

#104

Relating to

Zoning Floodplain Overlay Dist.

IN CITY COUNCIL

April 7, 2014

Referred to the Standing Committee
on
Legal Affairs

CITY OF BEVERLY
Presented to the Mayor for Approval

June 18, 2014
William P. Conolly City Clerk
Approved June 19, 2014
W. Conolly Mayor

William P. Conolly Clerk
CME

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Floodplain Overlay District Ordinance

A FOD - Floodplain Overlay District

1. Purpose

The purposes of the Floodplain Overlay District are to protect the health and safety of residents of lands subject to seasonal or periodic flooding and to minimize future flood damage by providing for the maintenance of existing waterways, water bodies, and wetlands through a floodplain management program.

2. Definitions

For purposes of this subsection, the following terms shall have the following meanings:

- a. Area of Special Flood Hazard: Land in a floodplain that is subject to a one percent or greater chance of flooding in any given year and which is designated on a FIRM as Zone A, AO, AH, AE, A99, VE, or V.
- b. Base Flood: The flood having a one percent chance of being equaled or exceeded in any given year.
- c. Coastal High Hazard Area: An area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources and designated on a FIRM as Zone V or VE.
- d. Development: 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.
- e. Federal Emergency Management Agency (FEMA): The federal agency which administers the National Flood Insurance Program and provides a nationwide flood hazard area mapping study program for communities as well as regulatory standards for development in the flood hazard areas.
- f. Five Hundred Year Flood: A general and temporary condition of partial or complete inundation of two or more acres of normally dry land areas or of two or more properties that have a two tenths of one percent (0.2) annual chance of flooding and which are located outside of special flood hazard areas.

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- g. Flood (or flooding): A general and temporary condition of partial or complete inundation of normally dry land areas or of two or more lots. This inundation can result from the overflow of inland or tidal waters or the unusual and rapid accumulation or runoff of surface waters from any source, or from mudflow.
- h. Floodway: The channel of a river 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.
- i. Flood Insurance Rate Map (FIRM): An official map of a community on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.
- i. Flood Insurance Study: An examination, evaluation, and determination of flood hazards, and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.
- j. Lowest Floor: The lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement or cellar is not considered a building's lowest floor provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of NFIP Regulations 60.3.
- k. New Construction: For floodplain management purposes, structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the City of Beverly. For the purpose of determining insurance rates, the term "new construction" means structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later.
- l. One Hundred Year Flood: see Base Flood.
- m. Regulatory Floodway: see Floodway.
- n. Special Flood Hazard Area: An area having special flood and/or flood related erosion hazards, and shown on a FIRM as Zone A, AO, AE, A99, AH, V, or VE.
- o. Structure: For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is

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principally above ground, as well as a manufactured home. For insurance coverage purposes, the term "structure" means a walled and roofed building, other than a gas or liquid storage tank that is principally above ground and affixed to a permanent site, as well as a manufactured home on foundation. For the latter purpose, the term includes a building while in the course of construction, alteration, or repair, but does not include building materials or supplies intended for use in such construction, alteration, or repair, unless such materials or supplies are within an enclosed building on the premises.

- p. Substantial Damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
- q. Substantial Improvement: Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either (a) before the improvement or repair is started, or (b) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this subsection, the term "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.
- r. Zone A: The 100-year floodplain area where the base flood elevation (BFE) has not been determined. To determine the BFE, use the best available federal, state, local or other data.
- s. Zone AE (for new and revised maps): That portion of the 100-year floodplain where the base flood elevation has been determined. (Note that Zone AE replaces Zones A1-30 on maps created in and prior to 1987).
- t. Zone AH and Zone AO: That portion of the 100-year floodplain with flood depths of 1 to 3 feet.
- u. Zone X: Areas in Beverly identified by a FEMA-conducted Flood Insurance Study as those of moderate or minimal flood hazard. (Note that Zone X replaces Zones B and C on maps created in and prior to 1987).
- v. Zone VE: Areas in Beverly identified by a FEMA-conducted Flood Insurance Study as special flood hazard areas along a coast subject to inundation by a 100-year flood with additional hazards due to

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velocity (wave action) for which base flood elevations have been determined.

