

VILLAGE OF WOODSTOCK

Interim Amendments to Zoning Bylaw

**SECTION 405
FLOOD HAZARD**

Adopted: September 28, 2007

Effective: October 19, 2007

Expire: October 19, 2009

VILLAGE OF WOODSTOCK
SECTION 405 FLOODHAZARD
September 28, 2007

SECTION 108 PRECEDENCE OF REGULATION (To be placed in front of current Section 108 Definitions)

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

SECTION 405 FLOOD HAZARD AREA (Replaces existing section)

To effect the purposes of 10 V.S.A., Chapter 32, and in accord with the Vermont Planning and Development Act, 24 V.S.A., Chapter 117, Section 4424, zoning regulations are hereby established for areas of special flood hazard in the Village of Woodstock.

A. Official Flood Hazard Area Map

These regulations shall apply to all areas in the Village of Woodstock, 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.

B. Records

The Administrative Officer shall maintain a record of:

1. All permits issued and denied for development in areas of special flood hazard;
2. The as built elevation, in relation to the mean sea level of the lowest habitable floor, including basement, of all new construction or substantial improvement of structures, within the designated special flood hazard areas; and
3. The elevation, in relation to mean sea level, to which such structures have been floodproofed.
4. All floodproofing certifications required.
5. All variance actions, including justification for their issuance.

C. Board of Adjustment

Upon receiving an application for a permit under these Regulations, and prior to holding a hearing and rendering a decision, the ZBA shall obtain from the applicant the following:

1. A description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.
2. Written comment on the project from the Department of Environmental Conservation.
3. Subdivisions and New Development must also furnish base flood elevation data.
4. New Construction or Substantial Improvement to Structures must also furnish:
 - a. The elevation, in relation to mean sea level, of the lowest habitable floor, including basement;
 - b. Where floodproofing is used in lieu of elevation, the elevation, in relation to mean sea level, to which any structure or substantial improvement has been floodproofed;
 - c. Certification from a registered professional engineer or architect that the floodproofed structure meets the floodproofing criteria of subsection 9.1 of the National Flood Insurance Program.

All applications for proposed development in the FH Overlay shall be sent by the Zoning Administrator to the State National Floodplain Insurance Program Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section for comment in accordance with 24 V.S.A. § 4424. For any permit application involving the alteration or relocation of a watercourse, the Zoning Administrator 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. A permit application will only be considered complete and ready for action following the receipt of comments or the expiration of 30 days from the date the application was mailed to the Agency, whichever is sooner.

D. Development Standards

1. Floodway Areas

- a. Development within the floodway is prohibited unless a registered professional engineer certifies the proposed development will not result in any increase in flood levels during the occurrence of the base flood.
- b. No new construction, substantial improvement, or development (including fill) shall be permitted within zones A1-30 and AE on the Village's FIRM, unless it is demonstrated the cumulative effect of the proposed development will not increase the water surface elevation of the base flood zone more than one foot at any point within the town. This provision applies until a regulatory floodway is designated.
- c. Junkyards, landfill, and storage areas or facilities for floatable materials, chemicals, explosives, flammable liquids or other hazardous or toxic materials are prohibited within the floodway.

2. Floodway Fringe Areas (i.e., special flood hazard areas outside the floodway)

- a) All Development - All development shall be reasonably safe from flooding and
 - i. designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure during the occurrence of the base flood,
 - ii. constructed with materials resistant to flood damage.
 - iii. constructed by methods and practices that minimize flood damage, and
 - iv. 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.
- b) Residential Development:
 - i. New construction and existing buildings to be substantially improved that are located in Zones A, A1-30 and AE shall have the lowest floor, including the basement, elevated to at least one foot above the base flood elevation.
 - ii. Manufactured homes to be placed and existing manufactured homes to be substantially improved that are:
 - (a) 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 which has incurred substantial damage from flood shall be elevated on a permanent foundation such the lowest floor of the manufactured home is elevated to at least 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.
 - (b) 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.
- c) Non-Residential Development:
 - i. New Construction 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.
- ii. 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 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.
 - iii. A permit for a 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.
- d) Subdivisions:
- i. 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.
 - ii. Subdivisions (including manufactured home parks) shall be designed to assure:
 - (a) such proposals minimize flood damage within the flood-prone area,
 - (b) public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage.
 - (c) adequate drainage is provided to reduce exposure to flood hazards, and
 - (d) 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.
- e) Enclosed Areas Below the Lowest Floor:
- i. 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.
 - ii. 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.
 - iii. 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.
- f) Recreational Vehicles: Recreational Vehicles placed on sites with special flood hazard areas shall either:
- i. be on the site for fewer than 180 consecutive days,
 - ii. be fully licensed and ready for highway use, or
 - iii. be permitted in accordance with the elevation and anchoring requirements for “manufactured homes” in section B.2.(b).
- g) Accessory Structures: A small accessory building that represents a minimal investment need not be elevated to the base flood elevation provided the building:
- i. shall not be used for human habitation,
 - ii. shall be designed to have low flood damage potential,
 - iii. shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters,

