (hopefully all in good operating order!) out of the floodplain should a flood alert be issued. This type of development is storage in the floodplain and should be permitted as such.

Protection of dunes

If we don't have dunes do we have to include the #19 bylaw about dunes?

No.

Definitions

Since these definitions seem to come primarily from the federal code, could we simply reference that code instead of adopting in local bylaw/ordinance?

No. The definitions have been in the federal code for more than four decades, but there have been many instances where local folks don't seem to be aware of them. Many other states require a much longer list of definitions (e.g. Florida), but we've slimmed down the list to those that are critical to compliant floodplain management.

The definition of structure does not appear to include decks or carports because they don't have walls and roofs. Correct?

Correct, although if a deck or carport is attached to a structure then it would be a part of the structure. A self-standing deck or carport would not necessarily be a structure, per this definition, although these are still considered to be development.

If we do not have the Flood Boundary & Floodway Map (FBFM) or the Flood Hazard Boundary Map (FHBM), do we have to include these definitions?

If you do not have these types of map as your current effective maps, then you do not need to include these terms in your list of definitions.

Subdivisions

Please provide some guidance regarding Approval Not Required (ANR) plans, as we have limited control and some can be over 5 acres. Right now we cannot treat these as a subdivision.

Even though you do not treat ANR dispositions as subdivisions, if the structure or other development in the ANR is sited in a regulated floodplain you will need to apply all of the requirements for flood resistant construction and drainage, just as you would for any other development in the floodplain.

Tentative Schedule for Zoning – May Special Town Meeting

Tuesday February 25, 2025 - Finalize language for legal notice

Planning Board to finalize language to include in legal notice

Vote to send language to Select Board

Friday March 7, 2025 – Send legal notice to the newspaper

Tuesday March 11, 2025 – Select Board refer back zoning article to Planning Board

Thursday March 13, 2025 – Post notice with Town Clerk, first run in newspaper

Thursday March 20, 2025 – second run in paper

Thursday March 27, 2025 – Planning Board Hearing date special meeting

Thursday April 3, 2025 – finalize language at Planning Board meeting special meeting

** (assumption that meeting Tuesday of this week would not provide sufficient time to revise any language changes out of hearing, but if it would – we can keep Tues. April 1, 2025)

Wednesday April 9, 2025 (or earlier) – final language for warrant to Myles.

Monday May 12, 2025 – Special Town Meeting date

760 CMR 71.00: PROTECTED USE ACCESSORY DWELLING UNITS

Section

- 71.01: Statement of Purpose
- 71.02: Definitions
- 71.03: Regulation of Protected Use ADUs in Single-Family Residential Zoning Districts
- 71.04: ~~Annual Updates~~Data Collection

71.01: Statement of Purpose

- (1) St. 2024, c. 150, § 8 amends M.G.L. c. 40A, § 3 to encourage the production of accessory dwelling units throughout the Commonwealth with the goal of increasing the production of housing to address statewide, local, and individual housing needs for households of all income levels and at all stages of life.
- The Executive Office of Housing and Livable Communities is the regulatory agency that is authorized by St. 2024, c. 150, § 8 to promulgate 760 CMR 71.00 ~~and accompanying guidelines~~ that establish rules, standards and limitations that will assist Municipalities and landowners in the administration of St. 2024, c. 150, § 8.
- (2) St. 2024, c. 150, § 8 and 760 CMR 71.00 seek to balance municipal interests in regulating the use and construction of ADUs while empowering property owners to add much needed housing stock to address the Commonwealth’s housing needs. St. 2024, c. 150, § 8 establishes that in certain circumstances the use of land or structures for ADUs are protected from zoning restrictions by providing that zoning shall not prohibit, unreasonably restrict or require a special permit or other discretionary zoning approval for the use of land or structures for a single ADU, or the rental thereof, in a single-family residential zoning district, and imposes protections on ADUs through M.G.L. c. 40A, § 3, the Dover Amendment. The Act balances protection for these ADUs by authorizing municipalities to impose reasonable regulations on the creation and use of ADUs. St. 2024, c. 150, § 8, however, explicitly prohibits municipalities from imposing requirements on protected accessory dwelling units that require owner-occupancy of either the ADU or the principal dwelling and imposes limitations on Municipal parking requirements.
- (3) 760 CMR 71.00 establishes definitions, standards, and limitations to assist in the local administration of M.G.L. c. 40A, § 3, para. 11, pursuant to St. 2024, c. 150, § 8. Nothing in 760 CMR 71.00 is intended to supersede state health and safety laws and regulations, such as, but not limited to the Building Code, Fire Code, M.G.L. c. 111, § 189A: Massachusetts Lead Law, or any federal laws. 760 CMR 71.00 may be further supplemented by guidelines issued by EOHLC.

71.02: Definitions

- Accessory Dwelling Unit (ADU). A self-contained housing unit, inclusive of sleeping, cooking and sanitary facilities on the same Lot as a Principal Dwelling, subject to otherwise applicable dimensional and parking requirements, that:
- (a) maintains a separate entrance, either directly from the outside or through an entry hall or corridor shared with the Principal Dwelling sufficient to meet the requirements of the ~~state building~~ Building Code for safe egress;
 - (b) is not larger in Gross Floor Area than ½ the Gross Floor Area of the Principal Dwelling or 900 square feet, whichever is smaller; and
 - (c) is subject to such additional restrictions as may be imposed by a municipality including, but not limited to, additional size restrictions, and restrictions or prohibitions on Short-term Rental as defined in section 1 of chapter 64G; provided, however, that no Municipality shall unreasonably restrict the creation or rental of an ADU that is not a Short-term Rental.
- Building Code. The Massachusetts state building code, 780 CMR.
- Bus Station. A location serving as a point of embarkation for any bus operated by a Transit Authority. ~~For routes that allow flag stop locations where passengers may signal for a bus to stop at any point along its designated route, the entire route shall be considered a Bus Station.~~

Commuter Rail Station. Any commuter rail station operated by a Transit Authority with year-round service with trains departing at regular time intervals, rather than intermittent, seasonal, or event-based service.

Design Standards. Clear, measurable and objective provisions of Zoning, or ~~regulations~~general ordinances or by-laws, which are made applicable to the exterior design of, and use of materials for an ADU.

Dwelling Unit. A single housing unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

EOHLC. The Executive Office of Housing and Livable Communities.

Ferry Terminal. The location where passengers embark and disembark from a ferry service with year-round service with ferries departing at regular time intervals, rather than intermittent, seasonal, or event-based service.

Fire Code. The Massachusetts state fire code, 527 CMR 1.00.

Gross Floor Area (GFA). The sum of the areas of all ~~floors~~stories of the building of compliant ceiling height pursuant to the Building Code, including basements, ~~cellars, mezzanine~~lofts, and intermediate floored tiers ~~and penthouses of headroom height~~, measured from the ~~exterior~~interior faces of exterior walls or from the centerline of walls separating buildings ,or dwelling units but excluding:-

~~(a) covered walkways, open roofed over crawl spaces, garage parking areas, attics, enclosed porches and similar spaces; and~~

~~(b) pipe trenches, exterior terraces or steps, chimneys, roof overhands and similar features.~~

Where there are multiple Principal Dwellings on the Lot, the GFA of the largest Principal Dwelling shall be used for determining the maximum size of a Protected Use ADU.

Historic District. A district in a Municipality established pursuant to M.G.L. c. 40C or other state law that is characterized by the historic or architectural significance of buildings, structures, and sites, and in which exterior changes to and the construction of buildings and structures are subject to regulations adopted by the Municipality pursuant to M.G.L. c. 40C or other state law; ~~as the case may be.~~

Lot. An area of land with definite boundaries that is used, or available for use, as the site of a ~~building~~structure, or ~~buildings~~structures, regardless of whether the site conforms to requirements of Zoning.

Modular Dwelling Unit. A pre-designed Dwelling Unit assembled and equipped with internal plumbing, electrical or similar systems prior to movement to the site where such Dwelling Unit is affixed to a foundation and connected to external utilities; or any portable structure with walls, a floor, and a roof, designed or used as a Dwelling Unit, transportable in one or more sections and affixed to a foundation and connected to external utilities. ~~A Modular Dwelling Unit shall not include a manufactured home, such as those defined under M.G.L. c. 140, § 32Q.~~

Municipality. Any city or town subject to the provisions of M.G.L. c. 40A.

