

ROYALTON FLOOD HAZARD AREA REGULATIONS

I. Statutory Authorization

To effect the purposes of 10 V.S.A. Chapter 32, and in accordance with 24 V.S.A. § 4424, there is hereby established a bylaw for areas of special flood hazard in the Town of Royalton, Vermont.

Unless already established, there is hereby established an Administrative Officer, who shall be nominated by the Planning Commission and appointed by the Selectboard per 24 VSA section 4448. There is also established a Flood Hazard Review Board who shall be appointed by the Selectboard in the same manner that a Development Review Board would be created under 24 VSA section 4460. If a Board of Adjustment is already established, or Development Review Board becomes established, then it shall also be the Flood Hazard Review Board.

II. Statement of Purpose

It is the purpose of this bylaw to:

- A. Minimize and prevent the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public services that result from flooding and other flood related hazards; and
- B. Ensure that the design and construction of development in flood and other hazard areas are accomplished in a manner that minimizes or eliminates the potential for flood and loss or damage to life and property; and
- C. Manage all flood hazard areas designated pursuant to 10 V.S.A. § 753; and
- D. Make the state, municipalities, and individuals eligible for federal flood insurance and other federal disaster recovery and hazard mitigation funds as may be available.

III. Lands to Which These Regulations Apply

These regulations shall apply to:

- A. All areas in the Town of Royalton, Vermont identified as areas of special flood hazard in and on the most current flood insurance studies and maps published by the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), National Flood Insurance Program (NFIP), as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. § 753, which are hereby adopted by reference and declared to be part of these regulations.

If uncertainty exists with respect to the boundaries or elevations on the map or studies noted above, the location of such boundary or elevations shall first be determined by the Administrative Officer if possible. For areas in doubt by the Administrative Officer where such determination could place the structure outside the special flood hazard area,

the burden of proof shall be on the applicant, who shall seek a Letter of Map Amendment/Letter of Map Revision from FEMA, which shall constitute proof. Neither the AO nor the Board may determine that an area shown on the map as being in a floodway or area of special flood hazard is incorrect.

Applicants who believe that the FIRM or flood study incorrectly shows their property in the flood fringe or floodway must apply to FEMA to make that change. The Town or state cannot change these boundaries, but may comment on any applications to FEMA for map revisions or amendment. The process will involve the applicant retaining an engineer and/or surveyor to provide the necessary data. Forms to apply to FEMA are available on http://www.fema.gov/plan/prevent/fhm/firm_form.shtm. Applicants believing the map is wrong and their building is not in the hazard area shown need a Letter of Map Amendment (LOMA), or conditional LOMA (CLOMA) for a proposed building. A Letter of Map Revision (LOMR-F) is needed if fill had been used to elevate the grade where the structure is so that it is no longer an area of special flood hazard as mapped. A conditional LOMR-F (CLOMR-F) is needed if fill (if allowed) is proposed to elevate the structure above the base flood. When any revision or amendment is being sought from FEMA, an application to the town under this regulation will not be considered complete until the relevant letter has been issued by FEMA. Issuance of a LOMR-F or CLOMR-F is not local permission to fill, which may only take place in compliance with this regulation.

IV. Permit Required

A permit is required, to the extent authorized by State law, for all proposed construction or other development (including mining, dredging, filling, grading, paving, excavation or drilling operations, storage of equipment or materials or the placement of manufactured homes), in areas of special flood hazard. All development and subdivisions subject to review shall be reviewed to assure that such proposals comply with the standards in VII; minimize potential flood damage; public facilities and utilities such as sewer, gas, electrical, and water systems are constructed so as to minimize flood damage; and adequate drainage is provided to reduce exposure to flood hazards.

