



Town of Chatham

Department of Community Development



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DATE: February 12, 2014 – **REVISED FEBRUARY 19, 2014**

MEMO TO: Town of Chatham Board of Selectmen
Jill Goldsmith, Town Manager

FROM: Paul Lagg, GIS Coordinator

RE: FEMA Flood Map Amendment Update/Proposed Zoning Bylaw Amendment

On January 16, 2014, the Town of Chatham received a *Letter of Final Map Determination* from FEMA. This letter serves as formal notification that the updates to the Flood Insurance Rate Maps (FIRMs) and Flood Insurance Study Report (FIS) for Barnstable County (including Chatham) have been finalized. As a condition of continued eligibility in the National Flood Insurance Program (NFIP) and the Community Rating System (CRS) the Town of Chatham is required to adopt the new maps and flood insurance study as part of its Protective Zoning Bylaw within six months of the date of the letter of final map determination (July 16, 2014). The following summary provides some background on the map updates and the zoning bylaw amendment request.

What are the Flood Insurance Rate Maps (FIRMs) and Flood Insurance Study report (FIS)?

When FEMA maps flood hazards in a community or county, two regulatory products are produced. A Flood Insurance Study (FIS) and a Flood Insurance Rate Map (FIRM). The FIS is a narrative report of the community's flood hazards. The report contains information on prior flooding events, hydrologic and hydraulic data and information on flood protection measures. The Flood Insurance Rate Map (FIRM) illustrates the extent of the flood hazards within a community by depicting flood risk zones and base flood elevations.

How are the Flood Insurance Rate Maps (FIRMs) used?

The Flood Insurance Rate Maps are used by insurance agents and mortgage lenders to evaluate flood risk and assign property risk rates for flood insurance policies. In addition, local governments use the maps to delineate regulatory boundaries. In Chatham, the flood zones depicted on the FIRM maps delineate the extents of the Flood Plain District and Coastal Conservancy District. These areas are subject to certain development restrictions enumerated within the zoning bylaw. The flood zone areas referenced in the bylaw are called the Special Flood Hazard Areas (SFHA). In Chatham, these areas fall into two main categories:

- Zone AE: Area with a 1% annual chance of flooding in any given year (lower risk)
- Zone VE: Velocity Zone Area with 1% annual chance of flooding in any given year (higher risk)

Why are the maps being updated?

The current flood hazard maps for Barnstable County are over 20 years old. The current maps do not reflect the current status of land use development. They also do not reflect recent changes to coastal areas. As a result, the maps do not accurately depict the true flood hazard risk for most properties in town.

How were the updates done?

The new maps have been digitized and utilize a more current aerial basemap. New topographic data based on more accurate vertical datum (NAVD88) were acquired. Modeling for wave run-up and storm surge was incorporated into the flood zone analysis.

Why are we amending our zoning bylaw?

The Town of Chatham participates in two programs, the National Flood Insurance Program (NFIP) and the Community Rating System (CRS). Both of these are voluntary, incentive based programs that promote best management practices for floodplain management and also encourage higher regulatory standards that go above the NFIP minimum standards. As a condition of continued eligibility in these programs the Town of Chatham is required to adopt the new maps and flood insurance study and incorporate them as part of its Protective Zoning Bylaw within six months of the date of the letter of final map determination. Failure to adopt these new maps will result in the removal of the town from both programs. As a result, no new flood insurance policies will be available to property owners in Chatham, existing flood insurance policies will be ineligible for renewal and all existing flood insurance discounts will be terminated. Additionally, the town may be exempt from qualifying for certain federal hazard mitigation grants and disaster assistance funding.

What has taken place up to this point?

- In May 2013, FEMA released draft flood insurance rate maps for public review.
- The Town conducted preliminary analysis to gauge level of impact to properties being added to or removed from the new flood zone areas.