Principal Dwelling. A structure, regardless of whether it ,or the Lot it is situated on, conforms to Zoning, including use requirements and dimensional requirements, such as setbacks, bulk, and height, that contains at least one Dwelling Unit and is ,or will be, located on the same Lot as a Protected Use ADU.

Prohibited Regulation. Zoning ~~restrictions and/or general ordinances or by-laws, or~~ Municipal regulations that are prohibited pursuant to 760 CMR 71.03(2), ~~and as may be further provided for in EOHLC guidelines.~~

Protected Use ADU. An attached or detached ~~Accessory Dwelling Unit~~ ADU that is located, or is proposed to be located, on a Lot in a Single-family Residential Zoning District and ~~no other Accessory Dwelling Unit is located on said Lot and which is~~ protected ~~from Prohibited Regulations and Unreasonable Regulations pursuant to~~ by M.G.L. c. 40A, § 3, provided that only one ADU on a lot may qualify as a Protected Use ADU~~para. 11 and 760 CMR 71.00. An ADU that is nonconforming to Zoning shall still qualify as a Protected Use ADU if it otherwise meets this definition.~~

Short-term Rental. Short-term rental, as defined in M.G.L. c. 64G, § 1.

Single-family Residential Dwelling. A structure on a Lot containing not more than one Dwelling Unit.

Single-family Residential Zoning District. Any Zoning District where Single-family Residential Dwellings are a permitted or an allowable use, including any Zoning District where Single-family Residential Dwellings are allowed as ~~of-right or, by~~ Special Permit, variance, waiver, or other zoning relief or discretionary zoning approval.

Site Plan Review. A ~~clear and objective~~ process established by local ordinance or by-law by which a Municipal board or authority may review and impose ~~reasonable~~ terms and conditions on, the appearance and layout of a proposed use of land or structures prior to the issuance of a building permit.

Special Permit. A permit issued by a Municipality's special permit granting authority pursuant to M.G.L. c. 40A, § 9.

Subway Station. Any of the stops along the Massachusetts Bay Transportation Authority Red Line, Green Line, Orange Line, Silver Line, or Blue Line, including any extensions or additions to such lines.

Transit Authority. The Massachusetts Bay Transportation Authority established by M.G.L. c. 161A, § 2 or other local or regional transit authority established pursuant to M.G.L. c. 161B, § 3 or M.G.L. c. 161B, § 14.

Transit Station. A Subway Station, Commuter Rail Station, Ferry Terminal, or Bus Station.

Unreasonable Regulation. Zoning ~~restrictions and/or general ordinances or by-laws, or~~ Municipal regulations that are unreasonable pursuant to 760 CMR 71.03(3)(b) ~~and as may be further provided for in EOHLG guidelines.~~

Use and Occupancy Restrictions. A Zoning restriction, Municipal regulation, covenant, agreement, or a condition in a deed, zoning approval or other requirement imposed by the Municipality that limits the current, or future, use or occupancy of the Protected Use ADU to individuals or households at a specified based upon the characteristics of, or relations between, the occupants, such as but not limited to, income, or age, familial relationship, enrollment in an educational institution, or that ~~imposes conditions that limit future use or occupancy of a Protected Use ADU based on income or age or, that imposes any similar use and occupancy restriction as may be further provided for in EOHLG guidelines~~ limits the number of occupants beyond what is required by applicable state code.

Zoning. Ordinances and by-laws, including base, underlying, and overlay zoning, adopted by ~~Municipalities cities and towns pursuant to M.G.L. c. 40A~~ to regulate the use of land, buildings and structures, including base, underlying, and overlay zoning to the full extent of the independent constitutional powers of cities and towns to protect the health, safety and general welfare of their present and future inhabitants.

Zoning District. A geographic area within a Municipality which, pursuant to Zoning, ~~are is~~ subject to use and structure requirements that are generally uniform ~~throughout within~~ the area.

71.03: Regulation of Protected Use ADUs in Single-family Residential Zoning Districts

(1) Municipalities shall not prohibit, impose a Prohibited Regulation or Unreasonable Regulation, or, except as provided under 760 CMR 71.03(5) ~~and 760 CMR 71.03(6)~~, require a special permit, waiver, variance or other zoning relief or discretionary zoning approval for the use of land or structures for a Protected Use ADU, including the rental thereof, in a Single-family Residential Zoning District; provided that Municipalities may reasonably regulate a Protected Use ADU, subject to the limitations under 760 CMR 71.03(2) ~~through 760 CMR 71.03(5), inclusive.~~

(2) Prohibited Regulation. A Municipality shall not subject the use of land or structures on a Lot for a Protected Use ADU to any of the following:

- (a) Owner-Occupancy Requirements. A requirement that either the Protected Use ADU or the Principal Dwelling be owner-occupied.
- (b) Minimum Parking Requirements. A requirement of, as applicable:
 - 1. More than one additional on-street or off-street parking space for ~~each a~~ Protected Use ADU ~~on a Lot~~ if all portions of ~~such its~~ Lot are located outside a 0.5-mile radius of a Transit Station; or
 - 2. Any additional on-street or off-street parking space for ~~each a~~ Protected Use ADU ~~on a Lot~~ if any portion of ~~such its~~ Lot is located within a 0.5-mile radius of a Transit Station.
- (c) Use and Occupancy Restrictions. A requirement that a Protected Use ADU be subject to a Use and Occupancy Restriction.
- (d) Unit Caps & Density. Any limit, quota or other restriction on the number of Protected Use ADUs that may be permitted, constructed, or leased within a Municipality or Zoning District. Protected Use ADUs shall not be counted in any density calculations.
- (e) Relationship to Principal Dwelling. A requirement that a Protected Use ADU be attached to or detached from the Principal Dwelling.

(3) Unreasonable Regulation.

- (a) A Municipality may reasonably regulate and restrict Protected Use ADUs provided that any restriction or regulation imposed by a Municipality shall be unreasonable if the regulation or restriction, when applicable to a Protected Use ADU:
 - 1. Does not serve a legitimate municipal interest sought to be achieved by local ~~Z~~zoning;
 - 2. Serves a legitimate ~~M~~municipal interest sought to be achieved by local ~~Z~~zoning but its application to a Protected Use ADU does not rationally relate to the legitimate ~~M~~municipal interest; or
 - 3. Serves a legitimate ~~M~~municipal interest sought to be achieved by local ~~Z~~zoning and its application to a Protected Use ADU rationally relates to the interest, but compliance with the regulation or restriction will:
 - a. Result in complete nullification of the use or development of a Protected Use ADU;
 - b. Impose excessive costs on the use or development of a Protected Use ADU without ~~significant gain insignificantly~~ advancing the ~~M~~municipality's legitimate interest; or
 - c. Substantially diminish or interfere with the use or development of a Protected Use ADU without appreciably advancing the ~~M~~municipality's legitimate interest.

(b) ~~For the purposes of 760 CMR 71.03(3), the following restrictions and regulations shall be considered unreasonable when applicable to a Protected Use ADU. Municipalities shall apply the analysis articulated in 760 CMR 71.03(3)(a) to establish and apply reasonable Zoning or general ordinances or by-laws, or Municipal regulations for Protected Use ADUs, but in no case shall a restriction or regulation be found reasonable where it exceeds the limitations, or is inconsistent with provisions, described below, as applicable:~~