- A. The following are exempt from regulation under this ordinance:
1. Silvicultural activities (the practice of forestry) not involving the use of buildings and conducted in accordance with Vermont Department of Forest and Parks' Acceptable Management Practices, as such practices are defined by the commissioner of forests, parks, and recreation;
 2. Agricultural activities not involving the use of buildings and conducted in accordance with Vermont Department of Agriculture, Food and Markets' Acceptable Agricultural Practices, as such practices are defined by the secretary of agricultural, food and market;

3. Recreational vehicles parked outside of the floodway and at least 35 feet from the top of bank, provided they are on the site for fewer than 180 consecutive days and fully licensed and ready for highway use; and
 4. The removal of a structure or building in whole or in part.
 5. Minor improvements to existing buildings that do not involve fill and do not decrease structure setbacks from any stream.
- B. The following activities in the area of special flood hazard, only require an administrative permit from the Administrative Officer:
1. At-grade parking areas or roads that meet requirements in Article VII and are at least 50 feet from the top of bank.
 2. Parking of recreational vehicles except as exempted above.
- C. Conditional use approval by the Flood Hazard Review Board, prior to the issuance of an administrative permit by the Administrative Officer, is required for the following activities in the area of special flood hazard:
1. Substantial improvement or floodproofing of existing buildings.
 2. Any fill or excavation.
 3. Accessory structures specified in VII.B.7 and agricultural buildings located outside the floodway.
 4. Minor improvements to an existing building in the floodway.
 5. Development in the floodway relating to bridges, culverts, roads, stabilization projects, public utilities, or health and safety measures.
 6. Utilities, including water supply and wastewater treatment.
 7. Creation of a lot.
- D. Prohibited development includes all new commercial or residential buildings in the area of special flood hazard and storage of floatable materials in the floodway.

V. Procedures

- A. Applicants shall apply to the Administrative Officer for an Administrative Permit on forms approved by the Flood Hazard Review Board and accompanied by fees set by the Selectboard. In addition to the information requested on the form, additional

information may be required such as surveys, site plans, or drawings to enable the Administrator or Flood Hazard Review Board to adequately review the proposed land development. An application shall not be accepted unless signed by the applicant (who must be the owner of record, or the owner and future developer) and accompanied by the required fees.

- B. When additional information is requested from the applicant by the Administrative Officer in order to consider the permit application complete, and such information is not presented within 90 days of the request, the application will expire and be deemed rejected.
- C. The Administrative Officer shall also inform any person subdividing a lot within the area subject to this bylaw that a state subdivision permit or required statement on the deed is also needed, and that the person should contact the regional Permit Specialist employed by the Agency of Natural Resources to fill out a Project Review Sheet in order to assure timely action on any related state permits. Nevertheless, the applicant retains the obligation to identify, apply for, and obtain relevant state permits.

D. Referrals

Prior to warning any needed hearing or issuing or acting on any permit, whichever comes first, a copy of the application and supporting information shall be submitted by the Administrative Officer to the State National Floodplain Insurance Program Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section in accordance with 24 V.S.A. § 4424. A permit will only be considered complete and ready for action following receipt of comments from the Agency or the expiration of 30 days from the date the application was mailed to the Agency, whichever is sooner.

For any permit involving the alteration or relocation of a watercourse, the Administrative Officer shall notify adjacent communities, the Administrator of the National Flood Insurance Program, and the Stream Alteration Engineer at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section at least 30 days prior to warning any needed hearing or issuing any permit, whichever comes first.

E. Other Permits

All proposed development shall require a permit by the Administrative Officer conditioned on the receipt of all necessary permits from those government agencies from which approval is required by Federal, State or Municipal law.

F. Effect

Each permit issued shall contain a statement of the period of time within which an appeal may be taken and shall require posting of a notice of permit on a form

prescribed by the municipality within view from the public right-of-way most nearly adjacent to the subject property until the time for appeal has passed. No permit issued pursuant to this section shall take effect until 15 days after issuance, or in the event that a notice of appeal a decision by the Administrative Officer or Flood Hazard Review Board is properly filed, no such permit shall take effect until adjudication of that is complete.

Each permit shall be valid for a period of two years, after which point if no development has occurred it shall be deemed void.

