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# FLOOD HAZARD AREA REGULATIONS

## Town of Chelsea, VT

Approved By Public Vote: November 7, 2017

*Developed with funding from a Municipal Planning Grant from the Department of Housing and  
Community Development.*

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1 **I. Statutory Authorization**

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3 To effect the purposes of 10 V.S.A. Chapter 32, and in accordance with 24 V.S.A. § 4424, §4411  
4 and §4414, there is hereby established a bylaw for areas of special flood hazard in the Town of  
5 Chelsea, Vermont.

6 **II. Statement of Purpose**

7 It is the purpose of this bylaw to:

- 8 A. Implement the goals, policies, and recommendations in the current municipal plan;
- 9 B. Minimize and prevent the loss of life and property, the disruption of commerce, the  
10 impairment of the tax base, and the extraordinary public expenditures and demands on  
11 public services that result from flooding and other flood related hazards; and
- 12 C. Ensure that the design and construction of development in flood and other hazard areas  
13 are accomplished in a manner that minimizes or eliminates the potential for flood and  
14 loss or damage to life and property; and
- 15 D. Manage all flood hazard areas designated pursuant to 10 V.S.A. § 753, 1422 and 1427;  
16 and
- 17 E. Assist the state, municipalities, and individuals eligible for federal flood insurance and  
18 other federal disaster recovery and hazard mitigation funds as may be available.

19 **III. Lands to Which These Regulations Apply**

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21 These regulations shall apply to all areas in the Town of Chelsea, Vermont identified as areas of  
22 special flood hazard in and on the most current flood insurance studies and maps published by  
23 the Department of Homeland Security (DHS), Federal Emergency Management Agency  
24 (FEMA), National Flood Insurance Program (NFIP), as provided by the Secretary of the Agency  
25 of Natural Resources pursuant to 10 V.S.A. § 753.

26 **IV. Development Permit Required**

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28 A permit is required, to the extent authorized by State law, for all proposed construction or other  
29 development (including mining, dredging, filling, grading, paving, excavation or drilling  
30 operations, storage of equipment or materials or the placement of manufactured homes) in areas  
31 of special flood hazard.

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

- 33
- 34 1. Silvicultural activities not involving the use of buildings and conducted in  
35 accordance with Vermont Department of Forest and Parks' Acceptable  
36 Management Practices;

2. Agricultural activities with Vermont Department of Agriculture, Food and Markets' Required Agricultural Practices.\*;
3. Maintenance of existing roads and storm water drainage; and
4. The removal of a building or other structure in whole or in part.

*\*Note that agricultural buildings that fall under the exemption provided by VSA Title 24, may require a Flood Hazard Permit from the State of Vermont.*

B. The following activities in the floodway only require an administrative permit from the Administrative Officer:

1. Minor improvements inside existing structures within the building envelope in the floodway, and
2. Recreational vehicles parked outside of the floodway and at least 35 feet from the top of bank, provided they are fully licensed and ready for highway use.

C. The following activities in the area of special flood hazard area but outside the floodway only require an administrative permit from the Administrative Officer:

1. At-grade parking areas and at grade patios that meet requirements in Article VII and are at least 50 feet from the top of bank;
2. Non-enclosed accessory structures such as signs, open fences, or pole sheds without walls, foundations or utilities, that meet requirements in Article VII.
3. Drilling
4. Any improvement, renovation or repair renovation within the existing building footprint, including work below base flood elevation, other than as specifically exempted above, that does not constitute a “substantial improvement” as defined herein, including work below base flood elevation, and replacement of utilities;
5. Decks attached to existing structures with the bottom of support members at base flood elevation\*;
6. Enclosed accessory structures that represent a minimal investment and are no greater than 300 square feet.

*\*Note that the elevation of the deck support structure may determine the flood zone of the building.*

D. Prohibited Development in Special Flood Hazard Area

1. New residential or non-residential structures (including manufactured homes), or added fill, are prohibited in the SFHA, unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed structure would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

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2. Accessory structures in the floodway portion of the SFHA;
  3. Accessory Structures >1000 sf in SFHA, unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed structure would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
  4. Outdoor storage of materials or junk yards;
  5. Critical facilities such as fire stations and shelters are prohibited in all areas affected by mapped flood hazards; and,
  6. Modifying enclosures below the lowest floor that are already designed to allow for the entry and exit of floodwaters
  7. All development not exempted, permitted, or conditionally permitted.

