

# OFFICIAL BULLETIN

## *Town of Whitman – Massachusetts*

### SUBJECT MATTER

#### General By-Laws and Government

The Town voted UNANIMOUSLY to amend the Town's existing By-Laws General Provisions by adopting the compilation, numbering, codification, arrangement, sequencing, and captioning of, and comprehensive revision to, the text of such By-Laws General Provisions, all as set forth in the Final Draft of the Code of the Town of Whitman, dated May 4, 2021, on file in the office of the Town Clerk and available on the Town's website at [www.whitman-ma.gov](http://www.whitman-ma.gov), or take any action relative thereto.

Proposed by the Board of Selectmen

VOTED ON JUNE 2, 2021 – ANNUAL TOWN MEETING – ARTICLE 21  
APPROVED BY THE ATTORNEY GENERAL ON SEPTEMBER 24, 2021  
POSTED ON: OCTOBER 6, 2021

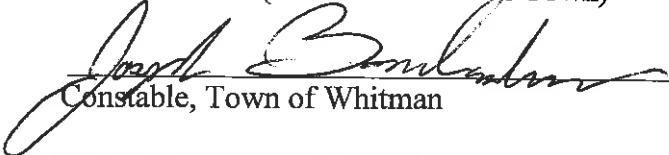
In eight sections of the Town – two in each precinct  
EFFECTIVE DATE: OCTOBER 6, 2021

ISSUED BY:

  
Dawn M. Varley, Town Clerk



POSTED BY: (In 8 sections of the Town)

  
Constable, Town of Whitman

DATE: OCTOBER 6, 2021

Any claims that a by-law is invalid because of a defect in the procedure by which the by-law was adopted may only be made within 90 days of this posting.

Copies of this by-law may be examined and obtained at the Office of the Town Clerk,  
54 South Avenue (Town Hall), Whitman, MA 02382.

# OFFICIAL BULLETIN

## *Town of Whitman - Massachusetts*

### SUBJECT MATTER

#### Zoning By-Laws and Government

The Town voted UNANIMOUSLY to amend the Town's existing Protective Zoning By-Law by adopting the compilation, numbering, codification, arrangement, sequencing, and captioning of, and comprehensive revision to, the text of such Protective Zoning By-Law, all as set forth in the Final Draft of the Code of the Town of Whitman, dated May 4, 2021, on file in the office of the Town Clerk and available on the Town's website at [www.whitman-ma.gov](http://www.whitman-ma.gov), or take any action relative thereto.

Proposed by the Board of Selectmen

VOTED ON JUNE 2, 2021 – ANNUAL TOWN MEETING – ARTICLE 22  
APPROVED BY THE ATTORNEY GENERAL ON SEPTEMBER 24, 2021  
POSTED ON: OCTOBER 6, 2021

In eight sections of the Town – two in each precinct

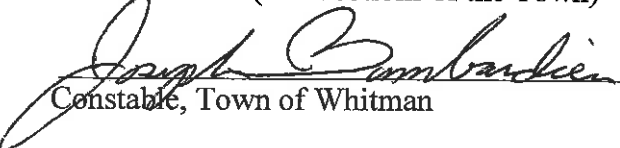
EFFECTIVE DATE: JUNE 2, 2021

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Dawn M. Varley, Town Clerk



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Constable, Town of Whitman

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54 South Avenue (Town Hall), Whitman, MA 02382.

# OFFICIAL BULLETIN

## *Town of Whitman - Massachusetts*

### SUBJECT MATTER

#### General By-Laws and Government

The Town voted UNANIMOUSLY to amend the first sentence of section 7-9 of the re-codified General Bylaws, formerly designated as section 5 of Article XX of the General Bylaws, to read as follows, or take any action relative thereto:

"The provisions of this bylaw shall not apply to ex-officio members, the Town Administrator, the Assistant Town Administrator, or non-voting members."

