

**TOWN OF SHARON  
INTERIM FLOOD HAZARD BYLAW**

**for Public Hearing  
September 28, 2007**

Revised for November 6, 2007 hearing continuance  
Revised for November 20, 2007 hearing continuance  
Revised for December 4, 2007 hearing continuance

**ADOPTED BY MAJORITY VOTE  
DECEMBER 4, 2007**

Interim Revisions to comply with  
National Flood Insurance Program (NFIP) Standards

**DATE EFFECTIVE: DECEMBER 25, 2007**

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## TABLE OF CONTENTS

I. Statutory Authorization .....	3
II. Statement of Purpose.....	3
III. Lands to Which These Regulations Apply .....	3
IV. Development Permit Required .....	3
V. Procedures for Permit Applications, Issuances, and Administration .....	4
VI. Base Flood Elevations and Floodway Limits .....	8
VII. Development Standards.....	8
VIII. Duties and Responsibilities of the Administrative Officer .....	12
IX. Variances to the Development Standards .....	12
X. Warning of Disclaimer of Liability.....	13
XI. Validity and Severability .....	13
XII. Precedence of Bylaw .....	14
XIII. Enforcement and Penalties.....	14
XIV. Definitions.....	15

## **I. Statutory Authorization**

To effect the purposes of 10 V.S.A. Chapter 32, and in accordance with 24 V.S.A. § 4415 and 4424, there is hereby established an interim bylaw for areas of special flood hazard in the Town of Sharon, Vermont.

## **II. Statement of Purpose**

It is the purpose of this bylaw to advance the objectives of the current Sharon Town Plan, and 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 all areas in the Town of Sharon, 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.

## **IV. Development Permit Required**

A flood development permit is required, to the extent authorized by State law, for all proposed construction or 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

- A. The following activities are exempt from regulation under this bylaw:

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 Markets;
  3. Recreational vehicles 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 or fully-licensed and ready for highway use; and
  4. The removal of a structure or building in whole or in part.
- B. The following activities in the special flood hazard area but outside the floodway only require a development permit from the Administrative Officer.
1. Minor improvements to existing structures that do not involve fill and do not decrease structure setbacks from any stream;
  2. At-grade parking areas that meet requirements in Article VII and are at least 50 feet from the top of bank;
  3. Non-enclosed accessory structures such as signs, fences, or pole sheds without walls, foundations or utilities, that meet requirements in Article VII.
- C. Conditional use approval by the Board of Adjustment pursuant to 24 V.S.A. Sec. 4414 and 4464, is required prior to the issuance of a development permit by the Administrative Officer for a development not exempted or permitted, including:
1. New buildings,
  2. Substantial improvement of existing buildings
  3. Any fill or excavation, and
  4. Development in a floodway, including subdivision of land

## **V. Procedures for Permit Applications, Issuances, and Administration**

The Administrative Officer, who shall be appointed and serve as specified in 24 VSA 4448, shall administer and enforce this bylaw literally. Permits shall be administered and granted or denied by the Administrative Officer as outlined in 24 VSA §4449.

There is also created a Board of Adjustment, the members of which shall be appointed and serve in accordance with 24 V.S.A. §4460.

#### A. Application Submittals

All permit applications shall be submitted to the Administrative Officer on forms furnished by her/him. Applications must be accompanied by a payment of an application fee of \$50.00.

The Administrative Officer shall determine, on application, whether or not the proposed development is located within the special flood hazard area by the procedures established in Section V(B) and VI of these regulations.

#### B. Boundary Determinations

If uncertainty exists with respect to the boundaries of the areas of special flood hazard, the location of such boundary shall first be attempted to be determined by the Administrative Officer. The Administrative Officer shall determine the boundaries of any designated special flood hazard area by scaling distances off the Official Flood Hazard Area Map.

For areas in doubt, 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 of being outside the special flood hazard area. Neither the Administrative Officer nor the Board may determine that an area shown on the map as being in a floodway or special flood hazard area is incorrect.

Applicants who believe that the FIRM or flood study incorrectly shows their property in the special flood hazard area 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/frm\\_form.shtm](http://www.fema.gov/plan/prevent/fhm/frm_form.shtm) or by calling (617) 832-4761. 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 a special flood hazard area 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.

