

No.1292.....



City of Pittsfield

In the Year Two Thousand Twenty Four

AN ORDINANCE

AMENDING THE CODE OF THE CITY OF PITTSFIELD CHAPTER 23, "ZONING ORDINANCE"

Be it ordained by the City Council of the City of Pittsfield, as follows:

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 6.101 STATEMENT OF PURPOSE

The purpose of the Floodplain Overlay District is 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 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;

6.102 ABROGATION AND GREATER RESTRICTION

The floodplain management regulations found in this Floodplain Overlay District section shall take precedence over any less restrictive conflicting local laws, ordinances or codes.

6.103 DISCLAIMER OF LIABILITY

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

6.104 DESIGNATION OF COMMUNITY FLOODPLAIN ADMINISTRATOR

The City of Pittsfield Director of Community Development or their designee shall act as the official floodplain administrator for the City.

SECTION 6.2 DEFINITIONS

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

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.

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.

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. 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.

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.

HIGHEST ADJACENT GRADE means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

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.

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 nonelevation 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.

MOBILE HOME A vehicular portable completely enclosed structure built on a permanent chassis as a single unit designed for long-term occupancy as a dwelling, whether or not placed on or affixed to a foundation, with all the following characteristics:

(a). Containing sleeping accommodations and kitchen facilities with plumbing and electrical connections provided for attachment to outside systems.

(b). Designed to be transported after fabrication on its own wheels or on flatbed or other trailers or detachable wheels.

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.* 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.

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.

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, A1-30, A99, AR, AO, AH.

START OF CONSTRUCTION The date of issuance for new construction and substantial

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.

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 on a foundation.

SUBSTANTIAL IMPROVEMENT means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% 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.

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.

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.*)

SECTION 6.3 FLOODPLAIN DISTRICT BOUNDARIES

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 Map (FIRM) issued by the Federal Emergency Management Agency for the administration of the National Flood Insurance Program, dated January 16, 1987, as Zone A, A1-30, and the FEMA Flood Boundary and Floodway Map dated January 16, 1987. These maps indicate the 1%-chance regulatory floodplain. 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 Flood Insurance Study (FIS) report dated January 16, 1987. The effective FIRM, FBFM, and FIS report are incorporated herein by reference and are on file with the Department of Community Development, and Conservation Commission.

SECTION 6.4 USE REGULATIONS

SECTION 6.401 SITE PLAN REVIEW 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, or 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 shall submit an application for a Site Plan Review 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 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 one-hundred-year floodplain and amount and location of compensatory storage.

SECTION 6.402 SITE PLAN REVIEW REQUIREMENTS

The Community Development Board may approve a site plan application for development in the floodplain 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 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

B. In Zones A1-30 and AE, along watercourses that have a regulatory floodway designated on the City's Flood Boundary & Floodway Map 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.

D. In A1-30, AH, 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.

E. When floodproofing is utilized for a particular structure, a registered professional engineer or architect shall certify that the floodproofing methods are adequate to withstand the flood depths, pressures, impact and uplift forces and other factors associated with the base flood.

F. All new construction and substantial improvement of residential and nonresidential structures shall have the lowest floor, including basement and cellar, elevated to or above the base flood level.

G. 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.

H. 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.

I. 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. The Building Department may require that the applicant provide such data as necessary to complete this review.

J. All other necessary permits will have to be received from those governmental agencies from which approval is required by federal, state or local laws. The proponent must demonstrate that all necessary permits have been acquired.

SECTION 6.403 REFERENCE TO EXISTING REGULATIONS

A. The Floodplain District is established as an overlay district to all other districts. All development in the district, including structural and nonstructural activities, whether permitted by right or by special permit, must be in compliance with MGL c. 131, § 40, and with the following:

- (1) Sections of the Massachusetts State Building Code (780 CMR) which address floodplain and coastal high hazard areas:

(currently 310 CMR 10.00);

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

(4) Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5).

B. 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, additionally:

(1) The City 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.

(2) 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 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.

(3) Such notification shall be maintained with the record of all variance actions for the referenced development in the floodplain overlay district.

C. 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 the procedure identified in Section 11 of this ordinance, 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 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 floodwaters into the systems; and

B. New and replacement sanitary sewage systems be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters and on-site 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 article 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 earthmoving 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

B. The requirement of this article shall not apply to any emergency projects which are certified as such by the Building Inspector.

SECTION 6.5 NOTIFICATION OF WATERCOURSE ALTERATION

6.501 Watercourse alterations or relocations in riverine areas

In a riverine situation, the Director of Community Development or their designee 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

6.502 Requirement to submit new technical data

If the City 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

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:

- A. Agricultural uses such as farming, grazing, truck farming, horticulture, etc.
- B. Forestry and nursery uses.
- C. Outdoor recreational uses, including fishing, boating, play areas, etc.
- D. Conservation of water, plants, wildlife.
- E. Wildlife management areas, foot, bicycle, and/or horse paths.
- F. Temporary nonresidential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises.
- G. Buildings lawfully existing prior to the adoption of these provisions.

SECTION II

This ordinance shall become effective upon enactment.

In City Council
Read and passed to be ordained
December 10, 2024
10 Yeas - 0 Nays
/s/ Peter T. White, Council President
/s/ Michele M. Benjamin, City Clerk

Approved by the Mayor
December 11, 2024
/s/Peter M. Marchetti

A true copy, attest:
Michele M Benjamin
City Clerk