E. Conditional use approval by the Development Review Board, prior to the issuance of an administrative permit by the Administrative Officer, is required for a development not exempted or permitted, including:

1. Residential or non-residential buildings that have demonstrated, through hydrologic and hydraulic analyses performed in accordance with standard engineering practice, that the proposed structure would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
2. Substantial improvement of existing buildings,
3. Minor improvements to existing buildings outside of the building footprint
4. Any fill or excavation,
5. Storage of materials
6. Grading resulting in changes in topography

All development and subdivisions shall be reviewed to assure that such proposals comply with the standards in VIII; 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.

## V. Procedures

A. Unless already established, there is hereby established an Administrative Officer and Development Review Board. If a Board of Adjustment or Development Review Board is already established, then it shall also be the Flood Hazard Review Board.

B. Application Submission Requirements

1. Applications for development shall include:

- a) The name and contact information for the owner of the property, including any agents authorized to act on their behalf;
- b) A thorough description of the proposed development;
- c) General location map including the address of the property, tax parcel ID, relative locations of the existing development and the nearest public road;
- d) Where applicable, a site plan that depicts the proposed development, all water bodies, Special Flood Hazard Areas, floodways, any existing and proposed drainage, any proposed fill, and pre and post development grades, and the elevation of the proposed lowest floor, as referenced to the same vertical datum as the elevation on the current Flood Insurance Rate Maps;
- e) A Vermont Agency of Natural Resources Project Review Sheet for the proposal. The Project Review Sheet shall identify all State and Federal agencies from which permit approval is required for the proposal, and shall be filed as a required attachment to the municipal permit application. The identified permits, or letters indicating that such permits are not required, shall be submitted to the AO and attached to the permit before work can begin;
- f) If this is an appeal for a variance, then the appeal application must include responses to the criteria set forth in 24 VSA §4469, §4424 (E), and CFR 60.6
- g) 6 copies of the application, including one to be forwarded to the State National Flood Insurance Program Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Program; and,
- h) The appropriate fee as determined by the Selectboard.

2. For applicants seeking conditional use approval, approval under nonconforming structures and uses, or a variance, the following also needs to be provided:
  - a) A list of abutters names and mailing addresses;
  - b) A statement of purpose and need for the proposed development;
  - c) A description of the alternatives considered to the proposed development, including alternate locations on site, especially outside of the hazard area;
  - d) Such pertinent information as identified in the regulations or deemed necessary by the Board for determining the suitability of the proposed development for the site;
  - e) Copies of the application sufficient for the file, the Board members, the State National Flood Insurance Program Coordinator, and additional parties such as the VT DEC Stream Alteration Engineer and adjacent communities if affected under Section VII C 2; and,
  - f) Any additional fees as required by the Selectboard.

### C. Referrals

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1. Upon receipt of a complete application for a substantial improvement or new construction the AO shall submit a copy of the application and supporting information to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources, 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. If the applicant is seeking a permit for the alteration or relocation of a watercourse, copies of the application shall also be submitted to the adjacent communities, the Stream Alteration Engineer at the Vermont Agency of Natural Resources, and the Army Corps of Engineers. Copies of such notice shall be provided to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation. A permit may be issued only following receipt of comments from the Vermont Agency of Natural Resources, or the expiration of 30 days from the date the application was mailed to the Vermont Agency of Natural Resources, whichever is sooner. The Board should consider comments from the NFIP Coordinator at ANR.

22 D. Public Notice

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1. Prior to the issuance of a permit, proposals needing conditional use review, nonconforming structures and uses review, or approval for a variance, must have a warned public hearing. A copy of the application shall be submitted to VT ANR at least 30 days prior to the date of the public hearing. Public notice of the hearing shall be provided at least 15 days' notice before the date of the hearing by all the following:
    - a) Publication of the date, place, and purpose of the hearing in the newspaper.
    - b) Posting of the same information in three or more public places within the municipality including posting within view from the public right-of-way nearest to the property for which an application is made; and,
    - c) 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, as well as to all interested persons (as defined in Chapter 117). 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
    - d) obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal.
    - e) For hearings on subdivision plats located within 500 feet of a municipal boundary, written notification to the clerk of the adjoining municipality.