3. Use Regulations

The Floodplain Overlay District is herein established as an overlay district and includes all special flood hazard areas within the City of Beverly currently designated as Zone A, AE, AH, AO, A99, V or VE on the Essex County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Essex County FIRM that are wholly or partially within the City of Beverly are panel numbers 25009C0408F, 25009C0409F, 25009C0428F, 25009C0429F, dated July 3, 2012; and 25009C0416G, 25009C0417G, 25009C0433G, 25009C0436G, 25009C0437G, and 25009C0441G dated July 16, 2014. The exact boundaries of the Floodplain Overlay District may be defined by the 100-year base flood elevations shown on the FIRM and by Flood Insurance Study (FIS) report(s) for Essex County prepared by FEMA dated July 16, 2014. Prior to July 16, 2014, please refer to the July 3, 2012 FIRM panels. The aforementioned FIRM panels and FIS report are incorporated herein by reference and are on file with the City Engineer.

The Floodplain Overlay District is established as an overlay district to all other districts. All development in the overlay district, including structural and non-structural activities, whether permitted by right or by special permit, must comply with all other applicable local, State and Federal laws. These laws include (but are not limited to) the City of Beverly Zoning Ordinance, M.G.L. Chapter 131, Section 40 and the City of Beverly Wetlands Protection Ordinance, sections of the Massachusetts State Building Code (780 CMR) which address floodplain and coastal high hazard areas, and DEP regulations, restrictions and requirements for wetlands protection, inland and coastal wetlands and requirements for sanitary sewage subsurface disposal.

Additionally, permitted uses are subject to the following requirements:

- a. All encroachments, including fill, new construction, substantial improvements to existing structures, and other developments are prohibited in the floodway as designated on the Flood Insurance Rate Map for Beverly.
- b. In zone VE, (areas of 100-year coastal flood with wave action), all new construction or substantial improvements must be located landward of the reach of mean high tide.

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- c. A floodplain development permit shall be obtained before any construction or development begins within any area of special flood hazard as determined by Beverly's Flood Insurance Rate Maps.

4. Application Requirements

Application for a development permit shall be made on forms furnished by the Municipal Inspections Department. The form must be accompanied by the following:

- a. A narrative that describes the extent to which any water course will be altered or relocated as a result of the proposed development. Note that no encroachments may be proposed within a designated floodway (see Section 38-31.A.3.a.). In a riverine situation where alteration or relocation of a watercourse is proposed, the applicant shall notify by certified mail, return receipt requested, all adjacent communities, the NFIP State Coordinator for the MA Department of Conservation and Recreation and the NFIP Program Specialist for the Federal Emergency Management Agency Region 1. Proof of notification shall be submitted with the floodplain development permit application.
- b. Plans, drawn to scale showing the nature, location, dimensions, and elevations of the area in question with detail of existing or proposed structures, fills, and drainage facilities shall be included with the floodplain development permit application. Specifically, the following information is required on the plan:
 - i. Certification by a registered professional engineer that any construction, improvements, or development meet the requirements of the rules and regulations stipulated in 44 CFR 60.3 (known as the Federal Emergency Management Agency's National Flood Insurance program, and known more specifically as Flood Plain Management Criteria for Flood-Prone Areas). Copies of these regulations are available at the Municipal Inspections Department and City Engineer's office.
 - ii. In Zone A where flood base elevation data is not provided on the FIRM, the applicant shall obtain any existing base flood elevation data and it shall be reviewed by a registered professional engineer for its reasonable utilization toward meeting the requirements of the floodplain overlay district ordinance.
 - iii. Information as to the elevation in relation to mean sea level of the lowest floor of all structures (including basements).

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- c. All permits for construction in the Floodplain Overlay District shall be subject to administrative review by the City's Health Department, Municipal Inspections Department, Engineering division of the Public Services Department and Conservation Commission.
- a. In Zones A and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- b. Base flood elevation data is required for subdivision proposals or other developments greater than ten (10) lots or two (2) acres, whichever is the lesser, within unnumbered A zones.
- c. Within Zones AH and AO on the FIRM, adequate drainage paths must be provided around structures on slopes, to guide floodwaters around and away from proposed structures.
- d. Man-made alteration of sand dunes within Zone VE which would increase potential flood damage is prohibited.
- e. All subdivision proposals must be designed to assure that:
 - f. Such proposals minimize flood damage;
 - ii. All public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
 - iii. Adequate drainage is provided to reduce exposure to flood hazards.