Parcel Analysis

- Parcels impacted by current flood zone: 1599
- New parcels being added to flood zone: 174
- Parcels impacted by flood zone boundary expansion: 1393
- Parcels impacted by flood zone reduction: 1202

Structures Analysis

- Structures within current Flood Zone: 458
- Structures within current flood zone that will be removed from proposed flood zone: 117
- Structures outside current flood zone that will be added into the proposed flood zone: 242
- Structures within Proposed Flood Zone: 583
- New structures added to flood zone: 125

The town sent notices to all property owners identified as being potentially impacted by the proposed changes. The town has also launched an interactive map tool to allow property owners to search for their property and view the new flood data. From May 2013 through the present, the Town has been conducting additional outreach and providing information to property owners, insurance agents and mortgage companies to help them understand the potential impacts of the map changes and assist them in identifying options available to them in terms of dealing with the impacts of the map changes.

- A statutory 90 day federal appeal period was initiated in July and ended on October 17, 2013.

- Four appeals were filed with FEMA:
 1. 22 Whitman Avenue
 2. 12 Whitman Avenue
 3. Town of Chatham Board of Selectmen – General Letter of Appeal
 4. **(Joint Appeal)** 602 Old Harbor Rd, 42 Old Harbor Rd, 54 Old Harbor Rd, 45 Old Harbor Rd

Only the joint appeal submitted by property owners from Old Harbor Rd. met FEMA’s technical criteria for consideration as an official appeal. FEMA did concur with the findings and the result of this appeal was a 1 foot decrease to the Base Flood Elevation located along approximately 300 feet of shoreline near Old Harbor Rd. The remaining appeals that did not meet the technical criteria for consideration have been taken under advisement by FEMA.

- With the issuance of the Letter of Final Map Determination, FEMA is now focusing on ensuring communities take the necessary steps to adopting the new maps into their local bylaws. For Chatham, this will require amending specific sections of Chatham’s Protective Zoning By-law to ensure that all references to the FEMA Flood Insurance Rate Maps reflect the new effective map date of July 16, 2014. (draft amendment attached)
- At its February 11, 2014 meeting, the Planning Board was briefed on the FEMA map update process and was apprised of the need to proceed with an amendment to the Zoning Bylaw the Planning Board voted to hold a public hearing on this matter on **March 11, 2014**. The Board also voted to act as petitioner for this article at the 2014 Annual Town Meeting. As allowed under M.G.L. Chapter 40A Section 5.

What is the status of the delays to implementation of map updates and the Biggert-Waters Act?

1. Delays to the finalization of maps for Plymouth County

The map implementation for Plymouth County has been delayed until 2015. This delay was instituted following appeals that a few of the towns sent to FEMA. The basis for the appeals were related to the appropriateness of the analysis model used by FEMA as well as the fact that FEMA was not able to complete the affordability study which was required as part of the original Biggert-Waters legislation (*Congressman Keating and other members of our congressional delegation have been working on behalf of these communities to enact this delay*). However, this delay is specific to Plymouth County. While the same analysis model was used across multiple counties, the appeals are specific to the county and community that submitted it. Therefore, at this time, the situation in Plymouth County will not result in any delays with the adoption of the maps for communities in Barnstable County.

2. Congressional action to delay implementation of Biggert-Waters Act

The Biggert Waters Act was originally passed by Congress in July of 2012 to make the National Flood Insurance Program more financially stable and ensure that flood insurance rates more accurately reflect the real risk of flooding. The Senate recently passed the *“Homeowner Flood Insurance Affordability Act” (Senate Bill: S.1926)* which includes a delay in implementation of flood insurance rate increases until FEMA completes an affordability study and also certifies that the agency has utilized sound scientific and engineering methodologies. T, the House has not taken any action so there currently is no delay. It is important not to confuse “delays in the increase of flood insurance” with “delays in the issuance of the maps.” They are two separate issues. FEMA has indicated that the pending Biggert-Waters delay legislation would not affect the implementation of the updated maps.