### C. Referral Procedures:

1. Prior to issuing or acting on any permit, 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 may be issued only 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.
2. Adjacent communities and the Stream Alteration Engineer at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section shall be notified at least 30 days prior to issuing any permit for the alteration or relocation of a watercourse and copies of such notification shall be submitted to the Administrator of the National Flood Insurance Program. Any permit issued shall assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

### D. Decisions

1. 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 use approval has been given shall be deemed incomplete and referred to the Board. Applications that cannot be approved in compliance with this bylaw shall be denied.
2. Decisions of the **Board of Adjustment** 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 46<sup>th</sup> 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 contained herein in Section VII, and a statement of the conclusions.
3. Any decision to grant conditional use approval shall be sent by certified mail within the 45 day period to the applicant, and the appellant 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 part of the public records of the municipality.
4. 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 bylaw 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.

#### E. Effect

1. 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 in 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 of a decision by the Administrative Officer or Board of Adjustment is properly filed, no such permit shall take effect until adjudication of that appeal is complete.
2. Each permit shall be valid for a period of two years from the date of issuance. If no development has occurred within that time, the permit shall be deemed null and void.

#### F. Filing

Within three days following the issuance of a permit, the Administrative Officer shall:

1. Deliver a copy of the permit and any accompanying conditional use approval to the listers of the municipality; and
2. 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.
3. Within 30 days after a permit has been issued 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 V.S.A., section 1154(a); and
  - b) file a copy of the permit and any approvals in the Town Offices in a location where all municipal land use permits shall be kept.

#### G. Appeals

1. Appeals of decisions of the Administrative Officer shall be made to the Board of Adjustment or with the Board of Adjustment in the time and manner as outline in 24 VSA §4465.

2. Appeals of decisions of the Board of Adjustment shall be made to the Environmental Court under the provisions of 24 VSA § 4471.

## **VI. Base Flood Elevations and Floodway Limits**

- A. Where available, base flood elevations 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 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 or available from State or Federal agencies or other sources, shall be obtained and utilized to administer and enforce these regulations. If no such available data is of sufficient detail, the applicant may be required to have a surveyor or engineer develop such data as needed.
- C. Until a regulatory floodway has been designated, no new construction, substantial improvements, or other development shall be permitted in the special flood hazard area unless it is demonstrated by the applicant 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 more than one foot at any point within the community.

## **VII. Development Standards**

All development and subdivisions shall be reviewed to assure that such proposals 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.

All approvals and permits for development shall be conditioned on all necessary permits being received from those government agencies from which approval is required by Federal, State or Municipal law.

### A. Floodway Areas

1. Development within the regulatory floodway, as determined by Section VI.A, is prohibited unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice by a registered professional engineer certifying that the proposed development will result in no increase in flood levels during the occurrence of the base flood.

2. Junkyards, on-site wastewater disposal systems, and storage facilities for floatable materials, chemicals, explosives, flammable liquids, or other hazardous or toxic materials, are prohibited within the floodway.
- B. Special Flood Hazard Areas (within mapped Floodway Areas, the following Section B. provisions are additive to the Section A provisions above).
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 during the occurrence of the base flood,
    - (b) constructed with materials resistant to flood damage,
    - (c) constructed by methods and practices that minimize flood damage (see FEMA technical bulletins), including providing adequate drainage to reduce exposure to flood hazards and not constraining flood flows so that fill would require armoring( placement of stone rip rap, etc); 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.
    - (e) Junkyards, storage facilities for floatable materials, chemicals, explosives, flammable liquids, or other hazardous or toxic materials, are prohibited within the special flood hazard area.
  2. Residential Development:
    - (a) New construction and existing buildings to be substantially improved that are located in Zones A, A1-30, AE, and AH shall have the lowest floor, including basement, elevated to at least one foot above the base flood elevation.
    - (b) Manufactured homes to be placed, and existing manufactured homes to be substantially improved, that are:
      - (i) located in a new manufactured home park or subdivision, outside of a manufactured home park or subdivision, in an expansion to an existing 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 no less than one foot above the base flood elevation, and be securely anchored to an adequately anchored foundation system to resist flotation, 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 flotation, collapse, and lateral movement.

### 3. Non-residential Development:

- (a) New construction located in Zones A, A1-30, AE, and AH shall have the lowest floor, including basement, elevated to at least one foot above the base flood elevation.
- (b) Existing buildings to be substantially improved located in Zones A, A1-30, AE, and AH shall have the lowest floor, including basement, elevated to or 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.
- (c) A permit for a building proposed to be flood proofed 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 (including proposals for manufactured home parks and subdivisions) that are greater than 50 lots or 5 acres, whichever is the lesser, 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, and
  - (iii) adequate drainage is provided to reduce exposure to flood hazards, and
  - (iv) 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 failure or overtopping.

