

TOWN OF BRAINTREE

IN COUNCIL

ORDER NO: 12 030R

DATE: July 19, 2012

ORDERED: Mayor

REQUEST TO ADOPT FLOOD INSURANCE RATE MAPS AND AMEND TO ZONING BYLAW/ORDINANCE ARTICLE VI, SECTION 608

At the request of Mayor Joseph C. Sullivan, that the Town Council vote to adopt new Federal Insurance Rate Maps (FIRM) dated 7/17/12 and Amend the Braintree Zoning Ordinance pursuant to Article I, Section 1-2 (Definitions) and Article VI, Section 608 (Wetlands and Floodplain Protection Districts), as amended and filed with the Town Council on May 24, 2012 and as recommended by a vote of the Planning Board dated August 9, 2012, to include regulatory revisions under the Community Rating System relative to development within the jurisdictional floodplain and to reference the adoption of the new FIRM maps as submitted to the Town Council on July 19, 2012.

YEAS: Bowes, Clifford, DeNapoli, Dingee, Joyce, Kokoros, Mullaney, Powers, Ryan

NAYS: Bowes, Clifford, DeNapoli, Dingee, Joyce, Kokoros, Mullaney, Powers, Ryan

ABSENT: Bowes, Clifford, DeNapoli, Dingee, Joyce, Kokoros, Mullaney, Powers, Ryan

Passed in Council: August 14, 2012

Presented to Mayor: August 15, 2012

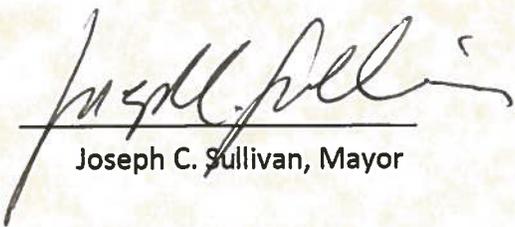
A True Copy, Attest:

8/15/12

Date Approved



Joseph F. Powers, Town Clerk



Joseph C. Sullivan, Mayor





Department of Planning and Community Development

1 JFK Memorial Drive
Braintree, Massachusetts 02184
Phone: 781-794-8230 Fax: 781-794-8089

#12-030R

Joseph C. Sullivan
Mayor

Christine Stickney, Director
Melissa M. Santucci Rozzi, Principal Planner
Kelly Phelan, Conservation Planner

To: James Casey, Clerk
Braintree Town Council

From: Christine Stickney, Director

Date: July 19, 2012

Re: Amendment to Zoning Bylaw Section 135-608
Floodplain

The Federal Emergency Management Agency (FEMA) and the State's Coordinator for the Flood Insurance Rate Map (FIRM) have not accepted the revisions to the Bylaw that were approved by the Town earlier this year.

Please find attached revised language that includes further amendments to Section 135-608. This will require Council action as did the last amendment. The Planning Board will conduct a public hearing on August 3rd which will result in a recommendation to the Council.

Please contact me with any questions or comments related to this Zoning Bylaw Amendment.

cc: Town Clerk
Town Solicitor



§135-102 Definitions.

SPECIAL FLOOD HAZARD AREAS (SFHA) – Those areas designated on the July 17, 2012 Flood Rate Insurance Maps (FIRM) subject to flooding by the 1% annual chance flood. Areas of Special Flood Hazard include Zones A, AE, and VE.

§ 135-608 Wetlands and Floodplain Protection Districts.

A. Purpose. The purpose of Wetlands and Floodplain Protection Districts is to:

- (1) Protect the health and safety of persons and property against one-hundred-year-frequency flooding and the hazard of water inundation;
- (2) Control one-hundred-year-frequency flooding and regulate the development of land and the construction of buildings and structures within the district;
- (3) Preserve and maintain the groundwater table. Since these areas contribute to the natural storage of water during times of maximum rainfall, it is intended that the areas be controlled and conserved in as near their present state as possible, and that any change therein as herein provided shall not substantially affect surface or ground water levels nor jeopardize the public health or safety nor derogate from the intent and purpose of this district.

B. Wetland and Floodplain District.

- (1) For the purpose of this section, Wetlands and Floodplain Protection Districts shall be all land surfaces that will be covered by floodwaters that will theoretically result from the statistical one-hundred-year-frequency storm.
- (2) The boundaries of the Wetlands and Floodplain District shall be determined as follows:
 - a) The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Braintree designated as Zone A, AE, or VE on the Norfolk 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 Norfolk County FIRM that are wholly or partially within the Town of Braintree are panel numbers 25021C0206E, 25021C0207E, 25026C0208E, 25026C0209E, 25026C0217E, 25026C0226E, 25026C0227E, 25026C0228E, and 25026C0236E dated July 17, 2012. The Flood Insurance Rate Maps (FIRM) and the Flood Insurance Study (FIS) report are incorporated herein by reference and are on file with the Town Clerk, Planning & Community Development Office (Planning Board and Conservation Commission), Department of Inspectional Services and the Department of Public Works - Engineering Division.

- b) By use of flood profile data from the Flood Insurance Study and the Flood Insurance Rate Map (FIRM) dated July 17, 2012 produced by the National Flood Insurance Program administered by the Federal Emergency Management Agency (FEMA).
 - c) Through recorded observation of maximum observed flood elevations.
 - d) In the absence of (a) and (b) above and if the SPGA determine that flooding exists the Wetlands and Floodplain District boundary shall be 50 feet from any wetlands as defined in MGL c. 131. Wet meadows, marshes, swamps or bogs that have an area less than 1,000 square feet shall be exempt from this section. In determining whether a site is within a Wetlands and Floodplain District, the SPGA may require an applicant to submit flood studies prepared by a registered professional engineer licensed in Massachusetts.
- (3) In Zone AE, along watercourses that have a regulatory floodway designated on the Norfolk County FIRM, 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.
- (4) In Zone A and AE and Other Flood Areas and those areas known to the Town to flood 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.
- (5) In unnumbered Special Flood Hazard Areas (SFHAs), base flood elevation data is required for subdivision proposals or other developments of five acres.