3. *Delays to the elimination of grandfathered flood insurance rates*

In the most recent passage of the federal budget, there was language on flood insurance that blocked FEMA from spending any money for the remainder of this fiscal year (through Sept. 30, 2014) to enforce higher premiums under Section 207 of Biggert-Waters. This section ends current “grandfathered” subsidized rates for existing policyholders who are now facing premium increases due to remapping. These properties were built in accordance with building codes at the time of construction but are now considered to be out of compliance due to new flood maps. The inability of FEMA to spend money on enforcement of this section of Biggert Waters means grandfathering is still in effect and will be in effect until at least the end of September. Again, such delays would not affect the implementation of any ongoing map revision efforts.

4. *Regarding reimbursement for costs incurred for successful map appeals*

There is language in the Senate’s version of the “*Homeowner Flood Insurance Affordability Act*” (*Senate Bill: S.1926 – Section 106*) that authorizes funds to reimburse homeowners for successful map appeals. However, at this time, it is unknown whether or not this language will be included in the House’s version. Currently there are no reimbursements being given out for successful map appeals.

What is the Conservancy District?

Chatham’s Local Protective Zoning By-Law designates a Conservancy District (*Section IV – Overlay Regulations*).

The Conservancy District is divided into two types:

1. Coastal Conservancy District
2. Inland Conservancy District.

The Coastal Conservancy District is defined in the local Protective Zoning By-Law as all submerged lands along the coast of town and all the land delineated within the Special Flood Hazard Areas depicted on FEMA’s Flood Insurance Rate Maps (FIRMs). The zoning bylaw also delineates limitations on the uses allowed within a fifty (50) foot setback from the boundary of the Coastal Conservancy District (*specifically, buildings and structures as defined in the zoning bylaw cannot be located within the 50 foot setback*) as set forth in Appendix II of the zoning bylaw.

The Conservancy Districts are intended to:

- Preserve and maintain the ground water supply
- Protect the purity of coastal and inland waters for the propagation of fish and shellfish and for recreational purposes.
- Protect the public health and safety
- Protect persons and property from the hazards of flood and tidal waters
- Preserve the amenities of the Town and to conserve natural conditions, wildlife and open space for the education and general welfare of the public.

What impact will the proposed flood zone maps have on the Coastal Conservancy District?

While the extent of the Coastal Conservancy District is delineated by FEMA’s flood zone maps, this district is part of an overlay district that is established by and under local regulatory control. The fifty (50) foot conservancy district setback is also under local regulatory control. FEMA does not require local jurisdictions to establish conservancy districts or related setbacks as part of the National Flood Insurance Program. However, the Town

does benefit from the establishment of these additional regulatory measures through added credit points received through the Community Rating System (CRS). These credit points are counted towards the 10% discount on flood insurance currently available to all Chatham property owners. It is important to note that **the proposed flood maps indicate areas where the flood zone boundary is both increasing and decreasing**. As a result, the conservancy district boundary and the fifty (50) foot setback will increase and decrease in relation to the changes to the flood zone boundary. The proposed bylaw amendment as currently drafted, presumes (*as has occurred in the past*) that the Conservancy District boundaries and related setback requirements will also be amended so as to remain consistent with the proposed flood zone boundaries.

Summary

- Chatham has received a Letter of Final Map Determination from FEMA. The Town is required to adopt the new maps into the local Zoning Bylaw by July 16, 2014.
- The one “official” map appeal for Chatham has been successfully resolved (Old Harbor Road).
- Action at the Federal level to delay implementation of the insurance rate increases and possibly the effective date of the maps is still in process.
- To date, FEMA has not issued a delay for Barnstable County.
- FEMA and the State Flood Mapping Coordinator have advised communities in Barnstable County to continue with the current map implementation schedule for adoption at this year’s Annual Town Meeting.
- Failure to adopt the new maps will result in Chatham’s removal from the National Flood Insurance Program (NFIP) and the Community Rating System (CRS)
- The Planning Board is proceeding with the bylaw amendment process as set forth in M.G.L. Chapter 40A with a public hearing on March 11, 2014.
- Town staff continues to coordinate with officials at the State and FEMA to monitor any changes that may affect the current map implementation schedule.

