

**PROPOSED ZONING BYLAW AMENDMENTS TO CREATE HAWLEY  
FLOODPLAIN OVERLAY DISTRICT**

**1) AMEND ARTICLE III – DISTRICTS AND USE REQUIREMENTS, SECTION 31:  
DISTRICTS, AS FOLLOWS:**

The entire town of Hawley is hereby designated as a Rural District. *In addition, there shall be a Floodplain Overlay District as defined herein in Article III, Section 36.*

**2) ADD NEW SECTION 36, FLOODPLAIN OVERLAY DISTRICT TO ARTICLE III –  
DISTRICTS AND USE REQUIREMENTS, AS FOLLOWS:**

***Section 36: Floodplain Overlay District***

**36.1 - *Statement of purpose: The purposes of the Floodplain Overlay District are 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 a reduction in water quality, contamination, and/or 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. Reduce costs associated with the response and cleanup of flooding conditions;*
- f. Reduce damage to public and private property resulting from flooding waters.*

**36.2 - *Floodplain district boundaries and base flood elevation and floodway data:***

- a. The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas designated on the Hawley Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the NFIP dated December 4, 1985 as Zone A, which indicates the 100-year regulatory floodplain. The FIRM is incorporated herein by reference and is on file with the Town Clerk, Zoning Board of Appeals, Planning Board, Building Inspector, and Conservation Commission.*
- b. Floodway Data: In Zone A, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used as outlined in the State Building Code 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.*
- c. Base Flood Elevation Data: Base flood elevation data is required for subdivision proposals or other developments greater than 3 lots or 5 acres, whichever is less, where a portion of the development activity would be located within the A zones.*

**36.3 - Notification of watercourse alteration:** *The Building Inspector for Hawley shall notify the following of any alteration or relocation of a river:*

- *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*

**36.4 - Use regulations:**

**A. Reference to existing regulations**

*All development in the Floodplain 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 (the Wetlands Protection Act) and with the following:*

- *Section of the Massachusetts State Building Code (780 CMR) which addresses floodplain hazard areas;*
- *Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);*
- *Inland Wetlands Restriction, DEP (currently 310 CMR 13.00); and*
- *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.*

**B. Permitted uses**

*The following uses with low flood damage potential and causing no obstructions to flood flows are allowed provided they are permitted in the underlying district:*

- 1. Agricultural uses such as farming, truck farming, horticulture, aquaculture, etc.*
- 2. Forestry and nursery uses.*
- 3. Outdoor recreational uses not requiring permanent structures, 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.*

**C. Nonconforming uses**

1. *Any lawful use or structure existing at the effective date of this Bylaw/Ordinance or amendments thereof and not in conformance with the provisions of this bylaw/ordinance shall be considered to be a nonconforming use or structure, subject to Article IV, Section 41: Existing Uses, Structures, and Lots, herein.*

**36.5 - Enforcement:**

*Any violation of this section of the bylaw shall be subject to enforcement action by the Building Inspector pursuant to Article V - Administration, Section 51: Enforcement, herein.*

**3) AMEND ARTICLE II – DEFINITIONS, TO ADD THE FOLLOWING NEW DEFINITIONS:**

***Base Flood*** - *The flood having a one percent chance of being equaled or exceeded in any given year (also known as the “one-hundred-year flood”).*

***Base flood elevation (BFE)*** - *The elevation of the flood that has a 1 percent chance of occurring in a given year. Also known as the 1 percent annual chance flood or the 100 year flood.*

***Federal Emergency Management Agency (FEMA)*** - *The federal agency that 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 Insurance Rate Map (FIRM)*** - *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.*

***Floodway*** - *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.*

***Hazardous materials*** - *Products, wastes, or combination of substances which because of their quantity, concentration, or physical, chemical, toxic, radioactive, or infectious characteristics may reasonably pose a significant, actual, or potential hazard to human health, safety, welfare, or the environment when improperly treated, stored, transported, used, disposed or otherwise managed. Hazardous materials include, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious materials, and all substances defined as “toxic” or “hazardous under M.G.L. Chapters 21C and 21E, using the Massachusetts Oil and Hazardous Substance List (310 CMR*

*40.0000). The definition may also include acids and alkalis, solvents, thinners, and pesticides.*

***One-hundred-year flood*** - *see Base flood.*

***Regulatory floodway*** - *See Floodway.*

***River*** - *A natural flowing body of water that empties to any ocean, lake, or other river and which flows throughout the year.*

***Riverine*** - *Relating to or resembling a river, or located beside a river.*

***Special flood hazard area*** - *The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area is designated as Zone A.*

***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. For insurance coverage purposes, structure 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 mobile home on foundation. For the latter purpose, the term includes a building 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.*

***Zone A*** - *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 as outlined in the State Building Code.*

***Zone C*** - *Areas identified on the FIRM as areas of moderate or minimal flood hazard.*