

**Sec. 22-22. Floodplain/Watershed Protection Provisions.**

- (a) There is hereby established a Floodplain/Watershed Protection District, the purpose of which is to:
- (1) assure the continuation of the natural flow patterns of watercourses within the city;
  - (2) provide adequate and safe floodwater storage capacity in order to protect persons and property against increase in the hazards of flood inundation;
  - (3) protect and preserve the water table and groundwater recharge areas within the city; and
  - (4) allow the city to maintain compliance with the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973, and the regulations promulgated pursuant thereto.

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:

Section of the Massachusetts State Building Code which addresses floodplain and coastal high hazard areas (currently 780 CMR 120.g, "Flood Resistant Construction and Construction in Coastal Dunes");

Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);

Inland Wetland 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.

The areas of the city included in this district are set forth in subsection (g) of this section.

- (b) The provisions of this section shall take precedence over any conflicting city ordinance. Any uses in the Floodplain/Watershed Protection District, whether permitted by right or by special permit or variance, shall be subject to the following:
- (1) Except as provided in subsections (b)(2) and (e) of this section, no building or other structure shall be erected, constructed, altered, enlarged or otherwise created for any residence or other purpose; no dumping of trash, rubbish, garbage or junk or other waste materials shall be permitted; no filling, dumping, excavation, removal or transfer of gravel, sand, loam or other materials which will restrict floodwater flow or reduce floodwater storage capacity shall be permitted.
  - (2) Subsection (b)(1) notwithstanding, after a public hearing the conservation commission may issue an order of conditions for the following uses in the Floodplain/Watershed Protection District:
    - a) Any building or structure for which compensatory storage is provided and for which certification is submitted by a registered professional engineer demonstrating that such building or structure shall not result in any increase in flood levels during the 100-year flood.

Compensatory storage shall mean a volume not previously used for flood storage, and shall be incrementally equal to the theoretical volume of flood water at each elevation which would be displaced by the proposed project. Such compensatory volume shall have an unrestricted hydraulic connection to the same waterway or wetland being affected by the proposed project. Further, with respect to waterways, such compensatory volume shall be provided within the same reach of the waterway.

- b) Construction, operation, and maintenance of dams and other water-control devices including temporary alteration of the water level for emergency purposes.
  - c) Bridges and like structures permitting passage between lands of the same owner, except that such bridges and structures shall be constructed, maintained, and used at the expense and risk of such owner, and shall be designed and constructed so as to minimize the effect of such structures on water storage and water flow.
  - d) Parking lots, driveways, and walkways ancillary to permitted or existing uses within the district.
  - e) Recreation, including golf courses, municipal, county or state parks (but not an amusement park), boating, fishing, and any other noncommercial open-air recreation uses and structures ancillary to these uses.
  - f) Ancillary structures for farms, stock farms, truck gardens, nurseries, orchards, and tree farms.
- (3) No order of conditions shall be issued under paragraphs (2)(b)-(2)(f) of this subsection unless it is demonstrated to the satisfaction of the conservation commission that the cumulative effect of the proposed project, when combined with all other existing and anticipated development, will not increase the water surface elevation of the 100-year flood at any point within the city.
- (c) The construction, reconstruction or enlargement of any building or structure in the Floodplain/Watershed Protection District shall also be subject to the following provisions:
- (1) All construction of residential structures shall have the lowest floor (including the basement) at or above the pertinent flood elevation established within subsection (g) hereof, and all construction of non-residential structures shall have either the lowest floor (including the basement) at or above the pertinent flood elevation of said subsection (g), or along the attendant utility and sanitary facilities shall be floodproofed, i.e. designed so that below the established flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
  - (2) Where watertight floodproofing of a structure is permitted, a registered professional engineer or architect shall certify that the methods used are adequate to withstand the flood depths, pressures and velocities, impact and uplift forces and other factors associated with the pertinent flood levels.
- (d) In its discretion, the conservation commission may accept a single notice of intent, conduct a single hearing, and issue a single order of conditions pursuant to its jurisdiction under this section and its jurisdiction under the Wetlands Protection Act, G.L. c. 131, sec. 40; provided, however, that in the event that the provisions of this section are more restrictive than those of the said Wetlands

Protection Act and the regulations promulgated pursuant thereto, the provisions of this section shall control.

- (e) Nothing in this section shall be deemed to prohibit the reconstruction (but not enlargement) of any building or structure destroyed by fire or natural disaster; provided, however, that such a reconstruction shall be pursuant to an order of conditions issued by the conservation commission.
- (f) The boundaries of the Floodplain/Watershed Protection District are intended to correspond with the maximum lateral extent of floodwater which will result from the one-percent chance flood (100-year flood). The district includes all special flood hazard areas within the City of Newton designated as Zone A and AE on the Middlesex County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Middlesex County FIRM that are wholly or partially within the City of Newton are panel numbers 25017C0532E, 25017C0534E, 25017C0551E, 25017C0552E, 25017C0553E, 25017C0554E, 25017C0556E, 25017C0558E, 25017C0561E, 25017C0562E, 25017C0566E dated June 4, 2010. 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 Middlesex County Flood Insurance Study (FIS) report dated September 28, 2007. The FIRM and FIS report are incorporated herein by reference and are on file with the city clerk, planning board, inspectional services, conservation commission and engineering. Said boundaries have been determined by reference to data prepared for the city pursuant to the National Flood Insurance Program, as currently administered by the Federal Emergency Management Agency. Said boundaries, so determined, shall be presumed accurate.
- (g) The following areas are hereby designated as included in the Floodplain/Watershed Protection District and are subject to the provisions of this section and regulations promulgated by the conservation commission pursuant thereto:

