

TOWN OF GOSNOLD
Planning Board Meeting April 8, 2016
Proposed addition to Zoning By-laws

Article ___ - Zoning: Flood Plain District: To see if the Town will vote to amend the Town Zoning By-laws to add the following By-law entitled: "Section 6 Floodplain District", and renumber the succeeding sections as follows (*italics* text is existing text, ~~strikethrough~~ text is to be deleted, **bold** text is new):

Section 6.0 Floodplain District
6.1 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.**

6.2 Floodplain Boundaries and Base Flood Elevation and Floodway Data
6.2.1 Floodplain District Boundaries and Base Flood Elevation Data

The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Gosnold designated as Zone AE or VE on Dukes 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 Dukes County FIRM that are wholly or partially within the Town of Gosnold are panel numbers 25007C0013J, 25007C0014J, 25007C0018J, 25007C0033J, 25007C0034J, 25007C0037J, 25007C0041J, 25007C0042J, 25007C0053J, 25007C0054J, 25007C0056J, 25007C0057J, 25007C0058J, 25007C0059J, 25007C0061J, 25007C0076J, and 25007C0077J dated July 20, 2016. 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 Dukes County Flood Insurance Study (FIS) report dated July 20, 2016. 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.

Section 6.3 Notification of Watercourse Alteration

In a riverine situation, the Zoning Enforcement Officer shall notify the following of any alteration or relocation of a watercourse:

- **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 6.4 Use Regulations

6.4.1 Reference to Existing Regulations

The Floodplain District is established as an overlay district to all other districts. All development in the district, 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 following:

- 1. Sections of the Massachusetts State Building Code (780 CMR) which address floodplain and coastal high hazard areas;**
- 2. Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);**
- 3. Inland Wetlands Restriction, DEP (currently 310 CMR 13.00);**
- 4. Coastal Wetlands Restriction, DEP (currently 310 CMR 12.00);**
- 5. 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 may only be granted in accordance with the required variance procedures of these state regulations.

6.4.2 Other Use Regulations

- 1. Man-made alteration of sand dunes within Zone VE which would increase potential flood damage are prohibited.**

2. All new construction within Zone VE must be located landward of the reach of mean high tide.
3. 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.
4. Existing contour intervals of site and elevations of existing structures must be included on plan proposal.
5. 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 Inspector for comments which will be considered by the appropriate permitting board prior to issuing applicable permits.

6.5 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.

6.6 Definitions

AREA OF SPECIAL FLOOD HAZARD is the land in the floodplain within a community subject to a 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.

COASTAL HIGH HAZARD AREA means 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. The area is designated on a FIRM as Zone V, V1-30, VE.

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.

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) means an official map of a community issued by FEMA where the boundaries of the flood and related erosion areas having special hazards have been designated as Zone A or E.

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 of 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.

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 NFIP Regulations 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.

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

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.

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.

ZONE AE means the 100-year floodplain where the base flood elevation has been determined.

ZONE X is an area identified in the community Flood Insurance Study as an area of moderate or minimal flood hazard.

ZONE VE means a special flood hazard area along a coast subject to inundation by the 100-year flood with additional hazards due to velocity (wave action). Base flood elevations have been determined.

~~Section 6.0 Administration~~ **Section 7.0 Administration**

~~6.1 Building Inspector~~ **7.1 Building Inspector**

This By-law shall be enforced by a building inspector and a local inspector who are appointed by or acting for the Board of Selectmen. One of them shall preferably live within District I at least a part of each year, the other shall preferably live within District II at least part of the year. The powers and authority granted hereunder to the building inspector shall apply to the local inspector to the extent permitted by law.

~~6.2 Permits~~ **7.2 Permits**

~~6.2.1~~ **7.2.1**

No structure shall be altered and no uses of land or structures shall be begun or changed without a permit which has been issued by the building inspector. Such permit shall not be unduly withheld for reasons inconsistent with the intent of this By-law, nor without good cause.

~~6.2.2~~ **7.2.2**

Each application for a building permit shall be accompanied by such plans, surveys and other data as may be necessary in the opinion of the building inspector to insure full compliance with this By-law, as provided in Chapter 40A of the General Laws.