1. Design Standards. Any Design Standard that:
 - a. ~~Would~~ not be applied to a Single-~~f~~Family Residential Dwelling in the Single-family Residential Zoning District in which the Protected Use ADU is located or
 - b. ~~Is~~ so restrictive, excessive, burdensome, or arbitrary that it prohibits, renders infeasible, or unreasonably increases the costs of the use or construction of a Protected Use ADU.
2. Dimensional Standards. Any requirement concerning dimensional ~~standards, such as dimensional~~ setbacks, ~~lot size,~~ lot coverage, open space, ~~and the bulk and height, and number of stories, of structures~~ that are more restrictive than ~~what~~ is required for the Principal Dwelling, or a Single-family Residential Dwelling or accessory structure in the ~~Single-family Residential~~ Zoning District in which the Protected Use ADU is located, whichever results in more permissive regulation, provided that a Municipality may not require a minimum Lot size for a Protected Use ADU.
3. Utilities, Safety, and Emergency Access. Any requirement concerning utilities, safety and emergency access that is more restrictive than is permitted by state requirements, including under the Fire Code. A Municipality may not require a separate utility connection, such as water, sewer, electric, provided that a separate connection may be required by a Municipal or regional utility, investor-owned utility; by state law; by a local, regional, or state board or commission; or by court order.
4. Environmental Regulation. Any regulation for the protection of public health, safety, welfare and the environment pursuant to 310 CMR 15.000: *The State Environmental Code, Title 5: Standard Requirements for the Siting, Construction, Inspection, Upgrade and Expansion of On-site Sewage Treatment and Disposal Systems and for the Transport and Disposal of Septage*, that is more restrictive than is required for a Single-family Residential Dwelling in the Zoning District in which the Protected Use ADU is located.
5. Site Plan Review. ~~Any requirement under~~ Site Plan Review concerning the Protected Use ADU that is not clear and objective or imposes terms and conditions that are unreasonable or inconsistent with an as-of-right process as defined in M.G.L. c. 40A, § 1A. more restrictive than those applied to the Principal Dwelling.
6. Impact Analysis, and Studies, and Fees. Any requirement ~~under Zoning or Site Plan Review~~ for any impact analysis, study, or report, or impact fee that is not required for the development of a Single-~~f~~Family Residential Dwelling in the Single-family Residential Zoning District in which the Protected Use ADU is located.
7. Modular Dwelling Units. Any requirement that prohibits, regulates or restricts a Modular Dwelling Unit from being used as a Protected Use ADU that is more restrictive than the ~~Massachusetts state building code~~ Building Code.
8. Historic Districts. Municipalities may establish Design Standards and Dimensional Standards for Protected Use ADUs located in an Historic District that are more restrictive or different from what is required for a Single-family Residential Dwelling, or Principal Dwelling, in the Single-family Residential Zoning District; provided, however, that such standards are not unreasonable pursuant to 760 CMR 71.03(3)(a). Short-term Rentals. ~~Any restrictions or prohibitions on Short-term Rentals that are not consistent with M.G.L. c. 64G.~~
9. Pre-existing Nonconforming Structures. A Municipality may not prohibit the development of a Protected Use ADU in an existing structure or Principal Dwelling, or Lot due to nonconformance, that could be used for, or converted into, a Protected Use ADU in conformance with the Building Code, 760 CMR 71.00, and state law.

~~(c) Notwithstanding 760 CMR 71.03(b)1. and 760 CMR 71.03(b)2., a Municipality may establish Design Standards and dimensional standards for Protected Use ADUs located in an Historic District that are more restrictive or different from what is required for a Single-family Residential Dwelling in the Single-family Residential Zoning District; provided, however, that such standards are not so restrictive, excessive, burdensome, or arbitrary that it prohibits, renders infeasible, or unreasonably increases the costs of the use or construction of a Protected Use ADU.~~ Short-term Rentals. Municipalities may establish restrictions and prohibitions on the Short-term Rental of Protected Use ADUs pursuant to M.G.L. c. 64G.

~~(d) EOHLC may clarify and provide examples of what constitutes Unreasonable Regulations through guidelines.~~

(4) Enforceability of Restrictions and Regulations on Pre-existing ADUs. A Municipality shall not enforce any Prohibited Regulation or Unreasonable Regulation that was imposed as a condition for the approval of the use of land or structures for a Protected Use ADU prior to the effective date of 760 CMR 71.00, regardless of whether such Protected Use ADU complies with the Municipality's Zoning, including, but not limited to, use requirements and dimensional requirements, such as setbacks, bulk, and height.

(5) Special Permits for Multiple ADUs on the Same Lot. Notwithstanding 760 CMR 71.03(1), ~~Zoning shall require a Special Permit if a Municipality chooses to allow additional ADUs on the same Lot as a Protected use ADU in a Single-Family Residential Zoning District, Zoning shall require a Special Permit for the use of land or structures for for an ADU, or rental thereof, on a Lot on which a Protected Use ADU is already located~~the additional ADUs.

(6) Floodplain and Aquifer Protection Overlay Districts. Municipalities may require a Special Permit for development of a Protected Use ADU in a floodplain or aquifer protection overlay if required for the Principal Dwelling, provided that the Special Permit is based on clear, objective, and non-discretionary criteria.

(7) Nothing in these regulations is intended to prevent a Municipality from adopting more permissive Zoning, or general ordinances or by-laws, or Municipal regulations than would be allowed under 760 CMR 71.03.

(8) Address Assignment. All ADUs shall be assigned an address consistent with the most current Address Standard published by MassGIS. ADU addresses shall be reported to MassGIS and EOHLC after assignment.

71.04: Annual UpdatesData Collection

To assist EOHLC in the administration of M.G.L c. 40A, § 3, para 11, Municipalities shall keep a record of each ADU permit applied for, approved, denied, and issued a certificate of occupancy, with information about the address, square footage, type (attached, detached, or internal), estimated value of construction, and whether the unit required any variances or a Special Permit. Municipalities shall make this record available to EOHLC upon request.~~(1) Data Collection. To assist EOHLC in the administration of M.G.L c. 40A, § 3, para 11, Municipalities shall collect and maintain, at a minimum, the following data related to their permitting of ADUs, in a format specified by EOHLC:-~~

- ~~(a) The number of approved ADU permit applications, separately tabulated for attached and detached ADUs;-~~
- ~~(b) The number of denied ADU permit applications;-~~
- ~~(c) The number of occupancy permits issued for any ADU; and~~
- ~~(d) Other data or information as may be further provided for in EOHLC guidelines.~~

~~(2) Annual Report. To assist EOHLC in the administration of M.G.L c. 40A, § 3, para 11, Municipalities shall annually submit a report to EOHLC not later than March 31st containing the data collected under 760 CMR 71.04(1) during the prior calendar year. Said report shall be filed on a form as prescribed by EOHLC and shall contain all data as required therein.~~

REGULATORY AUTHORITY

760 CMR 71.00: M.G.L. c. 40A, § 3, para. 11; St. 2024, c. 150, § 8.

2025 Action Plan for MBTA Communities

Description Area	Please read the Section 3A Regulations before attempting to complete this form. This form must be submitted by Rapid Transit Communities that did not submit a district compliance application by December 31, 2023, and by Commuter Rail or Adjacent Communities that did not submit a district compliance application by December 31, 2024. Adjacent Small Towns, and communities that submitted district compliance applications by the applicable date do not need to submit a new Action Plan. This form must be submitted by a municipal official with authority to act on behalf of the municipality, and it must be accompanied by a signed statement on municipal letterhead including the following language: "It is the full intention of the [Town Administrator/Town Manager/Mayor] &nbsp;to take necessary actions to bring any zoning intended to comply with all requirements of G.L. c. 40A, Section 3A and 760 CMR 72 to a vote of [municipality's legislative body] in the timeframe described in this Action Plan, and to submit a District Compliance Application to EOHLC no later than July 14, 2025" For Towns: The statement must be signed by the Town Manager/Administrator For Cities: The statement must be signed by the Mayor&nbsp;
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Section 1: Identification

Description Area	The Section 3A regulations establish zoning metrics that apply uniquely to each MBTA community based on its local transit stations, existing housing stock, population, &nbsp;and developable land. &nbsp;This section of the Action Plan helps to identify the transit stations that determined each community's category. &nbsp;The MBTA Community Categories and Requirements sheet lists each municipality's community category, minimum multi-family unit capacity, and other requirements.&nbsp;
1.1 MBTA Community Name	Needham
1.2. Community Category	Commuter rail community
1.3. Multifamily Unit Capacity Requirement	1784
1.4. Does this municipality have any MBTA rapid transit stations within its boundaries?	No
1.5. Does this municipality have any MBTA commuter rail stations within its boundaries?	Yes

1.5a. Please list MBTA commuter rail stations that are located within the municipal boundaries	MBTA Station at Needham Center, MBTA Station at Needham Heights, MBTA Station at Needham Junction, and MBTA Station at Hersey.
1.6. Does this municipality have any other MBTA transit stations that are located outside of its municipal boundaries that may have "developable station area" within them?	No
1.7. Please provide the name of the person filling out this form	Lee Newman
1.7a. Title	Director of Planning and Community Development
1.7b. Email Address	lnewman@needhamma.gov
1.7c. Phone Number	(781) 455-7550 ext. 72270
1.8 Please provide the name of the municipal CEO	Kate Fitzpatrick
1.8b Mailing address of municipal CEO	Needham Town Hall 1471 Highland Avenue Needham, MA 02492
1.8c Email address of municipal CEO	kfitzpatrick@needhamma.gov
1.9. Please briefly describe other members of the core team developing the multi-family zoning district.	On the municipal staff side key members participating are: Kate Fitzpatrick, Town Manager, Katie King, Deputy Town Manager, Christopher Heep, Town Counsel, and Lee Newman, Director of Planning and Community Development. On the Town Board side both the Planning Board and Select Board will be actively involved. Participating from the Planning Board are: Natasha Espada, Artie Crocker, Paul Alpert, Adam Block and Justin McCullen. Participating from the Select Board are: Kevin Keane, Heidi Frail, Marianne Cooley, Cathy Dowd, and Joshua Levy.