G. Filing

1. Within three days following the issuance of a permit, the Administrative Officer shall:
 - a) Deliver a copy of the permit and any accompanying conditional approval to the listers of the municipality; and
 - b) Post a copy of the permit in at least one public place in the municipality until the expiration of 15 days from the date of issuance of the permit.
2. Within 30 days after a permit has been issued, denied, or within 30 days of the issuance of any notice of violation, the Administrative Officer shall:
 - a) deliver the original or a legible copy of the permit, or notice of permit, and any approvals to the town clerk for recording in the land records as provided in subsection 24 VSA, section 1154(a); and
 - b) file a copy of the permit and any approvals in the Town office in a location where all municipal land use permits shall be kept.
3. The Administrative Officer shall properly file and maintain a record of:
 - a) All permits issued or denied in areas covered by this ordinance;
 - b) The elevation (consistent with the datum of the elevation on the NFIP maps for the community) of the lowest floor, including basement, of all new or substantially improved buildings in areas of special flood hazard;
 - c) The elevation (consistent with the datum of the elevation on the NFIP maps for the community), when applicable, to which buildings have been floodproofed in areas of special flood hazard;
 - d) All floodproofing certifications required under this regulation; and
 - e) All variances, notices of alleged violation, and conditional use approvals, including justification for their issuance.

H. Conditional Use Hearing

Proposed developments needing conditional use approval prior to the issuance of a permit must have a warned public hearing. Any public notice for a warned public hearing shall be given not less than 15 days after the required submittal to federal and state agencies, and not less than 15 days prior to the date of the public hearing by all the following:

1. Publication of the date, place, and purpose of the hearing in a newspaper of general circulation in the municipality affected.
2. Posting of the same information in three or more public places within the municipality in conformance with location requirements of 1 V.S.A. § 312(c)(2), including posting within view from the public right-of-way most nearly adjacent to the property for which an application is made.
3. Written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to any public right-of-way. The notification shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal.

The applicant may be required to bear the cost of the public warning and the cost and responsibility of notification of adjoining landowners. The applicant may be required to provide a copy of the warning, and demonstrate proof of the posting and of delivery to adjoining landowners either by certified mail, return receipt requested, or by written notice hand delivered or mailed to the last known address supported by a sworn certificate of service.

The Flood Hazard Review Board may recess the proceedings on any application pending submission of additional information. The Board should close the evidence promptly after all parties have submitted the requested information, adjourn the hearing, and may deliberate prior to issuing its decision.

I. Decisions

Decisions by the Administrative Officer to approve or deny an application shall be issued in writing within 30 days of a complete application, and shall include a statement of the factual bases on which the conclusions were made. Applications that cannot be approved until a conditional approval has been given shall be deemed incomplete and referred to the Board. Applications that cannot be approved in compliance with this ordinance shall be denied. Decisions of the Administrative officer can be appealed as below.

Decisions of the Flood Hazard Review Board for variance or conditional use approval shall be issued in writing within 45 days after the adjournment of the final hearing. Failure to issue a decision within this period shall be deemed approval and shall be effective on the 46th day.

Conditional use approvals shall include a statement of the factual bases on which the Board has made its conclusions regarding how the proposed development will meet the development standards, and a statement of the conclusions. In rendering a decision in favor of the applicant, the Board may attach additional reasonable conditions and safeguards as it deems necessary to implement the purposes of this ordinance and the municipal plan then in effect. The Board may provide for the conditioning of permit issuance on the submission of a bond, escrow account, or other surety in a form acceptable to the legislative body of the municipality to assure one or more of the following: the completion of the project, adequate stabilization, or protection of public facilities that may be affected by a project.

Any decision to grant conditional use approval shall be sent by certified mail within the 45 day period to the applicant, and the appellant (if applicable) in matters on appeal. Copies of the decision shall also be mailed to every person or body appearing and having been heard at the hearing and a copy of the decision shall be filed with the Administrative Officer and the clerk of the municipality as a part of the public records of the municipality.

J. Appeals

An interested person (as defined in 24 VSA section 4465b) may appeal any decision or act taken by the Administrative Officer by filing a notice of appeal with the secretary of the Flood Hazard Review Board or with the clerk of that municipality if no such secretary has been elected. This notice of appeal must be filed within 15 days of the date of that decision or act, and a copy of the notice of appeal shall also be filed with the Administrative Officer. Appeals shall be handled under the procedures in 24 VSA section 4468.

Decisions of the Flood Hazard Review Board may be appealed to the environmental court and shall be handled under the procedures in 24 VSA section 4471.