Proposed by the Board of Selectmen

VOTED ON JUNE 2, 2021 – ANNUAL TOWN MEETING – ARTICLE 34  
APPROVED BY THE ATTORNEY GENERAL ON SEPTEMBER 24, 2021  
POSTED ON: OCTOBER 6, 2021

In eight sections of the Town – two in each precinct

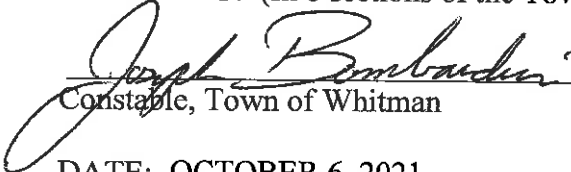
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Dawn M. Varley, Town Clerk



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Constable, Town of Whitman

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# OFFICIAL BULLETIN

## *Town of Whitman - Massachusetts*

### SUBJECT MATTER

#### General By-Laws and Government

The Town voted UNANIMOUSLY to amend the third sentence of section 70-16 of the re-codified General Bylaws, formerly designated as section 11 of Article III of the General Bylaws, to read as follows, or take any action relative thereto:

“Persons wishing to visit shall request permission of the Moderator before said meeting, and will not be allowed to vote on any question. Non-voters will not be allowed to speak unless they are a town employee, or at the discretion of the Moderator or of the Town Meeting.”

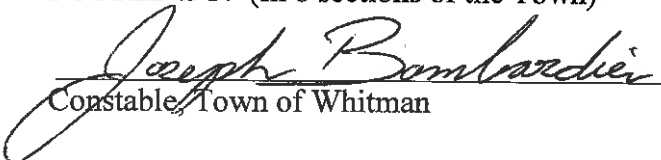
Proposed by the Board of Selectmen

VOTED ON JUNE 2, 2021 -- ANNUAL TOWN MEETING -- ARTICLE 35  
APPROVED BY THE ATTORNEY GENERAL ON SEPTEMBER 24, 2021  
POSTED ON: OCTOBER 6, 2021  
In eight sections of the Town – two in each precinct  
EFFECTIVE DATE: OCTOBER 6, 2021

ISSUED BY:

  
Dawn M. Varley, Town Clerk

POSTED BY: (In 8 sections of the Town)

  
Constable, Town of Whitman

DATE: OCTOBER 6, 2021

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# OFFICIAL BULLETIN

## *Town of Whitman - Massachusetts*

### SUBJECT MATTER

#### General By-Laws and Government

The Town voted IN THE MAJORITY to amend The Town of Whitman General By-Laws by adding a new Waste Reduction Article, as follows, or take any action relative thereto:

#### 3-25 Waste Reduction

##### Section 1 Purpose

The purpose of this by-law is to reduce the number of single-use plastic check-out bags that are distributed and used in the Town of Whitman and to promote the use of reusable bags.

##### Section II Definitions

The following words shall, unless the context clearly requires otherwise, have the following meanings:

- a. "Check-out bag" shall mean a bag provided by the store to a customer at the point of sale. Check-out bags shall not include bags, whether plastic or not, in which loose products or produce are placed by the consumer to deliver such items to the point of sale or check out area of the store.
- b. "Department" shall mean the Whitman Health Department.
- c. "Health Agent" shall mean the Health Agent for the Whitman Board of Health or their designee.
- d. "Recyclable paper bag" shall mean a paper bag that is 100% recyclable and contains at least 40% post-consumer recycled content and displays in a visible manner on the outside of the bag (1) the word "recyclable" or a symbol identifying the bag as recyclable and (2) a label identifying the bag as being made from post-consumer recycled content and the percentage of post-consumer recycled content in the bag.
- e. "Reusable Check-out Bag" shall mean a sewn bag with stitched handles that is specifically designed for multiple reuse and that
  1. Can carry 25 pounds over a distance of 300 feet
  2. Is machine washable; and,
  3. Either
    - a. Made of natural fibers (such as cotton or linen)
    - b. Made of durable, non-toxic plastic other than polyethylene or polyvinyl chloride that is generally considered a food-grade material that is more than 4 mils thick.
- f. "Retail Establishment" shall mean any business facility that sells good directly to the consumer whether for or not for profit, including, but not limited to retail stores, restaurants,

pharmacies, convenience and grocery stores, liquor stores, seasonal and temporary businesses.

### Section III Regulated Conduct

- a. No Retail Establishment in the Town Of Whitman shall provide Thin-Film, Single-Use Plastic Check-Out Bags to customers
- b. If a Retail Establishment provides or sells Check-Out bags to customers, the bags must be one of the following:
  1. Recyclable paper bag; or
  2. Reusable Check-Out bag

### Section IV Exemption

Thin-film plastic bags typically without handles which are used to contain newspapers, produce, meat, bulk foods, wet items, dry cleaning, and other similar merchandise are not prohibited under this bylaw.

