



City of New Bedford Department of City Planning

133 William Street · Room 303 · New Bedford, Massachusetts 02740
Telephone: (508) 979.1488 · Facsimile: (508) 979.1576

MAYOR
JON MITCHELL

MEMO: FLOOD HAZARD OVERLAY DISTRICT ORDINANCE

March 26, 2021

Purpose

The purpose of the Flood Hazard Overlay District (FHOD) ordinance is to create an overlay district based on the flood hazard areas identified by FEMA for the administration of the National Flood Insurance program. Currently, the boundaries of the district are based on the 100-year base flood elevations. The FHOD ordinance creates use regulations for the FHOD in the City, which seek to ensure public safety, eliminate potential hazards to emergency response officials, protect water quality during floods, preserve utility services, reduce the cost of flood response, and prevent flood-related property damage.

On March 2, 2021, Mayor Mitchell requested that the City Council approve a series of amendments to the Code of Ordinances, Chapter 9, Section 4400, Flood Hazard Overlay District (FHOD). The updates will ensure that the City complies with the requirements of the National Flood Insurance Program. The amendments include updated definitions, requirements, and references to the revised Bristol County Flood Insurance Rate Map, which will be effective on July 6, 2021.

History and Timeline

The FHOD was last updated on July 6, 2014 to reflect 100-year flood elevations shown in the Bristol County Flood Insurance Study report of that year. The Mayor's Office sent the latest proposed changes to the Council on March 2, 2021. The Council then referred the amendments to the Planning Board and the Committee on Ordinances for recommendations on March 11, 2021. These ordinance changes are required statewide.

FHOD Boundaries

The proposed amendment updates the boundaries to reflect the latest FEMA Flood Insurance Rate Map for Bristol County and the Bristol County Flood Insurance Study report, both to be released on July 6, 2021. The boundaries will now be based on the 1%-chance base flood elevations, which is simply a more accurate name for the "100-year" flood.¹

Relationship to Existing Zoning

The amendment adds language specifying that "floodplain management regulations found in this Floodplain Overlay District section shall take precedence over any less restrictive conflicting local laws, ordinances or codes." Many of the City's existing zoning and overlay district ordinances already defer to the FHOD when there is conflict.

Revisions and additions

The proposed amendment makes required changes to the City's ordinances based on a model provided by the State. The amendment was prepared by the Solicitor's Office. The language was also reviewed and approved by the State prior to being referred to the City Council and Planning Board. Primarily, the changes designate the Inspector of Buildings as the City's official floodplain administrator and solidify a process for granting variances and permitting within the FHOD in accordance with State law. The amendment also creates procedures for acquiring and submitting new flood elevation data, and specific requirements for recreational vehicles located in the floodplain.

The following new or updated definitions are included (refer to attached ordinance for full definitions):

¹ Holmes, R. & Dinicola, K. (2010). "100-Year Flood: It's All About Chance." USGS General Information Product #106. Retrieved from: <https://pubs.usgs.gov/gip/106/pdf/100-year-flood-handout-042610.pdf>.

- Functionally Dependent Use (new)
- Highest Adjacent Grade (new)
- Historic Structure (new)
- New Construction – revised to clarify the start of construction date and specify that “new construction includes work determined to be substantial improvement.”
- Recreational Vehicle (new)
- Start of Construction (new)
- Structure – revised to remove extraneous language.
- Substantial Repair of a Foundation (new)
- Variance (new)
- Violation (new)

Both revised and new definitions also provide references for industry standards or the federal/state code that they are based upon.

Next Steps

The Mayor sent the FHOD ordinance to the City Council on March 2, 2021. Currently, the ordinance is before the Planning Board for their evaluation. Planning Board will also issue a recommendation on the draft ordinance to Ordinance Committee. After recommendations are considered, the City Council will be petitioned to adopt via a vote.