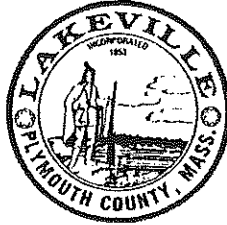


Town of Lakeville

PLANNING BOARD

346 Bedford Street
Lakeville, MA 02347
508-946-8803



NOTICE OF PUBLIC HEARING

LEGAL NOTICE

The LAKEVILLE PLANNING BOARD will hold a public hearing pursuant to the Town of Lakeville Zoning Bylaw and M.G.L. ch. 40A §5 on **THURSDAY, April 29, 2021 at 7:00 PM.** via a **virtual platform**. The Virtual Meeting instructions can be found on the Agenda located on the Town of Lakeville Planning Board web page. The purpose of the public hearing is to provide interested parties with an opportunity to comment on proposed amendments to the Lakeville Zoning Bylaw: §3.2.3, Establishment of Districts, The Floodplain Protection District; and amendments to the Flood Plain District Regulations, Section 7.1. Amendments include additions and deletions to §7.1.3, (Definitions); and the addition of the following new Sections: §7.1.7 (Administration); §7.1.7.1 (Abrogation and greater restriction section); §7.1.7.2 (Disclaimer of liability); §7.1.7.3 (Designation of community Floodplain Administrator); §7.1.7.4 (Requirement to submit new technical data); §7.1.7.5 (Variances to building code floodplain standards); §7.1.7.6 (Variances to local Zoning Bylaws related to community compliance with the National Flood Insurance Program (NFIP)); §7.1.7.7 (Permits are required for all proposed development in the Floodplain Overlay District); §7.1.7.8 (Assure that all necessary permits are obtained); §7.1.7.9 (Unnumbered A Zones); §7.1.7.10 (Recreational vehicles); and §7.1.7.11 (Local Enforcement).

A draft of the proposed amendments to the Zoning Bylaw may be viewed at the Lakeville Town Clerk's office in Town Hall, 346 Bedford Street, Lakeville, MA 02347 by appointment only. Amendments are also available for review on the town website.

Planning Board Members

Mark Knox, Chairman
Barbara Mancovsky, Vice-Chair
Peter Conroy
Jack Lynch
Michele MacEachern

TOWN OF LAKEVILLE
ZONING BY-LAW

FEMA FLOOD MAP UPDATES ATM 2021

TABLE OF CONTENTS

7.1	Flood Plain District Regulations.....	34
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3.0 ESTABLISHMENT OF DISTRICTS

3.1.4 Flood Plain Protection (Overlay)

~~3.2.3 “The Floodplain Protection District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Lakeville designated as Zone A and AE on the Plymouth County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program (NFIP). The map panels of the Plymouth County FIRM that are wholly or partially within the Town of Lakeville are panel numbers 25023C0314J, 25023C0408J, 25023C0409J, 25023C0417J, 25023C0419J, 25023C0425J, 25023C0426J, 25023C0428J, 25023C0436J, and 25023C0442J dated July 17, 2012; and panel numbers 25023C0311K, 25023C0313K, 25023C0318K, 25023C0427K, 25023C0429K, 25023C0431K, 25023C0433K, 25023C0434K, 25023C0437K, and 25023C0441K dated July 16, 2015. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Plymouth County Flood Insurance Study (FIS) report dated July 16, 2015. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk.” (Adopted June 15, 2015; approved by Attorney General September 11, 2015)~~

Delete Section 3.2.3 in the Lakeville Zoning Bylaw in its entirety and replace with the following:

3.2.3 The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within Town of Lakeville designated as Zone A, AE, AH, AO, A99, V, or VE on the Plymouth County Flood Insurance Rate Map (FIRM) dated July 6, 2021 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 Plymouth County Flood Insurance Study (FIS) report dated July 6, 2021. The FIRM and FIS

report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Official and Conservation Commission.

7.0 SPECIAL REGULATIONS

7.1 Flood Plain District Regulations

7.1.1 Statement of Purpose

The purposes of the Floodplain District are 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.

7.1.2 Existing Regulations

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

- **780 CMR of the Massachusetts State Building Code which address floodplain and coastal high hazard areas**
- 310 CMR 10.00, Wetlands protection, Department of Environmental Protection
- **310 CMR 13.00, Inland Wetlands Restriction, D.E.P.**
- 310 CMR 15, Title 5, minimum requirements for the subsurface disposal of sanitary sewage, Department of Environmental Protection.

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.

Amend the Zoning Bylaw, **Section 7.1.3 Definitions** as set forth below with additions Underlined/Highlighted and deletions in ~~striketrough~~:

7.1.3 Definitions

AREA OF SPECIAL FLOOD HAZARD is the land in the floodplain within a

community subject to one percent or greater chance of flooding in any given year. The area may be designated as Zone A, AO, AH, A1-30, AE, A99, V1-30, VE, or V.

BASE FLOOD means the flood having a one percent chance of being equaled or exceeded in any given year.

~~**DEVELOPMENT** means 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.~~

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]

DISTRICT means floodplain district.

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) administers the National Flood Insurance Program. FEMA provides a nationwide flood hazard area mapping study program for communities as well as regulatory standards for development in the flood hazard areas.

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.)

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 INSURANCE RATE MAP (FIRM) means 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.

FLOOD INSURANCE STUDY means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water

surface elevations, or an examination, evaluation and determination flood-related erosion hazards.

