

## REGULATION XVII (INTERIM)

### Marlborough Board of Health Rules and Regulations Regarding Floodplains

#### **Section 1. Statutory Authorization and Purpose:**

Whereas further unwise development of known floodplains in Marlborough could threaten human life, health and safety, the Marlborough Board of Health, under the provisions of MGL c. 111, § 31, as amended, and in compliance with 44 CFR 60.3 of the National Flood Insurance Program, does, in order to protect the public health and safety of the City of Marlborough, hereby adopt the following Rules and Regulations Regarding Floodplains ("Rules and Regulations").

#### **Section 2. Definitions:**

- a) "Special flood hazard area," means the land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year, commonly called the 100-year flood, also known as the base flood, and shown as Zones A and AE on the maps noted below.
- b) "Floodway," means 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 elevations more than one foot.
- c) "Flood," means a general and temporary condition of partial or complete inundation of normally dry land areas from:
  - i) The overflow of inland waters, and/or
  - ii) The unusual and rapid accumulation of runoff of surface waters from any source.
- d) "Floodplain," is the area which floods from a rise in a bordering waterway or water body. Such areas are likely to be significant for purposes of flood control and storm damage prevention.

#### **Section 3. Flood Insurance Rate Maps and Flood Insurance Study:**

The floodplain and floodway boundaries include all special flood hazard areas within the City of Marlborough designated as Zone A and AE on the Middlesex County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Middlesex County FIRM that are wholly or partially within the City of Marlborough are panel numbers 25017C0344F, 25017C0363F, 25017C0457F, 25017C0476F, 25017C0477F,

25017C0478F, 25017C0479F, 25017C0481F, 25017C0482F, 25017C0483F, 25017C0484F, 25017C0501F and 25017C0503F, with an effective date of July 7, 2014. The exact boundaries of the floodplain and floodway may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Middlesex County Flood Insurance Study ("FIS") report with an effective date of July 7, 2014. The FIRM and the FIS report are incorporated herein by reference and declared to be part of these Rules and Regulations, and are on file with the

#### **Section 4. Floodway Data:**

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 could result in any increase in flood levels within the community during the occurrence of the base flood discharge.

#### **Section 5. Determination of Flood Plain Elevations:**

- a) For the purpose of this section, the term "base flood elevation" refers to the flood having a one-percent chance of being equaled or exceeded in any given year, commonly referred to as the "100-year flood." Where, in the opinion of the Board of Health, engineering studies are needed to determine the base flood elevation on a particular premises, such engineering study shall be provided by, and at the expense of, the applicant. Such engineering study shall determine the effect of the base flood elevation on flood flow, as well as on any proposed building, structure or grading.
- b) Base flood elevation data is required within Zones A and AE for subdivision proposals and/or other developments greater than 50 lots of 5 acres.
- c) Within Zone AE of the FIRM of the City of Marlborough, all new construction and substantial improvements, the cost of which equals or exceeds 50% of the market value of the proposed residential or nonresidential structure(s), shall have the lowest floor, including basement, elevated to two feet above the base flood elevation (the 100-year flood elevation designated on the FIRM) or, in the case of nonresidential structures, be floodproofed, watertight to the base flood level.
- d) Within Zone A of the FIRM of the City of Marlborough, where the base flood elevation is not provided, the Board of Health shall obtain and review any already existing base flood elevation data. If the data is reasonable as determined by the Board of Health, it shall be used to require compliance with Section 5.c) above. Additionally, within Zone A, the Wetlands Protection Act regulations may require base flood elevation data to be developed by engineering calculations.

e) Where watertight flood proofing of a nonresidential structure is permitted, a registered professional engineer or architect shall certify to the Board of Health that the methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the 100-year flood.

#### **Section 6. Compliance:**

No structure or land within the special flood hazard area shall be constructed, located, extended, converted, subdivided, or altered without full compliance with these Rules and Regulation and other applicable regulations, including but not limited to:

- a) Massachusetts State Building Code which addresses floodplain and coastal high hazard areas (currently 780 CMR 120.G, "Flood Resistant Construction and Construction in Coastal Dunes");
- b) Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);
- c) Inland Wetlands Restrictions, DEP (currently 310 CMR 13.00); and
- d) Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15.00, Title 5).

