

**AN ORDINANCE AMENDING THE WORCESTER ZONING  
ORDINANCE ADOPTED APRIL 2, 1991, RELATIVE TO THE  
FLOODPLAIN OVERLAY DISTRICT**

Be it ordained by the City Council of the City of Worcester as follows:

The Worcester Zoning Ordinance, adopted April 2, 1991, be and is hereby amended by deleting Article VI in its entirety and inserting the following new Article VI in lieu thereof:

**ARTICLE VI FLOODPLAIN OVERLAY DISTRICT**

**Section 1 – Purpose**

A. The purposes of this Article are as follows:

1. To preserve, protect and maintain floodplains.
2. To ensure public safety through reducing the threats to life and personal injury.
3. To reduce damage to public and private property resulting from flooding waters.
4. To control land uses which cause damaging increase in erosion, siltation, turbidity, flood heights and flood velocities.
5. To preserve the natural flow pattern of watercourses providing safe and adequate flood water storage and runoff capacity.
6. To protect, preserve and maintain the water table and water recharge areas.
7. To encourage a suitable system of ponding areas to permit the temporary retention of water runoff.
8. To prevent the development of structures unfit for human usage by reason of danger from flooding, unsanitary conditions or other hazards.
9. To consider floodplain management programs in neighboring areas.
10. To help preserve and enhance property values.
11. To provide for public awareness of the flooding potential.
12. To require that uses vulnerable to floods, including facilities which serve such uses,

be protected against flood damage at the time of initial construction.

13. To eliminate costs associated with the response and cleanup of flooding conditions.
14. To prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding.
15. To minimize the need for rescue and relief efforts associated with flooding.
16. To eliminate new hazards to emergency response officials.
17. To prohibit nonessential or improper installation of public facilities and utilities in flood prone areas.
18. To 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.
19. To divert development to areas safe from flooding in order to reduce flood damages and prevent environmentally incompatible floodplain uses.
20. To preserve flood prone areas for open space purposes.
21. To insure that potential buyers are notified that property is in a flood prone area.
22. To eliminate costs associated with .
23. To achieve these purposes in a manner consistent with all other applicable ordinances of the City of Worcester, the General Laws of the Commonwealth of Massachusetts and laws of the United States of America.

## **Section 2 – Definitions**

- A. **BASE FLOOD** - A flood having a one (1) percent chance of being equaled or exceeded in any given year. This is the regulatory floodplain, also referred to as the "100-year flood".
- B. **BASE FLOOD ELEVATION (BFE)**– The elevation of surface water resulting from a flood having a one (1) percent chance of equaling or exceeding that level in any given year. The BFE is shown on the Flood Insurance Rate Map (FIRM) and detailed in the Flood Insurance Study (FIS).
- C. **DEVELOPMENT** - Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

- D. FLOOD OR FLOODING** – A general and temporary condition of partial or complete inundation of normally dry land from: (1) the overflow of inland waters; or (2) the unusual and rapid accumulation of runoff of surface waters from any source.
- E. FLOOD INSURANCE RATE MAP (FIRM)** - Official map of a community on which FEMA has delineated the Special Flood Hazard Areas (SFHAs), the Base Flood Elevations (BFEs) and the risk premium zones applicable to the community.
- F. FLOOD INSURANCE STUDY (FIS)** – The official report provided by the Federal Emergency Management Agency (FEMA) which contains flood risk data for specific watercourses, lakes, etc. in a community and detailed flood elevation data in flood profiles and data tables, including water surface elevations of the base flood used for the FIRM.
- G. FLOODPLAIN** – Any land area susceptible to being inundated by floodwaters from any source.
- H. FLOODPLAIN DEVELOPMENT PERMIT** – Any permit issued by the City of Worcester for development in the floodplain.
- I. FLOODPROOFING** – Any combination of structural and non-structural additions, or adjustments to structures or land which reduce or eliminate flood damage to real estate, or improved real property, water and sanitary facilities, structures and their contents.
- J. 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.
- K. FUNCTIONALLY DEPENDENT USE** - 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.
- L. HIGHEST ADJACENT GRADE** - The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- M. HISTORIC STRUCTURE** – 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 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.
- R. 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.*
- S. RECREATIONAL VEHICLE** – 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 truck; and
  - (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- T. REGULATORY FLOODWAY** – See “FLOODWAY”.
- U. SPECIAL FLOOD HAZARD AREA** - The land area subject to flood hazards and shown on a Flood Insurance Rate Map as Zone A, AE, AO, AH.
- V. 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.
- W. STRUCTURE** - 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.
- X. 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.

**Y. VARIANCE** - A grant of relief by a community from the terms of a flood plain management regulation.

**Z. VIOLATION** - 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.

### **Section 3 – General Provisions**

All applications for building permits shall insure that such activity as proposed is consistent with the need to minimize flood damage.

Any new construction or substantial improvement to be undertaken in the Floodplain Overlay District shall be in accordance with the State Building Code and such other controls as are herein provided.

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; and
- (c) Adequate drainage is provided.

When proposing subdivisions or other developments greater than 50 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.

### **Section 4 – Definition and Establishment of the Floodplain Overlay District**

The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within the City of Worcester designated as Zone A, AE, AH, AO, on the Worcester 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 Worcester 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 City Clerk, Planning Board, Conservation Commission, and Department of Inspectional Services.