Section 2: Housing Overview

2.1. To the best of your knowledge, does this municipality have any existing zoning districts that allow multi-family housing as of right, at at least 15 units per acre as measured in gross density?	Yes
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2.2. Does this municipality have any established housing related goals or strategies from municipal planning documents, such as a Housing Production Plan, Master Plan, or Economic Development Plan?

Yes

2.2a. Please briefly describe any relevant strategies, goals, or objectives, and the work that has been done to date.

In October 2022, the Needham Planning Board appointed a working group of representatives of local boards and committees as well as three citizens at large to prepare a Housing Plan. The Plan was completed in December 2023. Since the last housing plan was approved in 2007, the Town had made considerable progress in producing affordable housing by adding 894 new units to its Subsidized Housing Inventory (SHI) and surpassing the state affordability goal of 10%. Despite reaching the 10% threshold, the Town recognized that significant unmet housing needs remained in the community, particularly in the context of unprecedented housing prices.

The focus of the 2023 Housing Plan was to analyze updated information on demographic, economic and housing conditions, identify priority needs, and recommend actions to address these needs, also integrating substantial opportunities for community input. The Housing Plan includes 17 major actions and 8 additional recommendations for further study to better promote housing affordability and diversity in the community. Chief among these proposed strategies is compliance with MBTA Communities Guidelines under Section 3A of the Zoning Act as well as other zoning-related recommendations such as better promoting Accessory Dwelling Units (ADUs), adopting Town-wide inclusionary zoning, and better controlling teardown activity for example. Other key recommendations included support for the Needham Housing Authority's Preservation and Redevelopment Initiative (PRI) to upgrade its aging and antiquated properties with the prospect of expanding the number of units as well. Additionally, the Plan recommended actions to better integrate greater energy efficiencies in housing and build local and regional support and collaboration for housing production and preservation initiatives.

In September 2023, the Housing Needham (HONE) Advisory Group was established jointly by the Select Board and Planning Board. The group was tasked with leading the community engagement process to create multi-family zoning that complies with the MBTA Communities Act (MGL c.40A Section 3A). The group served as advisors to the Select Board and Planning Board on proposed zoning to bring to Town Meeting in 2024, informed by their individual expertise, group deliberations, and feedback received from the public. The Housing Needham (HONE) Advisory Group's charge was to: (1) Lead a broad public engagement effort for the Needham community to envision and shape zoning to allow multi-family housing that complies with the MBTA Communities Act. (2) Utilize the recommendations in the Town of Needham's 2022 Housing plan as a starting point. (3) Evaluate buildouts, projections, and analyses of fiscal, school enrollment, and infrastructure impacts provided by staff and consultants. (4) Consider related zoning elements that are allowed, but not required under the MBTA Communities Act, including but not limited to inclusionary zoning (affordable housing requirements) and parking minimums.

The HONE Advisory Committee met as an official group 17 times between September 2023 and April 2024. At three specific points in the process, HONE hosted public workshops to engage residents and other interested

participants to help formulate the MBTA Communities district scenarios and zoning parameters. They also delivered detailed presentations outlining how HONE deliberated and reached milestones throughout the process. In addition to the regular HONE meetings and the three public workshops, members of HONE and town staff met with other elected and appointed boards in Needham to keep them informed of the progress of the committee. This included meetings with the Select Board, Planning Board, and Finance Committee. There were also smaller forums to solicit input from specific groups such as a focus group with the Town's Council of Economic Advisors and development industry to better understand how proposed zoning changes may influence their decisions to invest in Needham.

HONE's charge was ultimately to recommend draft zoning language to the Select Board and Planning Board that would comply with the MBTA Communities Act and guidelines. Over the course of an eight-month period, HONE worked with town staff, the public, and the RKG consultant team to evaluate over a dozen different iterations of zoning districts and zoning parameters to create a recommendation that would both meet compliance with the law and be tailored to Needham's vision and goals for housing. In the end, HONE's recommendation included two compliant scenario options for the Select Board, Planning Board, and Town Meeting to consider. These scenarios are referred to as Base Compliance and Neighborhood Housing Plan (NHP). It is the Base Compliance Plan which the Town has now selected to advance for compliance under the MBTA Communities Act.

2.3. Is this municipality currently working on any other planning for housing?

Yes

2.3a. Please briefly describe the housing work underway.

In addition to making ongoing progress in complying with state MBTA Communities Guidelines under Section 3A, the Town is already involved in the implementation of a few of the proposed strategies included in the Housing Plan. These efforts include the Needham Housing Authority (NHA) Preservation and Redevelopment Initiative (PRI). This project will enable NHA to make essential improvements to its property inventory while also potentially yielding buildable lot areas for additional deeply affordable or more diverse income affordable housing. The PRI is focusing on the following major components through 2025: Seabeds/Cook - repairing and preserving the 76 deeply affordable units; Linden/Chambers - designing and gaining approvals of a Linden/Chambers Master Redevelopment Plan; and raising the construction funding and proceeding with a Linden/Chambers construction project to redevelop 32 old studio units on the north side of the property into approximately twice as many new one-bedroom units. The Linden/Chambers redevelopment project would result in an increase in the number of affordable housing units on the property from the current 152 units to 216 units, an increase of 64 units. NHA awarded the contract for Architecture/Engineering Designer Services for Linden/Chambers to Bargmann Hendrie + Archetype, Inc. in the amount of \$2,274,250. Needham CPA funding provided for \$1,384,000 of the contracted amount with the balance coming from State ARPA funding procured by Representative Denise Garlick. Moreover, NHA has submitted repositioning applications to HUD for the Seabeds Way and Captain Robert Cook housing developments.

2.4. Has this municipality's legislative ever voted on whether to adopt a zoning district intended to comply with Section 3A?

Yes

2.5. Has this municipality received state funding or consultant assistance from Massachusetts Housing Partnership (MHP) for technical assistance to support compliance with Section 3A?

No

Section 3: Preliminary Zoning Strategies

3.1. To the best of your knowledge, which of the following zoning strategies is this community most likely to use for compliance? (Select all that apply)

c. A new 40R or other overlay zoning district

3.1c. Please briefly describe the potential district and location. Optional: Attach any supporting documents that show planning work the community has already done for this district(s).

In response to the MBTA Communities Act, the creation of a new overlay zoning district called the "Multi-Family Overlay District (MFOD)" is proposed. This scenario is referred to as the "Base Compliance Plan." The Base Compliance Plan is presented under Articles 1 and 2 which are attached to this application for informational purposes. Article 1: Multi-Family Overlay District (Base Compliance Plan) creates a Multi-Family Overlay District and Article 2: Map Change for Multi-Family Overlay District (Base Compliance Plan) implements the zoning map change for the Base Compliance Plan by describing the geographical area of the Multi-Family Overlay District anticipated under Article 1. This scenario is intended to meet the compliance requirements of the MBTA Communities Law and proposes zoning that would allow for a total of 1,870 units.

The proposed zoning amendments under Article 1 would add a new Section 3.17 to the Zoning By-Law for the purpose of establishing the Multi-Family Overlay District. The purposes of this new overlay district include providing for multi-family housing as of right consistent with the requirements of the MBTA Communities Law. The proposed amendments will allow for multi-family housing within the overlay district that adheres very closely to the underlying zoning district boundaries and dimensional standards found in Needham's current Zoning By-Law. The overlay district will include multiple sub-districts (titled A-1, B, ASB-MF, CSB, HAB and IND), each of which will have its own set of applicable density and dimensional requirements as itemized in tables contained in the proposed amendments. The proposed amendments include parking standards, development standards, affordability requirements, and a process for site plan review that will apply to multi-family housing projects within the new overlay district. The proposed amendments also include revisions to Section 1.3 (Definitions) and Section 7.7 (Design Review) of the Zoning By-Law to address the addition of the new overlay district.