1. Floodplain/Watershed Areas\*

Floodplain	Elevation (feet)*2
Along Charles River from:	
(1) Newton/West Roxbury line to Kendrick Street bridge .....	96.7—96.5
(2) Nahanton Street bridge to Silk Mill Dam .....	95.6—95.5
(3) Silk Mill Dam (foot) to Metropolitan Circular Dam (crest) .....	80.5—80.5
(4) Metropolitan Circular Dam (foot) to Route 9 bridge .....	72.5—72.5
(5) Route 9 bridge to Route 128 bridge .....	72.5—71.7
(6) Route 128 bridge to Walnut Street bridge .....	71.7—70.5
(7) Wales Street bridge to Cordingly Dam and Falls (crest) .....	70.5—69.2
(8) Cordingly Dam and Falls (foot of falls) to Newton Lower Falls Dam (crest) .....	55.5—52.5
(9) Newton Lower Falls Dam (foot) to Washington Street Route 16 bridge .....	49.0—49.0
(10) Washington Street Route 16 bridge to M.D.C. RR bridge.....	49.0—47.5
(11) M.D.C. bridge to Concord St bridge .....	47.5—45.5
(12) Concord St bridge to Norumbega bridge-Route 30 .....	45.5—44.5
(13) Norumbega bridge-Route 30 to Newton/Waltham boundary (west) .....	44.5—44.5
(14) Newton/Waltham boundary (east) to Bridge Street bridge (west) .....	27.5—24.5
(15) Bridge Street bridge (east) to Watertown Dam (crest) .....	23.5—17.5
(16) Watertown Dam (foot) to Newton/Boston boundary. ....	10.5—10.5
Along Paul Brook from:	
(17) 150 feet south of Route 9 to Hagen Road .....	127.5—125.9
(18) Hagen Road to Haynes Road (north side of culvert) .....	125.9—125.5
(19) Haynes Road (south side of culvert) to Olde Field Road .....	124.5—122.6

(20) Olde Field Road to Great Meadow Road .....	122.6—122.0
(21) Great Meadow Road to Parker Street (east side of culvert) .....	122.0—121.3
(22) Parker Street (west side of culvert) to Mildred Road .....	121.0—120.5
(23) Mildred Road to the confluence of South Meadow Brook .....	120.5—120.3

Along South Meadow Brook from:

(24) The confluence of Paul Brook to Dedham Street (east side of culvert) .....	120.3—119.5
(25) Dedham Street (west side of culvert) to Upland Ave .....	119.3—118.8
(26) Upland Ave to Winchester Street .....	118.8—118.5
(27) Winchester Street to Needham Street (east side of culvert to trash tack) ..	118.5—117.5
(28) Needham Street (west side of culvert) to Tower Road Culvert .....	116.5—115.5

Along Cheese Cake Brook from:

(29) Watertown Street culvert to Dunstan Street (west side of culvert) .....	46.7—45.5
(30) Dunstan Street (east side of culvert) to Cross Street (west side of culvert) .....	45.0—44.5
(31) Cross Street (east side of culvert) to Parsons Street (west side of culvert) .....	44.0—43.8
(32) Parsons Street (east side of culvert) to Eddy Street .....	43.5—42.5

\* The data in this table are to be used in determining the location of the floodplain and represent information obtained from FEMA's Flood Insurance Study, Preliminary Release dated September 28, 2007 volumes 1, 2, 3, and 4 and the corresponding Flood Insurance Rate Maps (FIRMs), which were then converted to City of Newton base. No changes to the Preliminary Release are expected for Newton and thus the FIRMs will become effective on June 4, 2010; if any discrepancies arise, the more conservative of the two shall apply. Plans showing the general location of the floodplain, to be used only as a guide, are available for viewing at the Engineering Division of the Department of Public Works or Inspectional Services Department.

\*2 Includes all lands below the listed elevation in feet, City of Newton Base. The higher elevation applies to the upstream end of the designated area while the lower elevation applies to the downstream end. The floodplain elevation for any land is determined by interpolation between the floodplain elevation figure shown in the above table on the basis of its relative distance in feet from the upstream and downstream ends.