C. Uses.

- (1) For the purpose of this section, the Wetlands and Floodplain Protection District shall be considered to be overlaid on the other zoning districts.
- (2) In the Wetlands and Floodplain Protection District, no permit shall be issued for development in any area designated as a floodway.
- (3) No permit shall be issued for the construction of a critical facility within the Special Flood Hazard Areas (SFHAs) and/or five-hundred-year floodplain.
- (4) In the Wetlands and Floodplain District, no building or structure shall be constructed, improved, altered or modified and no land shall be filled, excavated or otherwise changed in grade except pursuant to a special permit authorized by the SPGA. Any alteration to an existing structure which does not affect flood storage or the floodway, as determined by the Planning staff, shall not require a special permit under this section.
- (5) All new buildings built on fill must be

(a) constructed on property designed and compacted fill (e.g., ASTM D-698 or equivalent),and

(b) fill extends at least five feet beyond the building walls before dropping below base flood elevation, and

(c) the fill has appropriate protection from erosion and scour.

(6) Man-made alterations of sand dunes within Zone VE which would increase potential flood damage are prohibited.

(7) All new construction within Zone VE must be located landward of the reach of mean high tide.

(8) 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.

D. Application for a special permit.

(1) Each applicant for a special permit under this section shall file for a special permit in accordance with the provisions of Article V of this chapter and with any rules and regulations as may have been adopted by the SPGA. All applications for special permits shall be processed in accordance with the provisions of Article V of this chapter.

(2) In addition to the submission requirements stipulated in Article V, the plan(s) submitted shall show:

(a) The location dimensions and elevation [based on North American Vertical Datum (NAVD)] of existing and proposed buildings and structures;

(b) Existing and proposed contours at one-foot intervals of the land based on NAVD datum;

(c) A contour delineating the one-hundred-year-storm frequency elevation shall be distinctly designated;

(d) Other information deemed necessary by the SPGA to indicate the complete physical characteristics of the area and the proposed construction and/or grading.

E. Criteria for approval. The SPGA may issue a special permit pursuant to this section provided the SPGA finds that:

E. Criteria for approval. The SPGA may issue a special permit pursuant to this section provided the SPGA finds that:

- (1) The proposed construction and/or change in grade will not derogate from the intent and purpose of the Wetlands and Floodplain District;
- (2) The proposed construction and/or change in grade will not endanger the health and safety of the public;
- (3) The lowest floor, including the basement or cellar, of any new or substantially improved residential building shall be a least one foot above the base flood elevation;
- (4) Nonresidential construction or improvements shall be elevated or flood proofed to one foot above the base flood elevation;
- (5) The proposed construction and/or change in grade shall not:
 - (a) Obstruct or divert flood flow;
 - (b) Reduce natural storage or increase stormwater runoff to the extent of raising the base flood elevation. Written certification of such shall be provided by a registered professional engineer;
- (6) The proposed system of drainage and sewage disposal shall not cause pollution or otherwise endanger public health;
- (7) The proposed structures shall be constructed to counteract any buoyancy or water impacts;
- (8) The proposed construction shall have street or other appropriate vehicular access at least one foot above the base flood elevation.

F. Constructions of permit. In granting a special permit consistent with uses permitted in the district in which the site is located, the SPGA shall impose conditions designed to:

- (1) Safeguard the health and safety of occupants of the premises and of other land in and adjacent to the district; and
- (2) Ensure that the requirements of all government agencies from which approval is required have been met regarding, but not limited to, the following:
 - (1) Placement of building or structure;
 - (2) Type of foundation such as posts with blowout panels;
 - (3) Elevation of floors;
 - (4) Method of anchoring building to foundation;
 - (5) Design of drainage system, including private sewage disposal work;
 - (6) Occupancy of buildings;
 - (7) Area and depth of any excavation or fill;
 - (8) All flood proofing methods or proposals.

G. Compliance with other regulations. All development in the district including structural and nonstructural activities whether permitted by right or by special permit must be in compliance with the following (where applicable):

780 CMR, Massachusetts State Building Code, sections of which address floodplain and coastal high hazard areas

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

310 CMR 13.00 Inland Wetlands Restriction, DEP

310 CMR 12.00, Coastal Wetlands Restriction, DEP

310 CMR 15, Title 5, Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP

H. Administration.

(1) The SPGA shall maintain complete and accurate records of issuance of special permits, including records of elevation and flood proofing levels for all new or substantially improved structures, whether or not such structures contain a basement.

(2) The SPGA shall require the developer, at his or her expense, to provide as-built flood proofing certifications of non-residential construction by a registered profession engineer. Such certification shall be in conformance with the requirements of the Federal Insurance Administration Rules and Regulations, Title 44, Code of Federal Regulations Part 60, Subpart A, Section 60.3(c)(4).

(3) Prior to the alteration of or relocation of any river or watercourse, the SPGA shall notify:

Adjacent Communities

NFIP State Coordinator/Specialist
DCR Flood Hazard Management Program
251 Causeway Street – Suite 800
Boston, MA 02114-2104

NFIP Program Specialist
Federal Emergency Management Agency, Region I
99 High Street, 6th Floor
Boston, MA 02110