The proposed zoning amendments under Article 2 would amend the Zoning By-Law by amending the Zoning Map to add the "Multi-Family Overlay District" and the A-1, B, ASB-MF, CSB, HAB and IND sub-districts to be contained within the Multi-Family Overlay District. A copy of the MFOD Boundary Map detailing the "Multi-Family Overlay District" and the A-1, B, ASB-MF, CSB, HAB and IND sub-districts to be contained within the Multi-Family Overlay District is attached to this application.

3.2. What non-housing characteristics are important for this community to consider in its 3A zoning district?

The non-housing goals important to the Town of Needham in the implementation of a 3A zoning district are detailed below. The Town's desired development outcome from implementation of a 3A district are as follows:

1. A "complete" mixed-use neighborhood that is economically and socially sustainable- providing quality jobs, diverse housing opportunities, and a complementary mix of retail, dining, entertainment, and office uses.
 2. A public realm comprised of a safe and attractive system of streets, plazas, and park spaces that supports an active pedestrian environment and provides an attractive physical framework that seamlessly integrates a diverse array of existing and future buildings.
 3. An attractive, well-designed private realm that mixes new and old buildings in a compact pattern and scale of development that creates a well-defined, human-scale public environment and supports a dynamic mix of retail and complementary uses.
 4. A multi-pronged approach to sustainability that integrates land use, mobility, and design strategies to minimize environmental impact, reduce resource consumption, and prolong economic and social cohesiveness and viability, including policies that: promote compact mixed use development that creates more local jobs and housing within close walking distance; prioritize the creation of a retail district that will reduce residents' need to travel to other communities to meet their shopping needs, thereby reducing greenhouse gas emissions for local trips; and encourage transit and alternate modes of travel that reduce miles traveled via personal vehicle for those traveling from areas outside the local area to visit shopping destinations. In addition, guidelines and development standards for the district that promote green development strategies for new buildings, "green streets" and low-impact development for public infrastructure, and the reuse of existing buildings that will reduce the consumption of energy.
 5. A balanced and complete circulation network that accommodates the internal and external transportation needs of the area by promoting walking, biking, and transit while continuing to serve automobile traffic.
 6. Quality pedestrian facilities and amenities that create a safe and aesthetically pleasing environment that encourages walking and accommodates increased pedestrian activity.
 7. A bicycle network with safe and efficient connections to major destinations within the district and throughout the Town of Needham.
 8. Efficient but managed vehicle access in the district.
 9. Enhanced efficiency and effectiveness of transit in the district.
 10. A well-managed parking supply that supports district businesses and stimulates economic growth, while not promoting excessive driving.
-

Section 4: Action Plan Timeline

Description Area

This section creates a framework to input preliminary plans for a zoning adoption process. On the table below, please use Column 1 (from the left) to describe a task, Column 2 to input a start date, and Column 3 to input a finish date. Every community must provide a timeline for the below-listed tasks. Additional space is provided for any other tasks that a community wishes to list. EOHLC will review proposed timelines for feasibility before approving an Action Plan. Public outreach
Developing zoning
Applying EOHLC's compliance model to test for density and unit capacity
Holding planning board hearings
Holding legislative sessions and adopt compliant zoning
Submit District Compliance application to EOHLC

Description Area

Task

Description Area

Start

Description Area

Finish

Short Answer

Conduct Public Outreach.

Jan 21, 2025

May 16, 2025

Short Answer

Develop Zoning

Jan 21, 2025

Mar 14, 2025

Short Answer

Applying EOHLC's compliance model to test for density and unit capacity.

Jan 21, 2025

Mar 14, 2025

Short Answer

Holding planning board hearings.

Feb 13, 2025

Mar 04, 2025

Short Answer

Town Meeting Sessions to Adopt Zoning.

May 05, 2025

May 16, 2025

Short Answer

Submit District Compliance application to EOHLC.

May 23, 2025

Jun 06, 2025

Section 5: Signatures, Certifications, and Attestations

Description Area Please attach a signed statements by the municipal CEO, on municipal letterhead, including the following language:"I certify that it is my full intention as [municipal CEO title of municipality] to take necessary actions to bring any zoning intended to comply with all requirements of G.L. c. 40A, Section 3A and 760 CMR 72 to a vote of [municipality's legislative body] in the timeframe described in this Action Plan, and to submit a District Compliance Application to EOHLC no later than Jul 14, 2025"

File <https://www.formstack.com/admin/download/file/17496909911>

File <https://www.formstack.com/admin/download/file/17496909924>

RECEIVED

By Town Clerk at 11:32 am, Jan 07, 2025

NOTICE OF PUBLIC HEARING

Pursuant to Chapter 20 of the Acts of 2021, on March 29, 2023, Governor Healey signed into law An Act Extending Certain COVID-19 Measures Adopted during the State of Emergency. This Act includes an extension, until March 31, 2025, of the remote meeting provisions the previous administration's March 12, 2020, Executive Order. This meeting will be conducted via remote means. Members of the public who wish to access the meeting may do so by using the Webinar link below. No in-person attendance of members of the public will be permitted, but every effort will be made to ensure that the public can adequately access the proceedings in real time, via technological means. In the event that we are unable to do so, for reasons of economic hardship and despite best efforts, we will post on the Town website an audio or video recording, transcript, or other comprehensive record of proceedings as soon as possible after the meeting.

The Westwood Planning Board will hold a remote public hearing on **February 11, 2025 at 7:00 p.m. via Zoom** to consider the following proposed amendments to the Town of Westwood Zoning Bylaw and Official Zoning Map, and Town of Westwood General Bylaws.

The meeting will be filmed live by Westwood Media Center (WMC) available for viewing on Comcast channel 6, Verizon channel 42, and WMC's YouTube. Those wishing to participate are encouraged to use Zoom by following the link below or going to zoom.us and clicking on 'join meeting' before entering the meeting webinar ID.

Zoom Link: <https://us02web.zoom.us/j/85173015156?pwd=t3i2FTvolPuOT2v01iUD1JeoBEIufF.1>

Webinar ID: 851 7301 5156 **Passcode:** 362235

Or One tap mobile : +13017158592,,85173015156#,,,,*362235# US (Washington DC)
+13052241968,,85173015156#,,,,*362235# US

Or Telephone: Dial(for higher quality, dial a number based on your current location):

+1 301 715 8592 US (Washington DC) +1 305 224 1968 US +1 309 205 3325 US

+1 312 626 6799 US (Chicago) +1 646 931 3860 US +1 929 205 6099 US (New York)

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+1 564 217 2000 US +1 669 444 9171 US +1 669 900 6833 US (San Jose) +1 689 278 1000 US

+1 719 359 4580 US +1 253 205 0468 US +1 253 215 8782 US (Tacoma)

International numbers available: <https://us02web.zoom.us/j/85173015156?pwd=t3i2FTvolPuOT2v01iUD1JeoBEIufF.1>

Interested persons are encouraged to attend the public hearing via Zoom to make their views known. You may send written comments by email to eromulus@westwoodma.gov at least three business days in advance to allow time for receipt and distribution. Final meeting agenda and zoom information will be provided on Town's calendar on the homepage 3-5 days in advance at westwoodma.gov.

Article PB-1: Zoning Bylaw Amendments Relative to Accessory Apartments

To see if the Town will vote to approve certain amendments to Zoning Bylaw Section 8.5 [Accessory Apartments] and related sections of the Zoning Bylaw that reference Accessory Apartments; or take any other action in relation thereto.

Article PB-2: Zoning Bylaw Amendments Relative to Affordable Housing

To see if the Town will vote to approve certain amendments to Zoning Bylaw Section 2.0 [Definitions] and related sections of the Zoning Bylaw that reference Affordable Housing or Affordable Dwelling Units; or take any other action in relation thereto.

Article PB-3: Zoning Bylaw Amendments Relative to Underlying Zoning District Designation of Parcel on Providence Highway

To see if the Town will vote to approve certain amendments to the Official Zoning Map to change the zoning designation of the parcel shown on Assessor's Map 24 as Lot 74, also known as 216-310 Providence Highway, from Single Residence B (SRB) to Highway Business (HB); or take any other action in relation thereto.

