

**AMENDING THE CODE OF THE CITY OF PITTSFIELD
CHAPTER 23, “ZONING ORDINANCE”**

SECTION I

That the Code of the City of Pittsfield, Chapter 23, Article 23-6 Floodplain District, shall be replaced with the following:

**Article 23-6
FLOODPLAIN DISTRICT**

Section 6.1 Statement of Purpose

Section 6.2 Definitions

Section 6.3 Floodplain District Boundaries and Base Flood Elevation Data, Floodway Data

Section 6.4 Use Regulations

Section 6.5 Notification of Watercourse Alteration

Section 6.6 Permitted Uses

SECTION 6.1 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.

SECTION 6.2 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.

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 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 A1-30 and **ZONE AE** (for new and revised maps) means the 100-year floodplain where the base flood elevation has been determined.

ZONE AH and **ZONE AO** means the 100-year floodplain with flood depths of 1 to 3 feet, where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

ZONE A99 means areas to be protected from the 100-year flood by federal flood protection system under construction. Base flood elevations have not been determined.

ZONES B, C, AND 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.

SECTION 6.3 FLOODPLAIN DISTRICT BOUNDARIES AND BASE FLOOD ELEVATION AND FLOODWAY DATA

SECTION 6.301 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 designated on the Pittsfield Flood Insurance Rate Maps (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the NFIP dated February 19, 1982 and January 16, 1987 as Zone A, A1-30, and the FEMA Flood Boundary & Floodway Map dated February 19, 1982. 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 Flood Insurance Study (FIS) report dated January 16, 1987. The FIRM, Flood Boundary & Floodway Map, and FIS report are incorporated herein by reference and are on file with the Department of Community Development and Conservation Commission.

SECTION 6.302 BASE FLOOD ELEVATION AND FLOODWAY DATA

- A. **Floodway Data.** In Zones A, A1-30, and 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.** 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.

SECTION 6.4 USE REGULATIONS

SECTION 6.401 SPECIAL PERMIT PROCEDURES

Any person desiring to establish, change or expand any principal permitted use or accessory use which involves or requires the construction of a new structure or the alteration, expansion, or moving of an existing structure; or the outdoor storage of materials (including earth materials) or equipment; shall submit an application for a special permit to the Community Development Board describing in detail the proposed use of the property and work to be performed, accompanied by plans showing:

- A. The boundaries, dimensions and the specific location of the lot in relationship to the Floodway and/or base flood level.
- B. Mean sea level elevation with two foot (2') or less contour separation for the existing and proposed land surface, and finished elevations of the basement, first floor, and/or disposal facilities.
- C. Amount and location of fill to be deposited in the 100 year flood plain and amount and location of compensatory storage.

SECTION 6.402 SPECIAL PERMIT REQUIREMENTS

The Community Development Board may issue a special permit if it finds that the proposed use is in compliance with requirements set forth below. The Community Development Board may impose such additional requirements and conditions as necessary to ensure the protection of public health, safety, and welfare. The burden of providing that the proposed use will not endanger the health, safety, and welfare shall rest upon the applicant who shall submit such engineering and hydrological data as may be required.

- A. In Zones A1-30 and along watercourses that have a regulatory floodway designated on the Pittsfield Flood Boundary & Floodway Map 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.

- B. All mobile homes and mobile parks except those existing prior to the adoption of this ordinance are prohibited from locating in the floodway.
- C. When flood proofing is utilized for a particular structure a registered professional engineer or architect shall certify that the flood proofing methods are adequate to withstand the flood depths, pressures, impact and uplift forces and other factors associated with the base flood.
- D. All new construction and substantial improvement of residential structures shall have the lowest floor, including basement and cellar, elevated to or above the base flood level.
- E. 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.
- F. All other necessary permits will have to be received from those governmental agencies from which approval is required by federal, state or local laws.

SECTION 6.403 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:

- Sections of the Massachusetts State Building Code (780 CMR) which address floodplain and coastal high hazard areas;
- Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);

- Inland Wetlands Restriction, DEP (currently 310 CMR 13.00);
- 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.

SECTION 6.404 OTHER USE REGULATIONS

The Department of Public Works, in reviewing all proposed water and sewer facilities to be located in the Floodplain District established under the Zoning Bylaw, shall require that:

- A. new and replacement water supply systems be designed to minimize or eliminate infiltration of flood waters into the systems, and
- B. new and replacement sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and onsite waste disposal systems to be located to avoid impairment to them or contamination from them during flooding.

SECTION 6.405 EXCEPTIONS

- A. The requirements of this ordinance are not intended to govern the normal customary grading in the area of an existing or newly constructed building. Such uses include, but are not limited to, the preparation and construction of sidewalks, driveways, and patios. Such grading and earth moving shall be approved by the Building Inspector at the time of the issuance of the building permits, provided that a plan showing proper drainage and protection of adjoining property has been submitted.
- B. The requirement of this ordinance shall not apply to any emergency projects which are certified as such by the Building Inspector.

SECTION 6.5 NOTIFICATION OF WATERCOURSE ALTERATION

In a riverine situation, the Department of Community Development shall notify the following of any alteration or relocation of a watercourse:

- Adjacent Communities

- 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 6.6 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.

SECTION II

This ordinance shall become effective upon enactment.