All notices of appeal shall be in writing and shall include the name and address of the appellant, a brief description of the property with respect to which the appeal is taken, a reference to the regulatory provisions applicable to that appeal, the relief requested by the appellant, and the alleged grounds why the requested relief is believed proper under the circumstances.

VI. Base Flood Elevations and Floodway Limits

- A. Where available, base flood elevations (BFEs) and floodway limits (or data from which a community can designate regulatory floodway limits) provided by the National Flood

Insurance Program in the Flood Insurance Study and accompanying maps shall be used to administer and enforce these regulations.

- B. In special flood hazard areas where base flood elevations and floodway limits have not been provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps, base flood elevations and floodway data provided by FEMA, available from State or Federal agencies or other sources, or at the applicant's expense shall be obtained and utilized to administer and enforce these regulations. It is the applicant's responsibility to provide this information.
- C. In the case where a regulatory floodway has not been designated (special flood hazard areas simply designated as an "A" zone), no new construction, substantial improvements, or other development shall be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development will not increase the water surface elevation of the base flood at any point within the community.

VII. Development Standards

A. Floodway Areas

- 1. All development requires conditional use approval in compliance with the standards in VII.B prior to permitting, as well as demonstrating through hydrologic and hydraulic analyses performed and certified in accordance with standard engineering practice by a registered professional engineer that the proposed development will result in no increase in flood levels during the occurrence of the base flood.

B. Areas of Special Flood Hazard

- 1. All Development - All development shall be reasonably safe from flooding and:
 - a) designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure, including fuel tanks, during the occurrence of the base flood,
 - b) constructed with materials and methods resistant to flood damage in accordance with FEMA technical bulletins,
 - c) constructed by methods and practices that minimize on site and off site flood damage, provide adequate drainage to reduce exposure to flood hazards, does not constrain flood flows so that fill would require armoring(placement of stone rip rap, etc), and do not alter flood flows, and

- d) constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

2. Residential Development:

- a) Existing buildings to be substantially improved that are located in Zones A, A1-30 and AE shall have the lowest floor, including basement, elevated to at least one foot above the base flood elevation.
- b) Existing manufactured homes to be substantially improved that are:
 - i. located in a manufactured home park or subdivision, outside of a manufactured home park or subdivision, or in a manufactured home park or subdivision which has incurred substantial damage from a flood shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement during the occurrence of the base flood.
 - ii. located in an existing manufactured home park, where elevating a replacement home to or above base flood elevation is not possible, the lowest floor shall be supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 48 inches in height above grade and be securely anchored to an adequately anchored system to resist floatation, collapse, and lateral movement.

3. Non-residential Development:

- a) Existing buildings to be substantially improved located in Zones A, A1-30, AE shall have the lowest floor, including basement, elevated to at least one foot above the base flood elevation or together with attendant utility and sanitary facilities be designed so that below at least one foot above the base 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.
- b) A permit for an existing building proposed to be floodproofed shall not be issued until a registered professional engineer or architect has reviewed the structural design, specifications and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.

4. Subdivisions:

- a) New subdivision proposals and other proposed development within this area shall include base flood elevation data.
- b) Subdivisions (including manufactured home parks) shall be designed to assure:
 - i. such proposals minimize flood damage within the flood-prone area,
 - ii. public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage,
 - iii. adequate drainage is provided to reduce exposure to flood hazards, and;
 - iv. that any lots created can be developed for the intended purposes in compliance with this bylaw.

5. Enclosed Areas Below the Lowest Floor:

- a) Enclosed areas below the lowest floor which are subject to flooding shall be used solely for parking of vehicles, building access, or storage and such a condition shall clearly be stated in any permits.
- b) Existing buildings to be substantially improved with fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.
- c) Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

6. Recreational Vehicles: Recreational Vehicles placed on sites within special flood hazard areas shall either:

- a) be on the site for fewer than 180 consecutive days, or
- b) be fully licensed and ready for highway use.