RECEIVED

By Town Clerk at 11:32 am, Jan 07, 2025

Article PB-4: Zoning Bylaw and/or Zoning Map Amendments Relative to Mixed-use Multi-family Residential Overlay District

To see if the Town will vote to approve certain amendments to Zoning Bylaw Section 9.9 [Mixed-use Multi-family Residential Overlay District (MUMFROD)] and/or certain amendments to the Official Zoning Map to expand one or more MUMFROD overlay districts, as may be necessary to obtain compliance with the MBTA Communities Law; or take any other action in relation thereto.

Article PB-5: Zoning Bylaw and/or Zoning Map Amendments Relative to Flexible Multiple Use Overlay District (FMOUD), Administrative-Office-Research (ARO) Zoning District, and/or Zoning Overlay Designation of Parcel on East Street

To see if the Town will vote to approve certain amendments to Zoning Bylaw Section 9.5 [Flexible Multiple Use Overlay District (FMUOD)] to alter uses permitted in various FMUOD Overlay Districts, and/or certain amendments to Section 4.1.5 [Principal Use Table – Commercial Uses] to alter the commercial uses permitted by right or by special permit within the Administrative-Office-Research (ARO) District, and/or certain amendments to the Official Zoning Map to expand one or more FMUOD overlay districts to include the parcel shown on Assessor's Map 17 as Lot 160, also known as 131 East Street; or take any other action in relation thereto.

Article PB-6: Housekeeping Amendments

To see the Town will vote to approve certain housekeeping amendments to various sections of the Westwood Zoning Bylaw and/or the Official Zoning Map as may be necessary to correct errors or inconsistencies and clarify such sections, which may be discovered prior to the conclusion of the public hearing; or take any other action in relation thereto.

Article PB-7: Zoning Bylaw Amendments Relative to Major Business Development (MBD)

To see if the Town will vote to delete Zoning Bylaw Section 7.2 [Major Business Development (MBD)] and amend related sections of the Zoning Bylaw that reference Major Business Development or MBD, or take any other action in relation thereto.

The complete text and material are available for viewing on the Town's website under the Planning Division's "Zoning Amendments" webpage at

<https://www.townhall.westwood.ma.us/departments/community-economic-development/zoning-amendments>. Interested persons are encouraged to attend the public hearing via Zoom to make their views known to the Planning Board. The final meeting agenda and zoom information will be provided on the Town's meeting calendar on the website 3-5 days in advance at:

<https://www.townhall.westwood.ma.us/>.

Westwood Planning Board

Hometown Weekly Advertising Dates: Thursday January 16, 2025 and Thursday, January 23, 2025

From: [Amanda Berman](#)
To: [Planning](#); [Alexandra Clee](#)
Subject: re: Planning Board's MBTA Act vote last night
Date: Thursday, January 23, 2025 8:18:23 AM

Hi Alex,

I can't get the form online to work. Would you be able to share my email below with the Planning Board?

Please let me know.

Thank you,
Amanda Berman

Dear Members of the Planning Board,

I read this morning that the Planning Board voted last night to support the base plan at a May Town Meeting. I am so disappointed by this. After years of town and state dollars being spent on housing studies, needs assessments, community engagement, the formation of resident and town-staff working groups, feasibility analyses, etc., I am shocked that the Board would support a plan that we know doesn't provide the incentives needed to make a meaningful impact on our town's and region's need.

While I understand the No vote won the referendum, there was a substantial amount of voters who voted Yes, not to mention that Town Meeting voted for the Neighborhood Housing Plan in October. I can't understand or support the Planning Board's decision to ignore these important facts. Given the carrot that the state offered us with an extended July deadline, we have the time and the resources to find a middle-ground plan that would more effectively meet the true spirit of the MBTA Act, as well as the desires of more Needham residents, rather than just those that vehemently opposed the NHP.

I truly hope the Planning Board will openly consider amendments to the plan in time for Town Meeting in May. To simply put forward a plan that is only minimally compliant is the wrong path forward - a compromise that the town does not have to make.

Please respond.

Thank you,
Amanda Berman
323/605-2266

From: [JEAN PACKARD](#)
To: [Selectboard](#); [TownClerk](#); [Planning](#); [Office of the Town Manager](#)
Subject: Base Plan
Date: Tuesday, January 21, 2025 2:21:40 PM

Select Board, Planning Board, Town Meeting Members & Town Manager,
The town voted during the special election and voted handily to overturn the proposed plan that exceeded the the approved base plan. Please follow the vote and move to reinstating the already approved plan. No time is needed to explore other options. Heed the will of the town vote and revote the already approved plan!
Jeanne & Scott Packard

From: [Chris Mooney](#)
To: [Planning](#)
Cc: [Office of the Town Manager](#); [TownClerk](#)
Subject: Regarding the Needham Referendum Vote
Date: Tuesday, January 21, 2025 2:37:04 PM

January 21, 2025

Dear Members of the Planning Board:

I write to urge you to move the Base Compliance Plan (“Base Plan”) forward for a Special Town Meeting without delay.

On Tuesday, January 14, Needham voters rejected the “Neighborhood Housing Plan,” sending a clear mandate from the community. Elected board members should not disregard the will of the voters. The “Base Plan” was overwhelmingly supported at the Fall Town Meeting and should be enacted as approved.

We look forward to confirmation at the January 21, 2025 select Board and Planning Board meetings.

A Special Town Meeting should be scheduled for February 24, as promised.

As your constituents, we trust you will uphold the will of the voters.

Sincerely,

Christopher Mooney
41 Lexington Ave
Needham. MA 02494

From: [JT](#)
To: [Office of the Town Manager](#); arthur.cantor@cbrealty.com; traubsimon0@gmail.com; [Selectboard](#); [Planning](#)
Subject: RE: Needham Referendum Vote - Question for Select Board
Date: Thursday, January 23, 2025 11:13:40 AM
Attachments: [image002.png](#)

Dear Kate, Myles and Select Board,

Thanks for your follow up with details of how the Town will move forward on the MBTA Zoning plan.

Arthur & I watched the Select Board Meeting on Zoom Tuesday night (Jan 21st).

In response to Heidi Frail's question "why do Needham residents express distrust of the Select Board, and continue to distrust the process?" we ask:

Why did Heidi advocate so strongly for the "Yes" vote, instead of acting as a neutral facilitator of the discussion? In her role on the Select Board, does she have a duty to represent all the residents of Needham?

It doesn't help that Greg Reibman wrote this morning in his blog "Heidi Frail, who gallantly lead the effort to pass a bolder plan..." Is this appropriate behavior for a Select Board member?

We are curious to learn more about the responsibilities of the SelectBoard from your answer. Maybe the Select Board is allowed to be biased to one point of view and only present information that supports thier biased point of view. It doesn't align with the Needham's often stated goal of "diversity and inclusion."

thank you,

Julie Traub, Arthur Cantor, Simon Traub

On 01/22/2025 1:26 PM EST Office of the Town Manager
<otm@needhamma.gov> wrote:

Dear Julie, Arthur, and Simon:

Thank you for your e-mail.

Last night, both the Select Board and Planning Board voted to support the submission of an action plan for interim compliance to the Executive Office of Housing and Livable Communities, which shall consist of advancing the **Base Compliance Plan** to the 2025 Annual Town Meeting. Additionally, the Planning Board voted to submit to the Select Board the set of zoning amendments known as the **Base Compliance Plan** to initiate the process of bringing these bylaw changes back to Town Meeting.

In December 2024, the Select Board considered a timeline to allow the Town to achieve compliance with the MBTA Communities Act as soon as possible if the zoning was repealed at the January 14th election. At that time, the deadline for the Town to achieve final compliance was December 31, 2024. Accordingly, the Town's planning for

the referendum included a timeline that would allow it to present an alternative compliance plan to Town Meeting as soon as possible after the election, if the zoning was repealed. February 24th was identified as the earliest date to hold that Town Meeting.

The deadlines for the Town to achieve interim and final compliance with the MBTA Communities Act have now changed: The Executive Office of Housing and Community Development released emergency regulations at approximately 4:00 p.m. on January 14, 2025, and these regulations became effective immediately. The emergency regulations change the prior compliance deadline noted above, and the Town now has until February 13, 2025 to achieve interim compliance with the MBTA Communities Act and until July 14, 2025 to achieve final compliance. The emergency regulations therefore offered a new path to compliance that had not existed before January 14, 2025, which is that the Town might adopt MBTA zoning at the Annual Town Meeting in May and timely achieve final compliance before the new deadline in July.