### 5. Enclosed Areas Below the Lowest Floor:

- (a) Enclosed areas below the lowest floor which are subject to flooding shall be permitted or conditioned to be used solely for building access or storage, and such a condition shall clearly be stated in any permits.
  - (b) New construction and 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 with special flood hazard areas shall either:
- (a) be on the site for fewer than 180 consecutive days,
  - (b) be fully licensed and ready for highway use, or
  - (c) be permitted in accordance with the elevation and anchoring requirements for “manufactured homes” in section B.2.(b).
7. Accessory Structures: A small accessory building that represents a minimal investment need not be elevated to the base flood elevation provided the structure meets the following requirements:
- (a) The structure must have the required openings to allow floodwaters in and out,
  - (b) The structure must be constructed using flood resistant materials below the Base Flood Elevation,
  - (c) The structure must be adequately anchored to resist flotation, collapse, and lateral movement, and
  - (d) All building utility equipment including electrical and heating must be elevated or flood proofed.
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. On-Site Waste Disposal Systems: On-site wastewater disposal systems shall be located to avoid impairment to them or contamination from them during flooding. The lowest elevation of the wastewater distribution field shall be located at least 1 foot above the base flood elevation.
11. Watercourse Carrying Capacity: The flood and sediment carrying capacity within any altered or relocated portion of a watercourse shall be maintained.
12. Flood storage capacity: The net post-development flood storage capacity shall not be less than the pre-development capacity. If cuts and fills are used under this provision, then an engineer's certification of the net change in flood storage and that the modifications do not create any increase in erosion or flood hazard is required.

## **VIII. Duties and Responsibilities of the Administrative Officer**

The Administrative Officer shall maintain a record of:

- A. All permits and conditional use approvals issued or denied for development in areas of special flood hazard;
- 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;
- C. The elevation (consistent with the datum of the elevation on the NFIP maps for the community) to which buildings have been flood proofed;
- D. All floodproofing certifications required under this regulation;
- E. All variance actions, including justification for their issuance; and
- F. All notices of violations.

## **IX. Variances to the Development Standards**

- A. Variances shall be granted by the appropriate municipal panel 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 condition, 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 not 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.

## **X. Warning of Disclaimer of Liability**

This bylaw 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 bylaw shall not create liability on the part of the Town of Sharon or any town official or employee thereof for any flood damages that result from reliance on this bylaw or any administrative decision lawfully made there under.

## **XI. Validity and Severability**

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

## **XII. Precedence of Bylaw**

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

## **XIII. Enforcement and Penalties**

It shall be the duty of the Administrative Officer to enforce the provisions of this bylaw. Whenever any development occurs contrary to these flood hazard area regulations, the Administrative Officer, in his/her discretion, shall institute appropriate action in accordance with the provisions of 24 V.S.A. §1974a or pursuant to 24 V.S.A. §4451 or 24 V.S.A. §4452 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. 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, and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days.

If the structure is still noncompliant after the opportunity to cure has passed, the Administrator Officer shall submit a declaration to the Administrator of the NFIP requesting a denial of flood insurance. 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 declaration 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 bylaw, (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.

## **XIV. Definitions**

### **Accessory Structure:**

***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.

***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 subgrade (below ground level) on all sides.

***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 in the special flood hazard area.

***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

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 (FIS)*** 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.

***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.

***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; *Provided*, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR 60.3.

***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 any reconstruction, rehabilitation, addition, alteration or other improvement of a structure, the cost of which is less than 50 percent of the market value of the structure before the “start of construction” of the improvement.

***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.

***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.

***Special Flood Hazard Area*** means 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 on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the Flood Insurance Rate Map (FIRM), Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/AI-30, AR/AE, AR/AO, AR/AH, AR/A, VO or V1-30, VE, or V.

***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 bylaws 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 conditions would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**Substantial Improvement** means any reconstruction, rehabilitation, addition, alteration or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure 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 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 state or local code enforcement official and which are the minimum necessary to ensure safe conditions.

**Top of Bank** means the top of the highest natural bank outboard from the center of the channel that constrains flood flows; or if a natural bank or a well-defined top of bank does not exist, the high water mark in a 10-year storm.

**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.