Any variances from the provisions and requirements of the above-referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

#### **Section 7. General Standards:**

Within the floodplain and floodway boundaries – special flood hazard areas, as noted on the FIRM panels and the FIS report in Section 3 above, the following uses are prohibited:

- a) The storage of buoyant, flammable, explosive or toxic material in a floodplain;
- b) The dumping of waste, rubbish, demolition or hazardous materials in a floodplain;
- c) The addition, removal or transfer of such quantities of material, including earth, soil, trees, stumps or vegetation, that would reduce the water storage capacity of the floodplain, obstruct the flow of water in a floodway, or otherwise adversely affect the natural hydrology of the area, except as may be a part of a

plan for public flood control, a municipal drainage or utility system, or an organized mosquito control district;

- d) Digging or drilling of a well intended as a source of domestic water, except for public water supply wells adequately sealed against the infiltration of surface water;
- e) The construction of an on-site sewage disposal system in the floodplain;
- f) Any encroachment in the regulatory floodplain or floodway, as shown on the FIRM panels and the FIS report in Section 3 above, unless written certification by a registered professional engineer is provided to the Board of Health by the applicant demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the 100-year flood. Any encroachment meeting the above standard shall comply with all other floodplain requirements, including but not limited to those within the State Building Code.
- g) The placement of mobile homes or manufactured housing developments in the floodplain.

**Section 8. Notification of Watercourse Alteration:**

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

- Adjacent Communities- Southborough, Northborough, Berlin, Hudson, Sudbury and Framingham
- NFIP State Coordinator  
Massachusetts Department of Conservation and Recreation  
251 Causeway Street, Suite 600-700  
Boston, MA 02114-2104
- NFIP Program Specialist  
Federal Emergency Management Agency, Region I  
99 High Street, 6th Floor  
Boston, MA 02110

**Section 9. Enforcement:**

Pursuant to MGL c. 111, § 122-125, inclusive, the Board of Health shall enforce these Rules and Regulations for so long as they shall be in effect as set forth in Section 10 below.

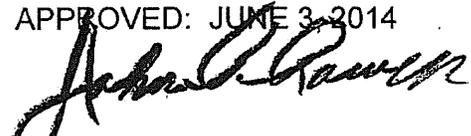
**Section 10. Sunset Clause:**

These Rules and Regulations shall become effective on July 7, 2014 when the new FIRM panels and the FIS report in Section 3 above become effective. The July 7, 2014 FIRM panels and FIS report shall supersede the Middlesex County Flood Insurance Rate Maps for the City of Marlborough dated June 4, 2010. These Rules and Regulations shall remain in effect until such time as the Marlborough City Council approves and adopts changes to section 650-23 entitled, "Floodplain and Wetland Protection District," of the City of Marlborough Zoning Ordinance by including therein the reference to the July 7, 2014. FIRM and FIS report. At such time as the City Council so approves and adopts, these Rules and Regulations shall thereupon cease to be in effect.

**Section 11. Severability:**

If any section, paragraph, sentence, clause or phrase of these Rules and Regulations shall be adjudicated by a court of competent jurisdiction as invalid for any reason whatsoever, such adjudication shall not affect the remaining portion of these Rules and Regulations, which shall remain in full force and effect, and to this end the provisions of these Rules and Regulations are hereby declared severable.

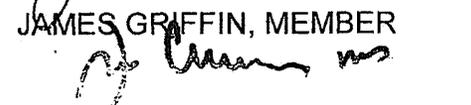
APPROVED: JUNE 3, 2014



JOHN ROWE, CHAIRMAN



JAMES GRIFFIN, MEMBER



JOHN CURRAN, MD, MEMBER

**A TRUE COPY**

**Attest:**

**City Clerk  
Marlborough, MA 01752**