- 1           2. Public notice of all other types of development review hearings, including site  
2 plan review shall be given not less than seven (7) days prior to the date of the  
3 public hearing, and shall at minimum include the following:
  - 4           a) Written notification to the applicant and to owners of all properties  
5           adjoining the property subject to development, without regard to public  
6           rights-of-way, which includes a description of the proposed project,  
7           information that clearly informs the recipient where additional information  
8           may be obtained, and that participation in the local proceeding, is a  
9           prerequisite to the right to take any subsequent appeal.
  - 10          b) The applicant shall bear the cost of the public warning and notification of  
11          adjoining landowners.
  - 12          c) No defect in the form or substance of any required public notice under  
13          this section shall invalidate the action of the Board where reasonable  
14          efforts have been made to provide adequate posting and notice. However,  
15          the action shall be invalid when the defective posting or notice was  
16          materially misleading in content. If an action is ruled to be invalid by the  
17          Board of Adjustment/Development Review Board or the Environmental  
18          Court, the action shall be remanded to the Board to provide new posting  
19          and notice, hold a new hearing, and take a new action.

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22       E. Decisions

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24           1. The Administrative Officer shall act within 30 days to approve or deny the  
25           application, or refer the application to the Board. Applications that cannot be  
26           approved in compliance with this bylaw shall be denied. The decision shall be  
27           issued in writing and include a statement of the factual bases on which the  
28           conclusions were made. Decisions of the administrative officer can be appealed as  
29           below. If the AO fails to act within the 30-day period, a permit shall be deemed  
30           issued on the 31st day.
- 31  
32           2. The Board shall consider comments from the NFIP Coordinator at ANR. The  
33           Board may recess the proceedings on any application pending submission of  
34           additional information. The Board should close the hearing promptly after all  
35           parties have submitted the requested information, adjourn the hearing, and may  
36           deliberate prior to issuing its decision.
- 37  
38           3. Decisions by the Board shall include a statement of the factual basis on which the  
39           Board has made its conclusions regarding how the proposed development will  
40           meet the development standards, and a statement of the conclusions. In rendering  
41           a decision in favor of the applicant, the Board may attach additional reasonable  
42           conditions and safeguards as it deems necessary to implement the purposes of this  
43           bylaw and the municipal plan then in effect. Board decisions shall be conditioned  
44           to assure that all necessary permits must be also received from those government  
45           agencies from which approval is required by Federal, State or Municipal law for  
46           the approval to be valid. The Board may provide for the conditioning of permit

1 issuance on the submission of a bond, escrow account, or other surety in a form  
2 acceptable to the legislative body of the municipality to assure one or more of the  
3 following: the completion of the project, adequate stabilization, or protection of  
4 public facilities that may be affected by a project.  
5

- 6 4. Decisions of the Board shall be issued in writing within 45 days after the  
7 adjournment of the final hearing. All decisions shall be sent by certified mail to  
8 the applicant, and the appellant in matters on appeal. Copies of the decision shall  
9 also be mailed to every person or body appearing and having been heard at the  
10 hearing. The decision will include a notice that an Interested Person may appeal  
11 the decision within 15 days.  
12

13 F. Permits  
14

15 Each permit issued shall:

- 16 1. Contain a statement of the period of time within which an appeal may be taken  
17 2. Require posting of a notice of permit on a form prescribed by the municipality  
18 within view from the public right-of-way most nearly adjacent to the subject  
19 property until the time for appeal in has passed.  
20 3. Not shall take effect until 15 days after issuance, or in the event that a notice of  
21 appeal a decision by the Administrative Officer is properly filed, no such permit  
22 shall take effect until adjudication of that appeal by the Board is complete and the  
23 time for taking an appeal to the environmental court has passed without an appeal  
24 being taken. If an appeal is taken to the environmental court, the permit shall not  
25 take effect until adjudication by the environmental court; and,  
26 4. Be valid for a period of two years.  
27

28 No work on site may commence until the appropriate permits (including any state or  
29 federal permits) have been acquired and filed with the AO.

30 G. Filing  
31

- 32 1. Within three days following the issuance of a permit, the Administrative Officer  
33 shall:  
34 a) Deliver a copy of the permit and any accompanying conditional approval  
35 to the listers of the municipality; and  
36 b) Post a copy of the permit in at least one public place in the municipality  
37 until the expiration of 15 days from the date of issuance of the permit.  
38  
39 2. Within 30 days after a permit has been issued or within 30 days of the issuance of  
40 any notice of violation, the Administrative Officer shall:  
41  
42 a) Deliver the original or a legible copy of the permit, or notice of permit,  
43 and any approvals to the municipal clerk for recording in the land records  
44 as provided in 24 VSA, § 1154(a), and § 4449;

- b) File a copy of the permit and any approvals in the municipal office in a location where all municipal land use permits shall be kept; and,
- c) The Administrative Officer may charge the applicant for the cost of the recording fees as required by law.