~~6.2.3~~ **7.2.3**

No building permit shall be issued unless the proposed construction or use shall comply in all respects with the provision of this By-law or with a decision rendered by the Board of Appeals, as provided in Chapter 40A of the General Laws.

~~6.2.4~~ **7.2.4**

Any building permit under which work has not been commenced within one year from the date of issue shall become void.

~~6.3 Violations~~ **7.3 Violations**

Any person, firm or corporation, without limitations, violating any of the provisions of this By-law may be fined not more than \$50.00 for each offense. Written notice of a violation shall be provided by the Board of Selectmen in hand or by registered mail to the person, firm or

corporation responsible for such violation, or to an agent of such person, firm or corporation. Each day that such violation continues, after notice as provided above, shall constitute a separate offense.

~~6.4 Board of Appeals~~ **7.4 Board of Appeals**

There is hereby established a Board of Appeals, consisting of three member, each to be a voter of the Town, one to reside in District I for at least a portion of the year, one to reside in District II for at least a portion of the year and a third from either of the two districts. There shall be four associate members who are voters of the Town. These persons shall be appointed by the Board of Selectmen, as provided in Chapter 40A of the General Laws. Under the provisions of Chapter 40A, the Board of Appeals shall have the power to:

- a. Hear and decide appeals concerning building permits.
- b. Hear and decide applications for special permits.
- c. Hear and decide applications for variances.

~~6.5 Special Permits~~ **7.5 Special Permits**

~~6.5.1~~ **7.5.1**

A special permit under this By-law shall be issued only following a public hearing held within 65 days after the application for the special permit has been filed with the Town Clerk, who shall forthwith transmit a copy thereof to the Board of Appeals. A special permit granted under this By-law shall lapse one year from the granting thereof, including the time required to pursue or await the determination of an appeal under General Laws, Chapter 40A, Section 17, if a substantial use thereof has not sooner commenced except for good cause or, in the case of a permit for construction, if construction has not begun by such date, except for good cause.

~~6.6 Variances~~ **7.6 Variances**

The Board of Appeals shall have the power in accordance with the requirements of Section 10 of Chapter 40A of the General Laws to grant upon appeal or petition with respect to particular land or structures including the use of building or land a variance from the terms of this By-law where the Board of Appeals specifically finds that circumstances and condition especially affecting such land and such structures but not affecting generally the zoning district in which they are located, a literal enforcement of the provisions of the By-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the By-law. If the rights authorized under a variance are not exercised within one year of the date of grant of such variance they shall lapse and may be reestablished only after a new notice and a new hearing as required by Section 10 of Chapter 40A of the General Laws.

~~Section 7.0 Validity~~ **Section 8.0 Validity**

The invalidity of any section or provision of this By-law shall not invalidate any other section or provision of it.

~~Section 8.0 Repeal or Amendment~~ **Section 9.0 Repeal or Amendment**

Any or all of this By-law may be repealed or replaced by other By-laws at any Town meeting in accordance with the provisions of Chapter 40A of the General Laws. Written notice of any public hearing relating to a proposed amendment or repeals of this By-law shall be sent postage pre-paid to each resident and non-resident property owner, as shown on the records of the Board of Assessors.

~~Section 9.0 Effective Date~~ **Section 10.0 Effective Date**

The effective date of this By-law shall be the date upon which the By-law is adopted at Town Meeting. The Zoning By-law for the Town of Gosnold was approved by a vote of 49 standing in approval and 14 sitting against, at the Annual Town Meeting on May 24, 1993.

The By-law was amended and approved by a vote of 34 standing in approval and 15 sitting against, at the Annual Town Meeting on May 19, 2008.

The By-law was amended and approved by a vote of [blank] standing in approval and [blank] sitting against, at the [Annual/Special] Town Meeting on ~~April 8, 2016.~~

MAY 23, 2016

Article ___ - Zoning: Flood Insurance Rate Map (FIRM) and Flood Insurance Study (FIS) Changes: To see if the Town will vote to adopt the new Flood Insurance Rate Map (FIRM) and Flood Insurance Study (FIS) produced by the Federal Emergency Management Agency (FEMA) in support of the National Flood Insurance Program (NFIP), effective July 20, 2016.