After reviewing the emergency regulations and consultation with the Town Moderator, I recommended and the Select Board voted to place the Base Compliance Plan on the warrant for the Annual Town Meeting. This is consistent with the regular practice of our government. The Town is prepared to submit an action plan this week, to achieve interim compliance upon EOHLC's review.

Kate



Kate Fitzpatrick, [ICMA-CM](#)

Town Manager

Town of Needham

Needham Town Hall

1471 Highland Avenue

Needham, MA 02492

www.needhamma.gov

Office: (781) 455-7500 ext. 0

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From: JT <traub@comcast.net>

Sent: Monday, January 20, 2025 10:48 AM

To: Selectboard <Selectboard@needhamma.gov>; Planning
<planning@needhamma.gov>

Cc: arthur.cantor@cbrealty.com; Office of the Town Manager
<OTM@needhamma.gov>; TownClerk <TownClerk@needhamma.gov>;
traubsimon0@gmail.com

Subject: Needham Referendum Vote - Respect Your Constituents

January 20, 2025

Subject: **Needham Referendum Vote**

Dear Members of the Select Board and Planning Board,

We write to urge you to move the Base Compliance Plan ("Base Plan") forward for a Special Town Meeting without delay.

Please "reply all" to the three voters sending you this email. If you do not reply, then we know you are not listening to your voters.

On Tuesday, January 14, Needham voters rejected the "Neighborhood Housing Plan," sending a clear mandate from the community. Elected board members should not disregard the will of the voters. The "Base

Plan” was overwhelmingly supported at the Fall Town Meeting and should be enacted as approved. We look forward to confirmation at the January 21, 2025 select Board and Planning Board meetings.

A Special Town Meeting should be scheduled for February 24, as promised.

As your constituents, we trust you will uphold the will of the voters.

Sincerely,

Julie Traub & Arthur Cantor, Simon Traub

17 Hasenfus Circle

Needham, MA

From: [jim mclaughlin](#)
To: [Selectboard](#)
Cc: [Planning; Office of the Town Manager; towmclerk@needhamma.gov](#)
Subject: Base Plan vote
Date: Friday, January 24, 2025 1:35:30 PM

Please move forward with a special town meeting as soon as possible (within 30 days) that will vote to adopt the Base plan
James McLaughlin

From: [AMY BELLIDO](#)
To: [Planning](#)
Cc: [Office of the Town Manager](#)
Subject: Letter to Select and Planning Boards
Date: Friday, January 24, 2025 3:01:42 PM

January 21, 2025

Subject: Needham Referendum Vote

Dear Members of the Select Board and Planning Board,

I am writing to urge you to move the Base Compliance Plan (“Base Plan”) forward for a Special Town Meeting **without delay**.

On Tuesday, January 14, Needham voters rejected the “Neighborhood Housing Plan,” sending a **clear mandate** from the community. Elected board members should not disregard the will of the voters.

The “Base Plan” was overwhelmingly supported at the Fall Town Meeting and should be enacted as approved.

We, the Needham voters and majority of the January 14 voters, look forward to confirmation of the vote at the January 21, 2025 select Board and Planning Board meetings.

A Special Town Meeting should be scheduled for **February 24, as promised**.

As your constituents, we trust you will uphold the will of the voters.

Sincerely,

Amy Bellido
Needham Resident
Sent from my iPad

From: [Matt Venables](#)
To: [Selectboard](#); [Planning](#)
Cc: [Office of the Town Manager](#); [TownClerk](#)
Subject: Urging you to pass Base MBTA plan
Date: Friday, January 24, 2025 3:02:58 PM

Hello -

My name is Matt Venables. I have been a Needham resident at 19 Mayo Ave for nearly a decade, and I am a supporter of the MBTA housing plan.

I love this town. My wife was born and raised here. We're raising our 3 children here. My in-laws have lived here for 50 years. And I've never seen something more divisive in this town than this issue.

My neighborhood was ripped apart on the issue. Voters on the "No" side were saying they can no longer trust the town government, and there were even accusations of corruption. It has been devastating to watch.

But there's a solution!

Every person in my neighborhood who voted "No" would approve the Base plan. It has UNIVERSAL support here.

I strongly believe passing the Base plan right now will allow us to move forward, TOGETHER, as a town.

Delaying, and/or attempting to expand the base plan once again will only make this more divisive, and further the distrust in our local government.

I urge you not to delay. Please pass the Base plan as soon as possible.

-Matt Venables

From: [Nancy Yablonski](#)
To: selectboard@needhamma.go; [Planning](#)
Cc: [Office of the Town Manager](#); townclerk@needhamma.com
Subject: Special Town Meeting immediately on February 24th
Date: Friday, January 24, 2025 5:30:36 PM

Dear Select and Planning Boards,

One week ago, almost 60% of voters rejected the Neighborhood Plan, and in doing so issued a clear mandate to Needham's elected officials. The people have spoken clearly, and it is time for this board and all elected officials to act in accordance with the will of the people.

For this Select Board, that means scheduling a special town meeting immediately on Feb 24th so that Town Meeting can vote on the Base Plan.

*Any effort to delay a vote on the Base Plan until May, would be contrary to the expectations of the voters. The Base Plan already has near unanimous support from Town Meeting. Sending the Base Plan to a special Town Meeting, **immediately, and without delay**, will go a long way in healing the division in our town, and repairing the distrust that so many unfortunately have in our elected officials.*

Our town's leaders, including four members of this board have misread the pulse of Needham's residents on this issue. It is incumbent upon you all as the elected leaders in our town, to represent the will of the people. Put forth the Base Plan and schedule a special town meeting immediately for February 24th.

***Nancy Yablonski
82 Old Farm Road
Needham MA 02492***

***Nancy.Yablonski@gmail.com
(617) 513-4584***

From: [Bill Hobbib](#)
To: [Selectboard](#); [Planning](#)
Cc: [TownClerk](#)
Subject: Vote on Base plan
Date: Saturday, January 25, 2025 8:39:22 AM

To Select Board and Planning Board,
Please see my message below to Kate Fitzpatrick.
Why has the Town Meeting to re-approve the Base plan been delayed to May?
As a homeowner and taxpayer, I am entitled to an explanation for the delay. The delay gives the perception that the Select Board has in mind to change the Base plan that had already been approved.

I look forward to your response.

Thanks very much,
Bill Hobbib

Sent from my iPhone

Begin forwarded message:

From: Bill Hobbib <bhobbib@gmail.com>
Date: January 25, 2025 at 8:25:08 AM EST
To: Kate Fitzpatrick <KFitzpatrick@needhamma.gov>
Subject: Re: Online Form Submittal: Contact Kate Fitzpatrick

Hi Kate,
Just doubling back on my message of a few days ago. Why the change to May? What's going to change between the Base plan we have today and May?

Thanks again,
Bill

Sent from my iPhone

On Jan 20, 2025, at 7:12 AM, Bill Hobbib <bhobbib@gmail.com> wrote:

Hi Kate,
Thanks very much for your detailed and thoughtful response to my inquiry last month. Now that the NO's have prevailed, I'm writing to ask why the delay in scheduling the next Town Meeting until May instead of February as previously promised.

The No votes obviously prevailed overwhelmingly. From what I saw, Select Board had previously agreed on December 17 to hold a special town meeting on Feb 24, 2025 where the previously approved "base plan" would be voted in and Needham would be in compliance. That Base plan is even 25% more than was needed. And yet, I read that last Weds, Jan 15th, the board chairs met privately and then you issued a statement that you're recommending Select Board and

Planning Board advance zoning to the May 2025 annual town meeting. What happened to the special February 24 meeting that Select Board agreed to? And can you share exactly what "advance zoning" means? Why not just vote on Feb 24 and be done with this matter?

Thanks again,
Bill Hobbib

On Tue, Dec 17, 2024 at 4:06 PM Kate Fitzpatrick
<KFitzpatrick@needhamma.gov> wrote:

Dear William Hobbib:

I am responding to your email dated December 16, 2024.

The Select Board created the Housing Needham Working Group (HONE) in June 2023, whose charge and composition is [here](#). The starting point for HONE's public engagement was the Town of Needham's 2022 Housing Plan.

HONE met regularly for eight (8) months and held three (3) well-attended public workshops. Based on feedback from the public, HONE recommended, and the Select Board approved, the inclusion of two distinct choices at the October 21, 2024, Special Town Meeting – the Base Compliance plan and the Neighborhood Housing Plan. The Planning Board held a public hearing on the zoning amendments and received a significant amount of public comment. The Planning Board also voted to support the two choices that were presented to Town Meeting.

