

Legal Notice

Maynard Planning Board

**Maynard Town Hall
195 Main Street
Maynard, MA 01754**

Pursuant to Massachusetts General Laws, Chapter 40A s.5, the Maynard Planning Board will hold a remote public hearing on Tuesday, March 9, 2021 at 7:00 p.m. to consider recommending approval of amendments to the Maynard Protective Zoning By- laws to the May 17, 2021 Annual Town Meeting. This meeting will be conducted remotely. To access and participate in the meeting:

- Option 1 (Zoom Video): Participate using a computer, with this link:
<https://us02web.zoom.us/j/87931522781?pwd=YkwvWFp2M21vUWcrTnA4WUUXeFZ5UT09>
 - Meeting ID: 879 3152 2781
 - Password: 664803
- Option 2 (Audio only): Participate by telephone: 1-646-558-8656 or 1-312-626-6799
 - Meeting ID: 879 3152 2781
 - Password: 664803

All meeting materials can be accessed on Board Docs at: <http://go.boarddocs.com/ma/tom/Board.nsf/goto?open&id=BRPQJD697CAB>. Materials can be provided by email by contacting: Bnemser@townofmaynard.net. Questions for the Board before or during the meeting can be emailed to: Bnemser@townofmaynard.net.

The proposed amendments consist of:

1. Amend Section 10.3.1 Establishment so that it reads (the proposed additional text is underlined; deleted text is ~~stricken~~):

10.3.1 Establishment. The Planning Board shall consist of the five members and one Associate Member, who shall be appointed by a vote of the Board of Selectmen and the Planning Board. Said Associate Member when designated by the Chairman of the Planning Board, shall sit on the board for the purposes of acting on a Site Plan Approval, ~~or~~ Special Permit, or Definitive Subdivision Approval application in the case of absence, inability to act, or conflict of interest on the part of any member of the Planning Board, or in the event of a vacancy on the Board. The Associate Member shall be appointed for a three-year term of office.

2. Replace Section 9.1 Flood Plain District in its entirety so that it reads:

9.1 Floodplain District

9.1.1 Purpose. The purpose of the Floodplain District is to:

1. Ensure public safety through reducing the threats to life and personal injury.

2. Eliminate new hazards to emergency response officials.
3. Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding.
4. 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.
5. Eliminate costs associated with the response and cleanup of flooding conditions.
6. Reduce damage to public and private property resulting from flooding water.

9.1.2 Location. The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Maynard designated as Zone A, AE, AH, AO, or A99 on the Middlesex County Flood Insurance Rate Map (FIRM) dated July 6, 2016 issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The exact boundaries of the District shall be defined by the 1%-chance base flood elevations as shown on the FIRM and further defined by the Middlesex County Flood Insurance Study (FIS) report July 6, 2016. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, the Building Commissioner, and Conservation Commission.

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

9.1.4 Disclaimer of Liability. The degree of flood protection required by this zoning bylaw is considered reasonable but does not imply total flood protection.

9.1.5 Severability. If any section, provision, or portion of this by-law is deemed to be unconstitutional or invalid by a court, the remainder of the ordinance shall be effective.

9.1.6 Designation of Community Floodplain Administrator. The Town of Maynard hereby designates the position of Building Commissioner to be the official floodplain administrator for the Town.

9.1.7 Requirement to submit new technical data. If the Town acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, the Town will, within six (6) months, notify FEMA of these changes by submitting the technical or scientific data that supports the change(s). Notification shall be submitted to:

FEMA Region I Risk Analysis Branch Chief
99 High St., 6th Floor, Boston, MA 02110

And a copy of notification to:

Massachusetts NFIP State Coordinator
MA Dept. of Conservation and Recreation, 251 Causeway Street, Boston, MA 02114

9.1.8 Variances to Building Code floodplain standards. The Town 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.

The Town 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.

Such notification shall be maintained with the record of all variance actions for the referenced development in the Floodplain District.

9.1.9 Variances to local Zoning Bylaws related to community compliance with the National Flood Insurance Program (NFIP). A variance from these floodplain zoning by-laws must meet the requirements set out by State law, 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.

9.1.10 Permits are required for all proposed development in the Floodplain District. The Town of Maynard requires a permit for all proposed construction or other development in the Floodplain District, including new construction or changes to existing buildings, 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.

9.1.11 Assure that all necessary permits are obtained. The Town's permit review process includes the review of all local, state, and federal permits that will be necessary to carry out the proposed development in the Floodplain District. The proponent must acquire all necessary permits and must submit documentation demonstrating that all necessary permits have been acquired.

9.1.12 Subdivision proposals. All subdivision proposals and development proposals in the Floodplain District shall be reviewed to assure that:

1. Such proposals minimize flood damage.
2. Public utilities and facilities are located and constructed to minimize flood damage.
3. Adequate drainage is provided.

9.1.13 Base flood elevation data for subdivision proposals. When proposing subdivisions or other developments greater than 50 lots or five (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.

9.1.14 Unnumbered A Zones. 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 as the basis for elevating residential structures to or above base flood level, for floodproofing or elevating non-residential structures to or above base flood level, and for prohibiting encroachments in floodways.

9.1.15 Floodway encroachment. In Zones A, A1-30, and AE, along watercourses that have not had a regulatory floodway designated, the 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 Zones A, A1-30, and AE, along watercourses that have a regulatory floodway designated on the Town's FIRM or Flood Boundary & Floodway Map 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.

