

Article \_\_\_\_\_

**To see if the Town will vote to amend the Town of Manchester-by-the-Sea Zoning By-Laws relative to Section 10.2 Floodplain by deleting the strike through Section 10.2 and adding the new Section 10.2 Floodplain or, take any other action relative thereto.**

**Delete Existing Section 10.2 Floodplain**

**~~10.2 Flood Plain~~**

**~~10.2.1 Flood Plain District:~~**

~~The purposes of the Flood Plain District are to:~~

- ~~(a) Ensure public safety through reducing the threats to life and personal injury;~~
- ~~(b) Eliminate new hazards to emergency response officials;~~
- ~~(c) Prevent the occurrence of public emergencies resulting from loss of water quality, contamination, and pollution due to flooding;~~
- ~~(d) 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;~~
- ~~(e) Eliminate costs associated with the response and cleanup of flooding conditions;~~
- ~~\_\_\_\_\_ (f) Reduce damage to public and private property resulting from flooding waters.~~

**~~10.2.2 Flood Plain District Boundaries and Base Flood Elevation and Floodway Data~~**

~~10.2.2.1 The Flood Plain District is herein established as an overlay district. Any use otherwise permitted in the underlying district is permitted as a matter of right in the Flood Plain District, provided the use meets the following additional requirements and those of the Massachusetts State Building Code dealing with construction in flood plains and coastal high hazard areas as applicable. The Flood Plain District includes all special flood hazard areas within the Town of Manchester-by-the-Sea designated as Zone A, AE, AH, AO, 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 Town of Manchester-by-the-Sea are panel numbers 25009C0429F dated July 3, 2012; and panel numbers 25009C0431G, 25009C0432G, 25009C0433G, 25009C0434G, 25009C0441G, 25009C0442G, 25009C0451G, 25009C0453G, 25009C0454G, and 25009C0475G, dated July 16, 2014. The exact boundaries of the District shall be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Essex-~~

~~County Flood Insurance Study (FIS) report dated July 16, 2013, as those documents were updated by FEMA Letter of Map Revision (LOMR) dated March 12, 2017, for panels 25009C0453G and 25009C0454G, effective as of July 25, 2017. The FIRM, FIS booklet, and LOMR are incorporated herein by reference and are on file with the Town Clerk, Planning Board, and Director of Public Works. [Amended 2012, 2014, 2017]~~

~~10.2.2.2 Base Flood Elevation and Floodway Data (a) Base Flood Elevation Data is required for subdivision proposals or other developments greater than 50 lots or 5 acres, which ever is the lesser, within unnumbered A zones. (b) 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. [Added 2012]~~

### **~~10.2.3 Notification of Watercourse Alteration~~**

~~In a riverine situation, the following must be notified of any alteration or relocation of a watercourse:-~~

~~(a) Adjacent communities~~

~~(b) NFIP State Coordinator Massachusetts Office of Water Resources 251 Causeway Street Suite 600-700 Boston, MA 02114-2104~~

~~(c) [deleted 2002]~~

~~(d) NFIP Program Specialist Federal Emergency Management Agency, Region I 99 High Street, 6th Floor Boston, MA 02110 [Revised 2012]~~

### **~~10.2.4 Use Regulations~~**

#### **~~10.2.4.1~~**

~~Within any Zone where the base flood elevation is not provided on the FIRM, the applicant shall obtain any existing base flood elevation data and it shall be reviewed by the Building Inspector for its reasonable utilization toward meeting the elevation or flood proofing requirements, as appropriate, of the State Building Code.~~

#### **~~10.2.4.2~~**

~~Located within the Flood Plain District are areas designated as coastal high hazard areas (Zone VE). Since these areas are extremely hazardous due to high velocity waters from tidal surges and hurricane wash, all new construction shall be located landward of the reach of Spring High Tide. Spring High Tide shall be~~

~~located as that elevation shown on the Army Corps of Engineers High Tide Chart (Tidal Flood Profiles New England Coastline, See ACOE, New England Division, Prepared by Hydraulics and Water Quality Section, Waltham, MA). All references to elevations should be to NGVD (National Geodetic Vertical Datum). Wave run-up as defined by the elevation of the one year flood surge~~

~~(Stillwater) as noted under section 404, shall be incorporated in to those elevations within V zones. [Revised 2012]~~

#### ~~10.2.4.3~~

~~All development in the Flood Plain District, including structural and non-structural activities, whether permitted by right or by special permit, shall be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws, and with the following:-~~

~~(a) Sections of the Massachusetts State Building Code (780 CMR) which address floodplain and coastal high hazard areas; [Revised 2012]~~

~~(b) Wetlands Protection Regulation, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);~~

~~(c) Inland Wetlands Restriction, DEP (currently 310 CMR 13.00); [Revised 2012]~~

~~(d) Coastal Wetlands Restriction, DEP (currently 310 CMR 12.00); [Revised~~

~~2012] (e) Minimum requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5); Any variances from the provisions and requirements of the above referenced State regulations shall be granted only in accordance with the required variance procedures of these State regulations.-~~

#### ~~10.2.4.4~~

##### ~~Other Use Regulations~~

~~(a) Within Zone AO on the FIRM, adequate drainage paths are required around structures on slopes to guide flood waters around and away from proposed structures. [Revised 2014]~~

~~(b) Man-made alteration of sand dunes within Zone VE, which would increase potential flood damage, is prohibited. [Revised 2012]~~

~~(c) All development and/or uses within the Flood Plain District shall comply with all applicable local laws and regulations.~~

**ADD** New Section 10.2 Floodplain

## 1. Purpose

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

The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within Manchester-by-the-Sea designated as Zone A, AE, AO, and VE on the Essex County Flood Insurance Rate Map (FIRM) dated July 8, 2025 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 Essex County Flood Insurance Study (FIS) report dated July 8, 2025. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Office.

## 3. Designation of community Floodplain Administrator

The Town of Manchester-by-the-Sea hereby designates the Town Administrator or designee to be the official floodplain administrator for the Town.

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

The Town of Manchester-by-the-Sea 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 must demonstrate that all necessary permits have been acquired.

## 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 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

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 5 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

In A, AE, AO, and VE 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

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 Inspector of Buildings 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 acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, the Town 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:

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

#### 15. Variances to building code floodplain standards

- The Town 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 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 is considered reasonable but does not imply total flood protection.

#### 19. Severability section

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

## 20. Local Enforcement

Enforcement of this bylaw shall be in accordance with Section 12.2 of the Manchester-by-the-Sea Zoning By-Law

## 21 Definitions

The following definitions shall apply to this Section 10.2 Floodplain By-Law:

**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]

**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, AO, and VE [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]