### Section V Enforcement

- a. The Board of Health and its Health Agent shall have the authority to administer and enforce this bylaw
- b. For the first violation, the enforcing authority, upon a determination that a violation has occurred, shall issue a written warning notice to the establishment specifying the violation
- c. The following penalties shall apply
  1. A fine of \$50 shall apply for the first violation following the issuance of a written warning notice
  2. A fine of \$100 shall apply for the second violation and each additional violation of this by-law after the issuance of a written warning notice.
- c. Fines shall be cumulative and each day on which a violation occurs shall constitute a separate offense

### Section VI Effective Date

- a. This bylaw shall take effect 01/01/2022. The Board may exempt a Retail Establishment from the requirements of this section for a period of up to six (6) months upon a finding by the Board that (1) the requirements of this section would cause undue hardship; or (2) a Retail Establishment requires additional time to draw down an existing inventory of thin-film, single-use check-out plastic bags.

### Section VII Regulations

- a. The Board of Health may adopt and amend rules and regulations to effectuate the purposes of this bylaw

### Section VIII Severability

- a. If any provision of this bylaw is declared invalid or unenforceable the other provisions

shall not be affected thereby.

By Petition

VOTED ON JUNE 2, 2021 – ANNUAL TOWN MEETING – ARTICLE 36  
APPROVED BY THE ATTORNEY GENERAL ON SEPTEMBER 24, 2021  
POSTED ON: OCTOBER 6, 2021

In eight sections of the Town – two in each precinct  
EFFECTIVE DATE: OCTOBER 6, 2021



ISSUED BY:

Dawn M. Varley  
Dawn M. Varley, Town Clerk

POSTED BY: (In 8 sections of the Town)

Joseph Bombardieri  
Constable, Town of Whitman

DATE: OCTOBER 6, 2021

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# OFFICIAL BULLETIN

## *Town of Whitman - Massachusetts*

### SUBJECT MATTER

#### Zoning By-Laws and Government

The Town voted UNANIMOUSLY to amend the Town's Protective Zoning By-Law by striking subsection 7-4 Flood Plain and Watershed Protection Districts, as may be recodified hereunder, in its entirety and inserting in place thereof new a subsection 7-4 Floodplain District and Watershed Protection District, to be codified consistent with any vote hereunder, to read as follows, or take any action relative thereto:

#### **7-4 FLOODPLAIN DISTRICT AND WATERSHED PROTECTION DISTRICT:**

##### A) *Statement Of Purpose*

- 1) The purposes of the Floodplain 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 water quality, contamination, and 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) Eliminate costs associated with the response and cleanup of flooding conditions; and,
  - f) Reduce damage to public and private property resulting from flooding waters.
  
- 2) The purposes of the Watershed Protection District are to:
  - a) Preserve, protect, and maintain the water table and water recharge areas within the Town so as to preserve present and potential water supplies for the public health and safety.
  - b) Assure the continuation of the natural flow pattern of the water courses within the Town in order to provide adequate and safe floodwater storage capacity to protect persons and property against the hazards of flood inundation.

##### B) *District Boundaries*

- 1) Floodplain District Boundaries and Base Flood Elevation Data:
  - a) The Floodplain District is herein established as an overlay district. The Floodplain District includes all Special Flood Hazard Areas within Whitman designated on the Plymouth County Flood Insurance Rate Map (FIRM) dated July 6, 2021 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 shown on the FIRM and further defined by the Plymouth County Flood Insurance Study (FIS) report dated July 6, 2021. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Official, Conservation Commission, and Board of Health.

- b) The Floodplain management regulations found in the Floodplain District section shall take precedence over any less restrictive conflicting local laws, ordinances or codes.
  - c) The degree of flood protection required by this By-Law is considered reasonable but does not imply total flood protection.
  - d) If any section, provision, or portion of this By-Law is deemed to be unconstitutional or invalid by a court, the remainder of the By-Law shall be effective.
  - e) The Town of Whitman hereby designates the Building Commissioner to be the official Floodplain Administrator for the Town.
- 2) The Watershed Protection District is herein established as an overlay district to all other districts. The Watershed Protection District includes:
- a) All areas designated as Qs and/or Q1 on the Flood Plain and Watershed Protection District Map dated May 1, 1973;
  - b) One hundred (100) feet horizontally landward from any bank of the Schumatuscacant River and the Meadow Brook and all their respective tributaries; and,
  - c) One hundred (100) feet horizontally landward from the 100-year flood elevation of the Schumatuscacant River and the Meadow Brook and all their respective tributaries, or whatever is the greater distance of a) or b) above.
- 3) In the Floodplain District and Watershed Protection District, the applicable use and other provisions of the Town's By-Law shall continue in force, subject to all provisions of this Section.