7. Accessory Structures: A small accessory structure (no greater than 100 square feet in footprint) that represents a minimal investment, non agricultural fence, fuel tank, or sign need not be elevated to the base flood elevation provided the structure:
 - a) shall not be used for human habitation,
 - b) shall be designed to have low flood damage potential,
 - c) shall be constructed and placed on the site so as to offer the minimum resistance to the flow of floodwaters,
 - d) shall be firmly anchored to prevent flotation, and
 - e) shall have service facilities such as electrical and heating equipment elevated or floodproofed.
8. Water Supply Systems: New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
9. Sanitary Sewage Systems: New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
10. Watercourse Carrying Capacity: The flood and sediment carrying capacity within any altered or relocated portion of a watercourse shall be maintained.
11. Any access roads to habitable structures or critical facilities shall be at least one foot above base flood elevations and able to withstand a 100-year event without failing.
12. On-Site Waste Disposal Systems: On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

VIII. Variances to the Development Standards

- A. Variances shall be granted by the Flood Hazard Review Board after a hearing noticed in the same manner as for a conditional use and only in accordance with 24 V.S.A. § 4469 and in accordance with the criteria for granting variances found in 44 CFR, Section 60.6, of the National Flood Insurance Program regulations.
- B. A decision in favor of the appellant shall be granted if all the following facts are found, and the supporting findings are specified in the decision:
 1. There are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or

other physical conditions peculiar to the particular property, and that unnecessary hardship is due to these conditions, and not the circumstances or conditions generally created by the provisions of the bylaw in the neighborhood or district in which the property is located;

2. Because of these physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the bylaw, and that the authorization of a variance is therefore necessary to enable the reasonable use of the property;
3. Unnecessary hardship has not been created by the appellant;
4. The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare;
5. The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the bylaw and from the plan; and
6. The variance will not result in increased flood heights, increased susceptibility to flooding or erosion, additional threats to public safety or infrastructure (including emergency services during flood events), or extraordinary public expense.

IX. Warning of Disclaimer of Liability

This ordinance does not imply that land outside of the areas of special flood hazard or land use permitted within such districts will be free from flooding or flood damages. This ordinance shall not create liability on the part of the Town of Royalton or any town official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

X. Validity and Severability

If any portion of this ordinance is held unconstitutional or invalid by a competent court, the remainder of this ordinance shall not be affected.

XI. Precedence of Ordinance

The provisions of this ordinance shall not in any way impair or remove the necessity of compliance with any other applicable ordinances. Where this ordinance imposes a greater restriction, the provisions of this ordinance shall take precedence.

XII. Enforcement and Penalties

It shall be the duty of the Administrative Officer to enforce the provisions of this ordinance. Whenever any development occurs contrary to these flood hazard area regulations, the Administrative Officer shall notify the alleged offender of the violation by certified mail to correct the violation. No action may be brought unless the alleged offender has had at least a seven-day warning notice by certified mail or delivery by a certified law enforcement officer. An action may be brought without the seven-day notice and opportunity to cure if the alleged offender repeats the violation after the seven-day notice period and within the next succeeding twelve months. The seven-day warning notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the seven days, that failure to cure may result in loss of flood insurance and/or fines, and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days and within the next succeeding 12 months.

If the violation is not remedied within 7 days, or appealed, the Administrative Officer shall file a copy of the notice of violation in the municipal land use permit files and with the Town Clerk for filing in the land records, and shall also mail a copy to the violator, the state NFIP Coordinator, and the Administrator of the National Flood Insurance Program. Section 1316 of the National Flood Insurance Act of 1968, as amended, authorizes FEMA to deny flood insurance to a property declared by a community to be in violation of their flood hazard area regulations. The notice shall consist of: (a) the name of the property owner and address or legal description of the property sufficient to confirm its identity or location, (b) a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance, (c) a clear statement that the public body making the declaration has authority to do so and a citation to that authority, (d) evidence that the property owner has been provided notice of the violation and the prospective denial of insurance, and (e) a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

No action may be brought under this section unless such notice as required has been given as described above. A court action may be initiated in environmental court, or as appropriate, before the judicial bureau in accordance with 24 VSA sections 4451-4454 and section 1974a. All fines collected for the violation of bylaws shall be paid over to the Town of Royalton.

XIII. Definitions

Accessory Structure means a structure customarily incidental and subordinate to the principal use or building, not suitable for habitation and located on the same lot.