~~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 elevation.~~

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]

LOWEST FLOOR means 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 area 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 60.3.

MANUFACTURED HOME means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

MANUFACTURED HOME PARK OR SUBDIVISION means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

~~**NEW CONSTRUCTION** means, 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 a community. For the purpose of determining insurance rates, 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.~~

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]

ONE-HUNDRED-YEAR FLOOD - see **BASE FLOOD**.

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** means an area having special flood and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, AH, V, V1-30, VE.~~

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]

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]

~~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.~~

STRUCTURE, for insurance coverage purposes, 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.

SUBSTANTIAL DAMAGE means 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.

SUBSTANTIAL IMPROVEMENT means 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 definition, "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.

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(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]

~~**ZONE A** means 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.~~

~~**ZONE AE** (for new and revised maps) means the 100-year floodplain where the base flood elevation has been determined.~~

~~**ZONE X** are areas identified in the community Flood Insurance Study as areas of moderate or minimal flood hazard. Zone X replaces Zones B and C on new and revised maps.~~

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)

*(**Bold text** adopted June 4, 2012; approved by Attorney General July 18, 2012)*

7.1.4 Permitted Uses

The following uses of low flood damage potential and causing no obstructions to flood flows are encouraged provided they are permitted in the underlying district and they do not require structures, fill, or storage of materials or equipment: 1) agricultural uses such as farming, grazing, truck farming, horticulture, etc.; 2) forestry and nursery uses; 3) outdoor recreational uses, including fishing, boating, play areas, etc.; 4) conservation of water, plants, wildlife; 5) wildlife management areas, foot, bicycle, and/or horse paths; 6) temporary non-residential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises; 7) buildings lawfully existing prior to the adoption of these provisions.

7.1.5 Use Regulations

The Floodplain District is established as an overlay district to all other districts. All development, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the requirements of the Massachusetts State Building Code pertaining to construction in the floodplains (currently 780 Section 3107).

7.1.5.2 Existing contour intervals of site and elevations of existing structures must be included on plan proposal.

7.1.5.3 There shall be established a "routing procedure" which will circulate or transmit one copy of the development plan to the Conservation Commission, Planning Board, Board of Health and Building Commissioner for comments which will be considered by the appropriate permitting board prior to issuing applicable permits. *(Adopted June 18, 1990)*

- 7.1.5.4 In Zones AE along watercourses in the Town of Lakeville that have a regulatory floodway designated on the Plymouth County 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.
- 7.1.5.5 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.
- 7.1.5.6 Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or 5 acres, whichever is the lesser, within unnumbered A Zones.
- 7.1.5.7 All subdivision proposals must be designed to assure that:
- a) such proposals minimize flood damage;
 - b) all public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
 - c) adequate drainage is provided to reduce exposure to flood hazards.

7.1.6 Notification of Watercourse Alteration: In a riverine situation, the Conservation Commission shall notify the following of any alteration or relocation of a watercourse:

- Adjacent Communities
- Bordering States (optional)
- 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

*(**Bolded text** Adopted June 4, 1012; approved by Attorney General July 18, 2012)*

Amend the Zoning Bylaw, Section 7.1 by adding the following as set forth below with additions
Underlined/Highlighted

7.1.7 Administration

7.1.7.1 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.

7.1.7.2 Disclaimer of liability

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

7.1.7.3 Designation of community Floodplain Administrator

The Town of Lakeville hereby designates the position of Building Commissioner to be the official floodplain administrator for the Town of Lakeville.

7.1.7.4 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
99 High St., 6th floor, Boston, MA 02110

And copy of notification to:

Massachusetts NFIP State Coordinator
MA Dept. of Conservation & Recreation, 251 Causeway Street,
Boston, MA 02114

7.1.7.5 Variances to building code floodplain standards

The Town of Lakeville 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 of Lakeville 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.

7.1.7.6 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.

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

The Town of Lakeville 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.

7.1.7.8 Assure that all necessary permits are obtained

Town of Lakeville's permit review process includes the use of a checklist of 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 submit the completed checklist demonstrating that all necessary permits have been acquired.

7.1.7.9 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.

7.1.7.10 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.

7.1.7.11 Local Enforcement

This By-Law shall be enforced by the Building Commissioner appointed by the Board of Selectmen, and upon any well-founded information as to a violation, immediate steps to enforce this By-Law in any manner provided by law shall be taken. If the Building Commissioner declines to act upon a written request to proceed against an alleged violation, he shall notify in writing the party making such request of the reasons for non-action within fourteen days of the receipt of such request.

When enforced in accordance with the provisions of G.L. c. 40, sec. 21D, the penalty shall be as follows: first offense \$100.00; second offense \$200.00; and third offense \$300.00.



Town of Lakeville

Town Office Building

346 Bedford Street

Lakeville, Massachusetts 02347

OFFICE OF
SELECTMEN

TELEPHONE 508-946-8803

FAX 508-946-0112

TO: Mark Knox, Chairman
Planning Board

FROM: Tracie Craig-McGee, Executive Assistant

tem

RE: Site Plan Review Bylaw
Floodplain District Bylaw

DATE: April 7, 2021

At their meeting on April 6, 2021, the Board of Selectmen discussed the Site Plan Review Bylaw and the Floodplain Bylaw. The Board voted to include both articles on the Annual Town Meeting Warrant for May 10, 2021.

The Selectmen would like to respectfully request that the Planning Board schedule the necessary hearings for the attached ByLaw Warrant Articles.