*C) New Technical Data;*

- 1) If the Town acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, the Town will, within 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., 6<sup>th</sup> floor  
Boston, MA 02110

And copy of notification to:

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

*D) Variances to building code floodplain standards;*

- 1) 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 Town's files.
- 2) 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 Town 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.
- 3) Such notification shall be maintained with the record of all variance actions for the referenced development in the Floodplain District.

*E) Variances to Town of Whitman Protective Zoning By-Law;*

- 1) A variance from this By-Law must meet the requirements set out by state law, and may only be granted if:
  - a) Good and sufficient cause and exceptional non-financial hardship exist;
  - b) The variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public; and,
  - c) The variance is the minimum action necessary to afford relief.

*F) Permits;*

- 1) The Town of Whitman requires a permit for all proposed construction or other development in the Floodplain District and/or Watershed Protection 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, except any use specifically authorized and exempt from such permits by law.
- 2) Whitman's permit review process includes the use of a checklist of all local, state and federal permits that will be necessary in order to carry out the proposed development in

the Floodplain District and/or Watershed Protection District. The proponent must acquire all necessary permits, and must submit the completed checklist demonstrating that all necessary permits have been acquired.

- 3) The Board of Appeals shall have the authority to issue permits hereunder, after hearing with due notice given as provided by M.G.L. c.40A, §4. Such permit shall state the conditions under which the permit is issued.
- 4) Permit Procedure:
  - a) Any person desiring to undertake an action described in this Section within the Flood Plain and Watershed Protection District, shall submit six (6) copies of an application for a permit to the Town Clerk, who shall transmit five (5) copies of it within forty-eight (48) hours to the Board of Appeals, who in turn shall transmit one (1) copy to each of the following within forty-eight (48) hours: Board of Health, Department of Public Works, Conservation Commission, and the Planning Board. The application shall be accompanied by plans of the building or structure and of the premises on which it is or to be situated. Such plans shall conform to the requirements of the Rules and Regulations Regulating Sub-division of Land for the Town of Whitman, as may be amended or recodified from time to time.
  - b) No permit shall be issued by the Board of Appeals until a report or reports with recommendations by the Planning Board and the Conservation Commission have been received, or until forty-five (45) days have elapsed from the date of submission in the absence of such report or reports. The failure of the Board of Appeals to act within seventy-five (75) days from the date of submission shall constitute approval thereof, or such further time as may be agreed upon at the written request of the applicant.
  - c) The Board of Appeals shall issue a permit under this Section if it finds that the use of the premises will not endanger the health, safety and general welfare of the occupants thereof, the public generally or of other land or buildings, and the permit otherwise complies with the requirements of this By-Law. In deciding applications for a permit under this Section, the Board shall be satisfied:
    - i) That the basement floor level shall be above the elevation of the nearest Floodplain District and/or Watershed Protection District boundary.
    - ii) That other land shall be protected against detrimental or offensive uses of the premises, and that no sewerage effluent shall be disposed into the Floodplain District and/or Watershed Protection District.
    - iii) That safe vehicular and pedestrian movement to, over, and from the premises shall be provided over ways having an elevation above the nearest Floodplain District and/or Watershed Protection District boundary.

- iv) That the methods of drainage of the area covered by the permit are adequate under normal and flood conditions to maintain the flow below the nearest Floodplain District and/or Watershed Protection District boundary.
- v) That the methods by which the premises are filled or otherwise elevated, as may be required, will assure that the premises are free from danger to the health or safety of the occupants thereof, the public generally or of other land or buildings, and shall not adversely affect the natural function of the District as a flood plain and/or water retention area.
- vi) That the land is not subject to seasonal or periodic flooding.
- vii) That the portion of any lot within a Floodplain District and/or Watershed Protection District used to meet the area and yard requirements for the underlying district in which the remainder of the lot is situated, does not exceed twenty-five (25%) percent of the required minimum lot area of the underlying District.
- d) Nothing in this Section shall limit the authority of the Board of Health with respect to premises in the Floodplain District and/or Watershed Protection District or affect the applicability of the State Building Code to any building in such District(s).
- e) Nothing in this Section shall limit the applicability of M.G.L. c.131, §40. The Board of Appeals, where appropriate, shall condition the issuance of a permit required under this Section upon an approval under such statute.