Town Meeting, as the Town's legislative branch, is the only body authorized to adopt Zoning Bylaws under Massachusetts law. Town Meeting approved both plans, which had the effect of approving the Neighborhood Housing Plan.

The manner in which the articles were presented at Town Meeting was determined based on input and discussion of numerous Town officials.

The right to file a referendum petition is included in the Town Charter and provides petitioners the ability to ask the voters at large to overturn the actions of Town Meeting as long as the requisite number of registered voters sign the petition to call for a special election.

Thank you for your inquiry.

<image001.jpg>

<image002.png> [Kate Fitzpatrick, ICMA-CM](#)

Town Manager

Town of Needham

Needham Town Hall

1471 Highland Avenue

Needham, MA 02492

www.needhamma.gov

Office: (781) 455-7500 ext. 0

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From: noreply@civicplus.com <noreply@civicplus.com>

Sent: Monday, December 16, 2024 7:00 AM

To: Office of the Town Manager <OTM@needhamma.gov>

Subject: Online Form Submittal: Contact Kate Fitzpatrick

Contact Kate Fitzpatrick

Enter pertinent information

Contact Information

Full Name: William Hobbib

Email Address: Bhobbib@gmail.com

Address: 150 Meadowbrook Road

City/Town: Needham

State: MA

Zip Code: 02492

Telephone Number: 6173067391

Comments / Questions

Hi Kate,
I'm a homeowner in Needham for the past ten years. I'd like to ask if you can give any perspective on why we ended up in what Michael Fee recently described in a Needham Observer article around the Town Meeting rezoning vote as a "cumbersome way to do this."

It seems that a logical approach would have been to ask for one action by Town Meeting - namely, to approve Article 8, the original Base Plan. It had unanimous support of the Finance Committee and also Town Meeting members, I believe. It made logical sense - the MBTA requires us to have a certain minimum amount of affordable housing in order to be eligible for certain state funding programs. No one I've spoken with objected to the Base Plan.

So exactly who created the Housing Needham (HONE) Advisory Group and gave them the authority to create the Neighborhood Plan and put it forward at the same Town Meeting as the Article 8 vote, leading to the current situation? Without a doubt, the Neighborhood Plan is an ideologically driven plan, not a logic and data-driven plan - some people believe Needham should have a greater amount of affordable housing and some do not. Now it seems the same ideologically driven people are using as an argument that we'll lose state funding for certain programs if the October decision to approve the Neighborhood Plan is rescinded. Why didn't they consider this possible consequence before they pressed for the vote on the Neighborhood Plan? Now advocates for the Neighborhood Plan are in effect extorting residents of the town to stick with their Neighborhood Plan so as to avoid the risk of losing state funding.

Who exactly is being held accountable for the current situation and prospect that taxpayers will have to foot a \$250k bill to have a town-wide vote? Are Heidi Frail and Natasha Espada being removed from HONE for their egregious overstep that will cost taxpayers \$250K?

I'm not looking to debate the merits of one plan vs the other.

What I'd like to know is who specifically from the town, Town Meeting, or HONE is responsible and accountable for getting us in this messy situation when there was an easy and logical way to have achieved compliance with the MBTA requirements that everyone was on-board with? And what is the consequence to them personally for their actions?

Thanks very much for any insights you can share.

Sincerely,
Bill Hobbib
bhobbib@gmail.com

Email not displaying correctly? [View it in your browser.](#)

From: sfcurrier1@aol.com
To: [Selectboard](#); [Planning](#); [Office of the Town Manager](#); [TownClerk](#)
Cc: [Needham Residents for Thoughtful Zoning](#)
Subject: Postponement of Base Plan vote and compliance
Date: Monday, January 27, 2025 10:15:30 AM

To whom it may concern,

Please listen to the voters. As a long term voting tax paying citizen of both Massachusetts and Needham I would like my voice heard regarding the rate these State mandated zoning laws TRUMP the local citizen voices.

Consider presenting at the planning board meeting on Feb 13th a schedule to vote on the Base Plan at Town Meeting sooner better than later. I understand that would satisfy both the State and Local interests. The Constitution affords us the Right and Process to question authority.

Sincerely,

Stephen F. Currier
45 Grosvenor Road
Needham, MA 02492

781-444-9719

From: [jb m](#)
To: [Selectboard](#); [Planning](#); [Office of the Town Manager](#); [TownClerk](#)
Subject: Necessity of Town Meeting BEFORE May
Date: Monday, January 27, 2025 2:15:37 PM

Dear Needham Officials,

I am writing as a resident of Needham to encourage you to hold the promised Special Town Meeting as soon as possible and not put it off until May, which could jeopardize the town's standing.

It seems obvious where the town stands. Let's get the ball rolling. There is no need to wait.

Thank you.

Judith McIntyre
Needham, MA

From: [Luda Zelikov](#)
To: [Selectboard](#); [Planning](#)
Cc: [Office of the Town Manager](#); [TownClerk](#)
Subject: Needham Referendum Vote
Date: Tuesday, January 28, 2025 9:55:00 AM

Dear Members of the Select Board and Planning Board,

I write to urge you to move the Base Compliance Plan ("Base Plan") forward for a Special Town Meeting without delay.

On Tuesday, January 14, Needham voters rejected the "Neighborhood Housing Plan," sending a clear mandate from the community. Elected board members should not disregard the will of the voters.

The "Base Plan" was overwhelmingly supported at the Fall Town Meeting and should be enacted as approved. We look forward to confirmation at the January 21, 2025 select Board and Planning Board meetings.

A Special Town Meeting should be scheduled for February 24, as promised. As your constituents, we trust you will uphold the will of the voters.

Regards,
Luda Zelikov

From: [Irena Shaigorodsky](#)
To: [Selectboard](#); [Planning](#); [Office of the Town Manager](#); [TownClerk](#)
Cc: [Leon Shaigorodsky](#)
Subject: A Special Town Meeting should be scheduled for February 24, as promised
Date: Tuesday, January 28, 2025 9:21:33 PM

Dear Members of the Select Board and Planning Board,

I urge you to schedule a special town meeting to discuss the Base Compliance Plan (“Base Plan”) for February 24, as promised.

On Tuesday, January 14, Needham voters rejected the “Neighborhood Housing Plan,” sending a clear mandate from the community. Elected board members should not disregard the will of the voters.

The “Base Plan” was overwhelmingly supported at the Fall Town Meeting and should be enacted as approved. We look forward to confirmation at the January 21, 2025, select Board and Planning Board meetings.

A Special Town Meeting should be scheduled for February 24, as promised.
As your constituents, we trust you will uphold the will of the voters.

Regards,
Irena Shaigorodsky
44 Bridle Trail Rd
Needham, MA

From: [Tania Butovsky](#)
To: [Selectboard](#); [Planning](#); [Office of the Town Manager](#); [TownClerk](#)
Subject: Base Compliance Plan
Date: Wednesday, January 29, 2025 7:50:36 PM

Dear Members of the Select Board and Planning Board,

I write to urge you to move the (“Base Plan”) forward for a Special Town Meeting without delay.

On Tuesday, January 14, Needham voters rejected the “Neighborhood Housing Plan,” sending a clear mandate from the community. Elected board members should not disregard the will of the voters.

The “Base Plan” was overwhelmingly supported at the Fall Town Meeting and should be enacted as approved. We look forward to confirmation at the January 21, 2025 select Board and Planning Board meetings.

A Special Town Meeting should be scheduled for February 24, as promised. As your constituents, we trust you will uphold the will of the voters.

Regards,

Tania Butovsky

From: [Jessica Greene](#)
To: [Selectboard](#); [Planning](#)
Cc: [Office of the Town Manager](#); [TownClerk](#)
Subject: Honor the Voters - Base Plan
Date: Thursday, January 30, 2025 12:16:18 PM

Dear Members of the Select Board and Planning Board,

The overwhelming support for the "Base Plan" demonstrated by Needham residents in the January 14, 2025 referendum makes it imperative that you respect Needham residents' decision and call the Special Town Meeting for its final vote on February 24, 2025. Introducing a new timeline with a new MBTA Communities Act rezoning plan for the May Town Meeting undermines good faith and transparency, and directly contradicts the clear mandate expressed by voters in January. As many have already stated, it is time to honor the will of the voters and proceed with the Base Plan.

Jessica Greene
49 Standish Rd