Appropriate Municipal Panel means a planning commission performing development review, a board of adjustment, a development review board, or a legislative body performing development review.

Area of special flood hazard is the land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated a Zone A, A1-30, or AE on the Flood Hazard Boundary Map (FHBM). For purposes of these regulations,

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the term is synonymous in meaning with the phrases “special flood hazard area”, “floodplain” or “flood fringe and floodway”.

Base Flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE) the height of the base flood, usually in feet, in relation to the National Geodetic Vertical Datum of 1929, the North American Vertical Datum of 1988, or other datum referenced in the Flood Insurance Study report, or average depth of the base flood, usually in feet, above the ground surface.

Basement means any area of the building having its floor elevation (below ground level) on all sides.

Building means a structure, other than an accessory structure, having a roof supported by columns or walls intended for shelter or enclosure of persons, animals, or chattel.

Channel means the watercourse as measure across it at bank full width, i.e. from top of bank to top of bank.

Development means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Fill means the placement of 10 or more cubic yards of material.

Flood means (a) A general and temporary condition of partial or complete inundation of normally dry land areas from: the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and mudslides which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current. (b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or

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abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

Flood Insurance Rate Map (FIRM) means an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

Flood Insurance Study means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations or an examination, evaluation and determination of mudslide (i.e., mudflow) and /or flood related erosion hazards.

Floodplain or flood-prone area means any land area susceptible to being inundated by water from any source (see definition of “flood”).

Flood proofing means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway means the channel of a river 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 one foot at any point.

Fluvial Erosion means the widening or deepening (degradation) of a channel resulting from riverine instability.

Historic Structure means any structure that is: (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the 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: (i) By an approved state program as determined by the Secretary of the Interior or (ii) Directly by the Secretary of the Interior in states without approved programs.

Legislative Body means the selectboard in the case of a town, the trustees in the case of an incorporated village, and the mayor, alderpersons, and city council members in the case of a city, and the supervisor in the case of an unorganized town or gore.

Lowest Floor means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor.

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Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle”.

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Minor improvement means renovation or changes to an existing building, other than standard maintenance and repair, meant to improve or enlarge the building and less than 50% of the value of the structure.

New construction means, for the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, *new construction* means structures for which the *start of construction* commenced on or after the effective date of the floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by a community.

Perennial stream means a stream or river that flows year round.

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 a temporary living quarters for recreational, camping, travel, or seasonal use.

Silvicultural activities means logging operations, including the cutting and removal of timber, done in accordance with the Acceptable Management Practices, which are intended and designed to prevent any mud, petroleum products and woody debris (logging slash) from entering the waters of the state as well as to leave minimum stocking levels of trees on site.

Special flood hazard area see *Area of special flood hazard*

Start of Construction includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation.

Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. 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, regardless whether that alteration affects the external dimensions of the building.

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. *Structure*, for insurance purposes, means: (a) A building with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site; (b) A manufactured home (“a manufactured home,” also known as a mobile home, is a structure: built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or (c) A travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under the community’s floodplain management and building ordinances or laws. For the latter purpose, “structure” does not mean a recreational vehicle or a park trailer or other similar vehicle, except as described in (c) of this definition, or a gas or liquid storage tank.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure, as determined by the most recent town tax assessment, before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either: (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specification which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (b) Any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”, or (c) routine repair and maintenance of existing parts of the structure.

Top of bank means that vertical point along a streambank where an abrupt change in slope is evident. For streams in wider valleys it is the point where the stream is generally able to overflow the banks and enter the floodplain. For steep and narrow valleys, it will generally be the same as the top of slope.

Violation means the failure of a structure or other development to be fully compliant with the community’s floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR 60.3 is presumed to be in violation until such time as that documentation is provided.

Adopted September 25, 2007

Walkout-on-grade basement means a floor that is at ground level on at least one side of the house, usually with a door on that side. This is not considered a "basement" as defined by these regulations.

Watercourse means the channel of Broad Brook, the First and Second Branches of the White River, and the mainstem of the White River within the area of special flood hazard.

Zones A, A1-30, AE are the official areas of special flood hazard with a 1% chance of being flooded in any given year.