*G) Subdivisions;*

- 1) All subdivision proposals and development proposals in the Floodplain District and/or Watershed Protection District shall be reviewed to assure that:
  - a) Such proposals minimize flood damage.
  - b) Public utilities and facilities are located & constructed so as to minimize flood damage.
  - c) Adequate drainage is provided.
- 2) When proposing subdivisions or other developments greater than 50 lots or 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.

*H) Unnumbered A Zones;*

- 1) 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 nonresidential structures to or above base flood level, and for prohibiting encroachments in floodways.

- 2) In Zones A, A1-30, 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.
- 3) In Zones A1-30 and AE, along watercourses that have a regulatory floodway designated on the 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.

*J) Watercourse alterations or relocations in riverine areas;*

- 1) In a riverine situation, the Floodplain Administrator shall notify the following of any alteration or relocation of a watercourse:
  - a) Adjacent Communities, especially upstream and downstream
  - b) Bordering States, if affected
  - c) NFIP State Coordinator, Massachusetts Department of Conservation and Recreation, 251 Causeway Street, 8<sup>th</sup> floor, Boston, MA 02114
  - d) NFIP Program Specialist, Federal Emergency Management Agency, Region I, 99 High Street, 6th Floor, Boston, MA 02110

*K) Recreational Vehicles;*

- 1) In A1-30, AH, AE Zones, V1-30, VE, and V Zones, all recreational vehicles to be placed on a site must be elevated and anchored in accordance with the zone's regulations for foundation and elevation requirements or be on the site for less than 180 consecutive days or be fully licensed and highway ready.

*L) Enforcement;*

- 1) This By-Law shall be enforced by the Floodplain Administrator or other enforcing officer designated by the Board of Selectmen, legal proceedings and fines shall be in accordance with Section XII 12-5 and 12-6 of the Town of Whitman Protective Zoning By-Law, as may be amended or recodified from time to time.

*M) Definitions;*

DEVELOPMENT means 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]

**FLOOD BOUNDARY AND FLOODWAY MAP** means an official map of a community issued by FEMA that depicts, based on detailed analyses, the boundaries of the 100-year and 500-year floods and the 100-year floodway. (For maps done in 1987 and later, the floodway designation is included on the FIRM.)

**FLOOD HAZARD BOUNDARY MAP (FHBM.)** An official map of a community issued by the Federal Insurance Administrator, where the boundaries of the flood and related erosion areas having special hazards have been designated as Zone A or E. [US Code of Federal Regulations, Title 44, Part 59]

**FLOODWAY.** The channel of the river, creek 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 more than a designated height. [Base Code, Chapter 2, Section 202]

**FUNCTIONALLY DEPENDENT USE** means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to 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]

**HIGHEST ADJACENT GRADE** means 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]

**HISTORIC STRUCTURE** means any structure that is:

- (a) 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;
- (b) 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;
- (c) 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:
  - (1) By an approved state program as determined by the Secretary of the Interior or
  - (2) Directly by the Secretary of the Interior in states without approved programs.

[US Code of Federal Regulations, Title 44, Part 59]

**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]

**RECREATIONAL VEHICLE** means a vehicle which is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and
- (d) 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]

**REGULATORY FLOODWAY** - see FLOODWAY.

**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, AH, V, VO, VE or V1-30. [Base Code, Chapter 2, Section 202]

**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 or not that alteration affects the external dimensions of the building. [Base Code, Chapter 2, Section 202]

**STRUCTURE** means, 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. [US Code of Federal Regulations, Title 44, Part 59]

**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]

**VARIANCE** means 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]

**VIOLATION** means 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]

Proposed by the Board of Selectmen

VOTED ON JUNE 2, 2021 – ANNUAL TOWN MEETING – ARTICLE 27  
APPROVED BY THE ATTORNEY GENERAL ON SEPTEMBER 24, 2021  
POSTED ON: OCTOBER 6, 2021  
In eight sections of the Town – two in each precinct  
EFFECTIVE DATE: JUNE 2, 2021



ISSUED BY:

Dawn M. Varley  
Dawn M. Varley, Town Clerk

POSTED BY: (In 8 sections of the Town)

Joseph Bombardieri  
Constable, Town of Whitman  
DATE: OCTOBER 6, 2021

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# OFFICIAL BULLETIN

## *Town of Whitman - Massachusetts*

### SUBJECT MATTER

#### General By-Laws and Government

The Town voted UNANIMOUSLY to amend the Town of Whitman General By-Laws by adding a new Polystyrene Restrictions Article, as follows, or take any action relative thereto:

#### Polystyrene Restrictions

##### Section I Purpose

The purpose of this bylaw is to reduce the use of polystyrene in the Town of Whitman

##### Section II Definitions

The following words shall, unless the context clearly requires otherwise, have the following meanings.

*Disposable food container* shall mean single-use disposable products for serving or transporting prepared, ready-to-consume food or beverages, including, without limitation, take-out foods and/or leftovers from partially consumed meals prepared by a food establishment.

This includes, but is not limited to, plates, cups, bowls, trays, hinged, or lidded containers. It does not include single-use disposable packaging for unprepared foods.

*Food establishments* shall mean any operation that stores, prepares, packages, serves, vends or otherwise provides food for human consumption, as further defined in 105 CMR 590.002. Any establishment requiring a permit to operate in accordance with the State Food Code, 105 CMR 590.000, et seq. Shall be considered a food establishment for the purposes of this division

*Expanded Polystyrene* shall mean blown polystyrene (polystyrene that has been expanded or blown using a gaseous blowing agent into a solid form) and expanded and extruded forms, which thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques, including, but not limited to, fusion of polymer spheres, (expandable bead polystyrene), injection molding, form molding, and extrusion blow-molding (extruded foam polystyrene).

*Prepared food* shall mean any food or beverage prepared on the food establishment's premises using any cooking or food preparation technique. Prepared food does not include any raw uncooked meat, fish or eggs unless provided for consumption without further food preparation. Prepared food may be eaten on or off the food establishment's premises.

### Section III Regulated Conduct

Food establishments are prohibited from dispensing prepared food to customers in disposable food service containers made from expanded polystyrene.

### Section IV Enforcement

- a. The Board of Health and its Health Agent shall have the authority to administer and enforce this bylaw
- b. For the first violation, the enforcing authority, upon a determination that a violation has occurred, shall issue a written warning notice to the establishment specifying the violation
- c. The following penalties shall apply
  1. A fine of \$50 shall apply for the first violation following the issuance of of a written warning notice
  2. A fine of \$100 shall apply for the second violation and each additional violation of this by-law after the issuance of a written warning notice.
- c. Fines shall be cumulative and each day on which a violation occurs shall constitute a separate offense

### Section V Effective Date

- a. This by-law shall take effect 01/01/2022

### Section VI Regulations

- a. The Board of Health may adopt and amend rules and regulations to effectuate the purposes of this bylaw

### Section VII Severability

- a. If any provision of this bylaw is declared invalid or unenforceable the other provisions shall not be affected thereby.

### By Petition

VOTED ON JUNE 2, 2021 – ANNUAL TOWN MEETING – ARTICLE 37  
APPROVED BY THE ATTORNEY GENERAL ON SEPTEMBER 24, 2021  
POSTED ON: OCTOBER 6, 2021

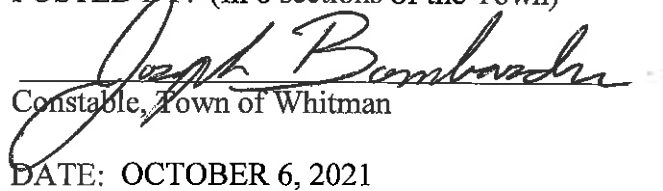
In eight sections of the Town – two in each precinct  
EFFECTIVE DATE: OCTOBER 6, 2021



ISSUED BY:

Dawn M. Varley  
Dawn M. Varley, Town Clerk

POSTED BY: (In 8 sections of the Town)

  
Constable, Town of Whitman

DATE: OCTOBER 6, 2021

Any claims that a by-law is invalid because of a defect in the procedure by which the by-law was adopted may only be made within 90 days of this posting.

Copies of this by-law may be examined and obtained at the Office of the Town Clerk,  
54 South Avenue (Town Hall), Whitman, MA 02382.