- iv. shall be firmly anchored to prevent flotation, and
- v. shall have service facilities such as electrical and heating equipment elevated or floodproofed.
- h) Water Supply Systems: New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- i) 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.
- j) On-site Waste Disposal Systems: On-site waste 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.
- k) Watercourse Carrying Capacity: The flood and sediment carrying capacity within any altered or relocated portion of a watercourse shall be maintained.
- l) 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 than a certification by an engineer of the net change in flood storage and that the modifications do not create any increase in erosion or flood hazard is required.

H. 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 Woodstock 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.

I. Other Permits

All proposed development in the Flood Hazard Overlay District 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.

J. Variances to the Development Standards

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 44CFR, Section 60.6, of the National Flood Insurance Program regulations.

SECTION 714 VIOLATIONS AND PENALTIES

In the case of violations in the Flood Protection Overlay District, the seven-day warning notice shall also state that failure to cure may result in loss of flood insurance. If the violation is not remedied within 7 days, or appealed, the Zoning Administrator shall also mail a copy to the alleged 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 violation and the perspective 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.

PROPOSED DEFINITIONS:

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.

FLOOD HAZARD DISTRICT DEFINITIONS - Adopted August 2007

The following definitions apply to the Flood Hazard section only:

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.

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).

FILLING means the placement 10 or more yards on a lot.

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.

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.

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.

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 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 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. For purposes of these regulations, the term "special flood hazard area" is synonymous in meaning with the phrase "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 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, or other improvement of a structure, the cost of which, from the date of adoption of this ordinance, cumulatively equals or exceeds 50 percent of the market value of the structure. 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”.

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.

EXISTING FLOODWAY DEFINITIONS FROM THE CURRENT (2005) VILLAGE ZONING REGULATIONS:

AREA OF SHALLOW FLOODING: An area that (1) has at least a one percent chance of flooding annually to an average depth of one to three feet (designated as AO or AH on the Flood Insurance Rate Map (FIRM)); (2) is not marked by a clearly defined channel, has an unpredictable flood path, and where velocity flow may be evident. Such flooding is characterized by ponding of sheet flow.

AREA OF SPECIAL FLOOD HAZARD: The land in the flood plain subject to a one percent or greater chance of flooding in any given year.

BASE FLOOD: The flood having a one percent chance of being equaled or exceeded in any given year.

BASEMENT: Any area of the building having its floor below ground level on all sides.

DEVELOPMENT, LAND: Development activities include: subdivision of land into two or more parcels; construction, conversion, structural alteration, relocation or enlargement of any structure or utility; any mining, excavation, land fill, or road building; and any change in or extension of the use of land or structure.

FLOOD HAZARD BOUNDARY MAP (FHBM): An official map of a community, issued by the Administrator, where the boundaries of the flood, mudslide (i.e., mudflow) and related erosion areas having special hazards are designated as Zones A, M, and/or E.

FLOOD INSURANCE RATE MAP (FIRM): An official map of a community upon which the Administrator has delineated both the special hazard areas and applicable risk premium zones.

FLOOD INSURANCE STUDY: An examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations.

FLOODPLAIN: The land adjacent to a river or other water course that may be flooded at least once in 100 years.

FLOOD PROOFING: 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: The channel of a river or other water course 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 the designated height.

LOWEST FLOOR: The lowest floor of the lowest enclosed area, including basement. The lowest floor does not include an unfinished or flood resistant enclosure that is usable solely for vehicle parking, building access or storage, provided that such enclosure does not violate the design requirements of the National Flood Insurance Program, Section 60.3.

MANUFACTURED HOME: A structure, transportable in one or more sections, that is delivered on a chassis and designed to be used with or without a permanent foundation when connected to required utilities. A manufactured home does not include recreational vehicles or travel trailers.

MANUFACTURING, LIGHT: Industrial activities that are generally not considered hazardous, do not usually emit smoke, glare, noise, odor, dust, or otherwise create a nuisance, and are not detrimental to the use and enjoyment of neighboring properties.

MEAN SEA LEVEL: For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) to which Woodstock's Flood Insurance Rate Map is referenced.

MOBILE HOME: A prefabricated dwelling unit which:

- (1) Is designed for long-term residential occupancy,
- (2) Is designed to be moved on wheels, as a whole or in sections,
- (3) For the purposes of these Regulations, an individual mobile home will be considered a single family dwelling.

MOBILE HOME PARK: Any parcel of land under single or common ownership or control that contains, or is designed, laid out or adapted to accommodate, three or more mobile homes. Nothing herein shall be construed to apply to premises used solely for commercial display or storage of mobile homes intended for sale.