**Section 5 – Administrative Authority of the Director of Code Enforcement in the Floodplain Overlay District**

- A. The Director of Code Enforcement of the City of Worcester, the designated official floodplain administrator, is hereby authorized to do the following:
1. Require 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.
  2. Review permits for proposed development to assure that all other necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
  3. Notify adjacent communities and the State coordinator at the Division of Water Resources, Water Resource Commission, Massachusetts Department of Environmental Management and the Worcester Conservation Commission prior to any alteration or relocation of a watercourse and submit evidence of such notification to FEMA.
  4. Assure that maintenance is provided within the altered or relocated position of any watercourse so that the flood carrying capacity is not diminished.
  5. Obtain and maintain records of elevation certificates and floodproofing certificates for all new or substantially improved structures, whether or not such structures contain a basement.
  6. Obtain certification from a registered professional engineer and/or architect when floodproofing is used for a particular structure.
  7. Obtain certification from a registered professional engineer, land surveyor, and/or architect on an elevation certificate when elevation is used for a particular structure prior to construction or substantial improvement and upon completion thereof.
  8. Determine the exact location of the Floodplain Overlay District and the areas of special flood hazards, particularly where there is a conflict between a mapped boundary and actual field conditions.
  9. Obtain and review any base flood elevation data available from a Federal, State or

other source in order to administer the provisions of this article.

## **Section 6 – Development Permit Application and Development Standards**

A floodplain development permit is required prior to commencement, 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 within the floodplain overlay district, that might increase flooding or adversely impact flood risks to other properties. Where applicable, a floodplain development permit may be substituted by a building permit and/or a permit from the Conservation Commission,

Each application for a floodplain development permit subject to the provisions of this Article shall be made to the Director of Code Enforcement on forms furnished by the Director and shall include the following:

### **A. Site Plan**

A site plan drawn to a scale not less than forty (40) feet to the inch which is prepared by a registered professional engineer or professional land surveyor shall be submitted by the applicant. The site plan shall show at least the following information:

1. The location, boundaries, elevations and dimensions of each lot.
2. North-point-basis of bearing, date, scale and legend.
3. The name and address of the record owner, developer and the registered professional civil engineer or professional land surveyor.
4. Names and addresses of owners of adjacent lots as disclosed by the most recent records of the Department of Administration & Finance, Assessing Division.
5. Location, names, elevations and dimensions of adjacent streets.
6. Two (2) foot contours of the existing and proposed land surface.
7. Locations and elevations of existing and proposed structures, fill, storage of materials, watercourses, drainage easements, means of access, water supply, drainage and sewage disposal facilities.
8. The locations and elevations of existing flood boundary and floodway.

### **B. Zone Specific Standards**

In Zone AE, along watercourses that have a regulatory floodway designated on the City of Worcester's FIRM encroachments are prohibited, including fill, new construction,

substantial improvements to existing structures, 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.

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.

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.

Within Zones AH and AO on the FIRM, adequate drainage paths must be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

In A, AH, AO, AE 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.

C. Compliance

All development in the Floodplain Overlay 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. that section of the Massachusetts State Building Code which addresses floodplain construction requirements ;
2. Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);
3. Inland Wetlands Restriction, DEP (currently 310 CMR 13.00); and
4. Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5).

**Section 7 – Use Regulations**



A. Permitted Uses

The following uses shall be permitted within the Floodplain Overlay District provided they do not require any construction of new primary or existing structures, substantial alterations to existing primary or existing structures, dumping, filling, excavating, earth transfer or storage of materials or equipment. Said uses shall not adversely affect the capacity of the channels or floodways of any tributary to the main stream, drainage ditch or any other drainage facility or system. Said uses shall be compatible with the policies expressed in this Article.

1. Outdoor recreation, including but not limited to driving ranges, archery ranges, picnic grounds, boating, swimming areas, parks, nature preserves, fish hatcheries, target ranges, hunting and fishing areas, foot paths, horseback riding trails and bicycle trails. Said uses must be otherwise legally permitted.
2. Agricultural uses including grazing, outdoor plant nurseries, crop farming, horticulture, truck gardening, pasture and harvesting of crops.
3. Forestry, including landscaping, and accessory uses such as flower or vegetable gardens and lawns.

B. Other Uses Permitted in the Underlying Zoning District

Any uses other than those provided for in **Section-7(A)** of this Article, permitted in the portions of the zoning districts which are overlaid by the Floodplain Overlay District, are permitted, provided the following criteria are met:

1. Said use shall not adversely affect life and property due to water or erosion hazards, or which cause damaging increase in erosion, flood heights or flood velocities.
2. Said use shall not overload any public water, drainage or sewer system or any other municipal system to such an extent that these systems are hindered from promoting the health, safety and general welfare of the community.
3. Said use has received from the Conservation Commission an Order of Conditions or a negative Determination of Applicability which establishes that the use meets the standards administered by that body.

**Section 8 – Variances**

A. Variances to Building Code Floodplain Standards

The City of Worcester 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 City's files.

The City 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 the appropriate official in the Department of Inspectional Services 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.

B. Variances to the Worcester Zoning Ordinance Related to Community Compliance with the National Flood Insurance Program (NFIP)

A variance from the provisions of this Article VI 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.

**Section 9 – Miscellaneous**

A. Requirement to Submit New Technical Data

If the City of Worcester acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, the 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:

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

B. Watercourse Alterations or Relocations in Riverine Areas

In a riverine situation, the director of code enforcement 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

C. Abrogation and Greater Restriction

The floodplain management regulations found in this Floodplain Overlay District section shall take precedence over any less restrictive conflicting City of Worcester ordinance.

D. Disclaimer of Liability

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

E. Severability

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

**In City Council June 17, 2025**

**Passed to be ordained by a yea and nay vote of Ten Yeas and No Nays**

**A Copy. Attest:**

**Nikolin Vangjeli**

A handwritten signature in black ink, appearing to read 'Nikolin Vangjeli', is written over a light blue grid background.

**City Clerk**