Cc:

Deanna Ruffer, Community Development Director
Lynn Thatcher, Assistant Town Planner
Anna Brigham, Central Permitting Coordinator
Robert Duncanson, Director of Health & Environment

Justin Post, Building Commissioner
Michele Clarke, Planning Board Secretary
Kristin Andres, Conservation Agent
Ted Keon, Director of Coastal Resources

Attachments:

Draft Warrant Article – Zoning Bylaw Amendment, Flood Insurance Rate Map and Flood Insurance Study Changes

DRAFT WARRANT ARTICLE
For Submission to the Board of Selectmen for ATM 2014

Article ## - Zoning: Flood Insurance Rate Map (FIRM)
and Flood Insurance Study (FIS) Changes

~~Strikethrough~~ indicates language proposed for deletion

Underline indicates language proposed for inclusion

Bold Italicized Words are defined in the existing Bylaw

To see if the Town will vote to amend its Protective (Zoning) Bylaw, **Section II., Definitions, Subsection B.**, as follows:

45. **“FLOOD HAZARD AREA”** means the land in the flood plain subject to a one percent (1%) or greater chance of flooding in any given year. It includes those areas shown on the ~~Flood Insurance Rate maps (dated January 1998) prepared by the Federal Emergency Management Agency as Zones A, AO, AH, A1, A30, A99, V and V1-V30.~~ Barnstable County Flood Insurance Rate Maps, prepared by the Federal Emergency Management Agency for the Town of Chatham dated July 16, 2014. (5/11/98 ATM) (ATM 5/12/14)

Also amend, **Section IV., Subsection A. Conservancy Districts, Paragraph 4. Prohibited Uses, sub-paragraph e.** as follows:

- e. No person shall construct any building in ~~Zones V and V1-30~~ Zone VE, as defined on the Flood Insurance Rate Maps, prepared for the Town of Chatham by the ~~National Flood Insurance Program~~ for Federal Emergency Management Agency for the Town of Chatham, dated June 20, 1998 for Barnstable County, dated July 16, 2014. ~~(5/11/98 ATM) (5/12/14 ATM)~~

Also amend, **Section IV., Subsection A. Conservancy Districts, Paragraph 5. Location, sub-paragraph a.1.** as follows:

- a. The Coastal Conservancy Districts shall consist of all the *submerged lands* along the coast of Town, and areas subject to flooding including:
1. Areas delineated as the 100-year flood plain (Zones A, ~~AO, AH, A1-30, A99, V and V1-30E~~ and VE on the Barnstable County Flood Insurance Rate Maps, prepared by the ~~National Flood Insurance Program~~ Federal Emergency Management Agency for the Town of Chatham dated June 20, 1998 July 16, 2014 (or as most recently amended.) ~~(12/2/91 STM) (ATM 5/12/14)~~

DRAFT WARRANT ARTICLE
For Submission to the Board of Selectmen for ATM 2014

codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:

- k. In Zone 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.

Or take any other action in relation thereto

(Planning Board)

Motion: By, _____, _____

I move that the Town vote to amend its Zoning Bylaw as printed in the Warrant for **Article #**.

Speaker: _____

Explanation:

The Federal Emergency Management Agency (FEMA) has concluded the update process for the Flood Insurance Rate Map (FIRM) and Flood Insurance Study (FIS) for Barnstable County. This Article proposes to change references in the Zoning Bylaw to comport with the recently issued FIRM and FIS documents. FEMA requires the use of these new maps starting on July 16, 2014. Implementing the proposed changes in this Article will enable the Town to continue its participation in the National Flood Insurance Program (NFIP) which was created in 1968 to help reduce the costs to taxpayers of federal disaster relief for flooding. Additionally, adoption of the new maps ensures that the Town remains eligible for certain hazard mitigation grant funding and disaster relief funding. In order for residents of a community to be eligible to receive flood insurance, the community must continue to meet the NFIP's minimum requirements for floodplain management.