9.1.16 Watercourse alterations or relocations in riverine areas. In a riverine situation, the Building Commissioner shall notify the following of any alteration or relocation of a watercourse:

1. Adjacent communities, especially upstream and downstream
2. Bordering states, if affected
3. NFIP State Coordinator

Massachusetts Department of Conservation and Recreation

251 Causeway Street, 8th Floor

Boston, MA 02114

4. NFIP Program Specialist

Federal Emergency Management Agency, Region I

99 High Street, 6th Floor

Boston, MA 02110

9.1.17 AO and AH zones drainage requirements. Within Zones AO and AH on the FIRM, adequate drainage paths must be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

9.1.18 Recreational vehicles. In A1-30, AH, and AE Zones, all recreational vehicles to be placed on site must be elevated and anchored in accordance with the zone's regulations for foundation and elevation requirements or be on site for less than 180 consecutive days or be fully licensed and highway ready.

9.1.19 Definitions for the Floodplain District

1. Development. 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. [US Code of Federal Regulations, Title 44, Part 59]
2. Floodway. The channel of the river, creek or other watercourse and the adjacent land areas that must be reserved to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. [Base Code, Chapter 2, Section 202]
3. Functionally Dependent Use. A use which cannot perform its intended purpose unless it is located or carried out near 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. [US Code of Federal Regulations, Title 44, Part 59] Also [Referenced Standard ASCE 24-14]
4. Highest Adjacent Grade. The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. [US Code of Federal Regulations, Title 44, Part 59]
5. Historic Structure. Any structure that is:

- 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;
- 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;
- 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:
 - o By an approved state program as determined by the Secretary of the Interior or
 - o Directly by the Secretary of the Interior in states without approved programs. [US Code of Federal Regulations, Title 44, Part 59]

6. 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. [Referenced Standard ASCE 24-14]

7. Recreational Vehicle. A vehicle which is:

- Built on a single chassis;
- 400 square feet or less when measured at the largest horizontal projection;
- Designed to be self-propelled or permanently towable by a light duty truck; and
- Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. [US Code of Federal Regulations, Title 44, Part 59]

8. Regulatory Floodway - see Floodway.

9. 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, or AH. [Base Code, Chapter 2, Section 202]

10. Start of Construction. The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, 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 that alteration affects the external dimensions of the building. [Base Code, Chapter 2, Section 202]

11. Structure. A walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. [US Code of Federal Regulations, Title 44, Part 59]

12. 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]

13. Variance. A grant of relief by a community from the terms of a flood plain management regulation. [US Code of Federal Regulations, Title 44, Part 59]

14. Violation. 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(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided. [US Code of Federal Regulations, Title 44, Part 59]

3. Amend Section 3.1.2, Use Regulations, Table A, “4. Business Uses”, to allow a Marijuana Retailer use within the Industrial Zoning District (I) by Special Permit of the Planning Board. This will amend the Use Regulations Table as depicted below (the proposed additional text is underlined):

4. Business Uses	S-1	S-2	GR	B	CB	HCI	I	GA	OS
<i>Marijuana Retailer</i>	<i>N</i>	<i>N</i>	<i>N</i>	<i>PB</i>	<i>PB</i>	<i>PB</i>	<i>N</i> <u><i>PB</i></u>	<i>N</i>	<i>N</i>

4. Amend Section 3.1.2, Use Regulations, Table A, “4. Business Uses” to allow a Marijuana Delivery License use within the Industrial Zoning District (I) “Business” (B) “Central Business” (CB), and “Health Care Industrial” (HCI) Zoning Districts by Special Permit of the Planning Board. This will amend the Use Regulations Table as depicted below (the proposed additional text is underlined):

4. Business Uses	S-1	S-2	GR	B	CB	HCI	I	GA	OS
<u><i>Marijuana Courier Facility</i></u>	<u><i>N</i></u>	<u><i>N</i></u>	<u><i>N</i></u>	<u><i>PB</i></u>	<u><i>N</i></u>	<u><i>Y</i></u>	<u><i>Y</i></u>	<u><i>N</i></u>	<u><i>N</i></u>
<u><i>Marijuana Delivery Operator</i></u>	<u><i>N</i></u>	<u><i>N</i></u>	<u><i>N</i></u>	<u><i>PB</i></u>	<u><i>PB</i></u>	<u><i>PB</i></u>	<u><i>PB</i></u>	<u><i>N</i></u>	<u><i>N</i></u>

5. Amend Section 11.0 to add the following definition (the proposed additional text is underlined):

- a. **Marijuana Courier Facility:** The facility for an entity licensed to deliver, but not sell, Finished Marijuana Products, Marijuana Accessories and Branded Goods directly to Consumers from a Marijuana Retailer. A Marijuana Courier shall not be considered a Marijuana Retailer under 935 CMR 500.002 or 500.050 and shall be subject to 935 CMR 500.050(1)(b). A Marijuana Courier Facility does not store Marijuana products on site.

- b. Marijuana Delivery Operators: An entity licensed to purchase Marijuana Products from a licensed Marijuana Establishment and market directly to consumers. The Delivery Operator's principal place of business shall be as defined in 935 CMR 500.

6. Amend Section 11.0, Definition of "Marijuana Retailer" So that it reads (the proposed additional text is underlined; deleted text is ~~stricken~~):

Marijuana Retailer is an entity licensed to purchase and sell ~~and deliver~~ marijuana and marijuana products from marijuana establishments and to ~~deliver~~, sell or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers, as defined the Massachusetts General Laws, Chapter 94G, further provided that Marijuana Retailers may not be considered Retail Business in any other context. A Marijuana Retailer may also deliver marijuana products with a delivery license as authorized under 935 CMR 500 and by a (separate) Special Permit of the Planning Board.

The Planning Board is the sponsor of these articles. A copy of the proposed Zoning By-law amendments is on file with the Office of Municipal Services Planning Division, and the Town Clerk's Office, or by contacting 978-897-1302.

Bill Nemser
Town Planner