2. Floodways\*3

*South Meadow Brook*

Cross Section	Distance*4	Width (Feet)
A	1,922	50
B	2,865	50
C	4,148	80
D	4,691	40
E	6,060	50

*Paul Brook*

Cross Section	Distance*4	Width (Feet)
F	6,942	40
G	7,892	60
H	8,655	40
I	9,560	40
J	10,310	40

*Cheese Cake Brook*

Cross Section	Distance*4	Width (Feet)
A	5,742	30
B	5,892	30
C	6,202	30
D	6,578	30
E	7,158	30

\*3 *The South Meadow Brook, Paul Brook and Cheese Cake Brook Floodways as shown on the Federal Emergency Management Agency Floodway Data Table 8 of the F.E.M.A. "Flood Insurance Study, No. 255226CV001A, Middlesex County, MA, June 4, 2010.*

\*4 *Feet above confluence with the Charles River.*

3. Open brooks and streams and their tributaries:

Watershed

Brook or Stream	Distance (feet) *5
(1) Brunnen Brook .....	30
(2) Cheesecake Brk from BraeBurn Golf C. to end of Oldham Rd & from Eddy St to Char Rvr	30
(3) Cold Spring Brook .....	30
(4) College Brook .....	30
(5) Country Club Brook .....	30
(6) Cranberry Brook .....	30
(7) Dolan Brook .....	30
(8) Edmands Brook .....	30
(9) Hahn Brook .....	30
(10) Hammond Brook .....	30
(11) Hyde Brook .....	30
(12) King Brook .....	30
(13) Lacey Brook .....	30
(14) Laundry Brook .....	30
(15) Paul Brook from Route 9 to 150 feet south of Route 9 .....	30
(16) Runaway Brook .....	30
(17) Saw Mill Brook .....	30
(18) Saw Mill Brook, south branch .....	30
(19) South Meadow Brk from Newton/Brookline line to Brandeis Road; from Tower Rd (south side of culvert) to trash rack; from Oak Street to Charles River .....	30
(20) Stearns Brook .....	30
(21) Strong's Brook .....	30
(22) Thompsonville Brook .....	30

\*5 *Measured as horizontal distance on both sides of brook or stream from centerline.*

4. Wetlands:

Watershed	Elevation (feet) *6
(1) Bird Swamp off Hammond Pond Parkway at Chestnut Hill Mall/Towers Entrance ....	214.0
(2) Webster Conservation Area - East of Hammond Pond Parkway, south of MBTA tracks, Chestnut Hill .....	173.0
(3) Webster Conservation Area - East of Hammond Pond Parkway, north of MBTA tracks, Chestnut Hill .....	173.0
(4) Skunk Hollow Swamp .....	151.6
(5) Kennard Conservation Area Wetland, Chestnut Hill .....	146.0
(6) Bald Pate Meadow .....	142.0
(7) Vine Street West Swamp .....	138.0
(8) Wayne Pond Swamp .....	130.0
(9) Old Woodlot Swamp .....	125.0
(10) Waban Kettle Wetland Off Waban Avenue, Carlton Road, Nehoiden Road, Crofton Road, Waban.....	122.0
(11) Longfellow Pond Wetland .....	122.0
(12) Great Meadow Swamp .....	119.0
(13) Winchester Street Swamp .....	112.0
(14) Cold Spring Swamp .....	110.0
(15) Goddard St, Christina St, Roland St, Charlemont St, Newton Highlands.....	105.0
(16) Nahanton Street Swamp .....	102.2
(17) Oak Hill Swamp Off Saw Mill Brook Parkway .....	96.0
(18) Cabot Street Meadow .....	84.0
(19) Dolan Pond Wetland Off Webster Park, Auburndale .....	52.0
(20) Flowed Meadow, Auburndale .....	46.0
(21) Cranberry Wetland .....	29.0

*\*6 Includes all lands below the listed elevation in feet, City of Newton Base.*

5. Ponds

Watershed	Elevation (feet) *6
(1) Bare Pond .....	234.0
(2) Cat Pond .....	228.0
(3) Charles River Country Club Pond .....	182.0
(4) Houghton Pond .....	173.0
(5) Hammond Pond .....	172.0
(6) Crystal Lake .....	149.0
(7) Longfellow Pond .....	122.0
(8) Brae Burn Pond .....	98.0
(9) City Hall Pond .....	95.0
(10) Bullough's Pond .....	92.4
(11) Dresser Pond .....	82.0
(12) Lasell Pond .....	76.0
(13) Strong's Pond .....	65.0
(14) Silver Lake.....	45.0

*\*6 Includes all lands below the listed elevation in feet, City of Newton Base.*

(Ord. No. S-83, 1-21-85; Ord. No. T-167, 8-12-91; Ord. No. V-289, 3-20-00; Ord. No. Z-66, 06-07-10)

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 riverine situation, the planning department shall notify the following of any alteration or relocation of a watercourse:

- Adjacent communities
- NFIP State Coordinator, MA Department of Conservation and Recreation, 251 Causeway Street, Suite 600-700
- NFIP Program Specialist, Federal Emergency Management Agency, Region I, 99 High Street, 6th Floor, Boston, MA 0210

#### Other Use Regulations

- 1) In Zones AE, along watercourses that have a regulatory floodway designated on the Middlesex County FIRMs, 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.
- 2) 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.