3. The Administrative Officer shall properly file and maintain a record of:

- a) All permits (including state or federal permits) issued in areas covered by this bylaw;
- b) Elevation Certificates with the as-built elevation (consistent with the datum of the elevation on the current Flood Insurance Rate Maps for the community) of the lowest floor, including basement, of all new or substantially improved buildings (not including accessory buildings) in the Special Flood Hazard Area. All flood proofing and other certifications required under this regulation; and,
- c) All decisions of the Board (including variances and violations) and all supporting findings of fact, conclusions and conditions.

#### H. Appeals

An interested person as defined in V.S.A. Title 24 may appeal any decision or act taken by the Administrative Officer by filing a notice of appeal with the secretary of the Board, or with the municipal clerk 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.

A notice 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.

The Board shall set a date and place for a public hearing of an appeal under this chapter that shall be within 60 days of the filing of the notice of appeal. The Board shall give public notice of the hearing as specified for conditional approval. Any person or body empowered to take an appeal with respect to the property at issue may appear and be heard in person or be represented by an agent or attorney at the hearing. Any hearing held under this section may be adjourned by the Board from time to time; provided, however, that the date and place of the adjourned hearing shall be announced at the hearing. All hearings under this section shall be open to the public and the rules of evidence applicable at these hearings shall be the same as the rules of evidence applicable in contested cases in hearings before administrative agencies as set forth in 3 V.S.A. § 810. Decisions of the Board may be appealed under §4469 in request for a Variance. Within 30 days of a decision by the Board, under §4471 an Interested Person who has participated in the municipal regulatory proceeding may appeal to the Vermont Environmental Court.

1 **VI. Maps, Base Flood Elevations and Floodway Limits**

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- 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 data are available from existing sources it is the responsibility of the applicant to determine the base flood elevation.
- C. Until a regulatory floodway has been designated, 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.
- D. The information presented on any maps, or contained in any studies, adopted by reference, is presumed accurate.
- E. If uncertainty exists with respect to the boundaries of the Special Flood Hazard Area or the floodway, the location of the boundary shall be determined by the Administrative Officer (AO). If the applicant disagrees with the determination made by the ZA, a Letter of Map Amendment from FEMA shall constitute proof.

28 **VII. Development Standards**

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- A. Floodway Areas
  - 1. Development, or any encroachments, except for minor improvements to existing structures within the building footprint or relating to bridges, culverts, roads, stabilization projects, public utilities, or health and safety measures, within the regulatory floodway (as determined by Section VI.B) is prohibited. Such exceptions require conditional use approval prior to permitting and must comply with the standards in VII.B, 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 and not increase any risk to surrounding properties, facilities, or structures from erosion or flooding.

- 1           2. Public utilities may be placed underground, and the analyses may be waived  
2           where a registered professional engineer certifies that there will be no change in  
3           grade and the utilities will be adequately protected from scour.  
4
- 5           3. Junkyards and storage facilities for floatable materials, chemicals, explosives,  
6           flammable liquids, or other hazardous or toxic materials, are prohibited within the  
7           floodway.  
8

9           B. Special Flood Hazard Areas Outside of the Floodway

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- 11           1. All Development - All development shall be reasonably safe from flooding and  
12           shall not decrease the distance between any existing primary buildings' footprint  
13           and streams; and:  
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- 15                   a) designed (or modified) and adequately anchored to prevent flotation,  
16                   collapse, or lateral movement of the structure during the occurrence of the  
17                   base flood,  
18                   b) constructed with materials resistant to flood damage,  
19                   c) constructed by methods and practices that minimize flood damage, and  
20                   d) constructed to provide adequate drainage to reduce exposure to flood  
21                   hazards;  
22                   e) constructed with electrical, heating, ventilation, plumbing and air  
23                   conditioning equipment and other service facilities that are designed  
24                   and/or located so as to prevent water from entering or accumulating within  
25                   the components during conditions of flooding at least one foot above the  
26                   base flood elevation. (see FEMA technical bulletins for information)  
27                   f) constructed to minimize damage to proposed development and to public  
28                   facilities  
29                   g) constructed so as to minimize conflict with changes in channel location  
30                   over time and;  
31                   h) Fuel tanks shall be at BFE and be securely anchored  
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- 33           2. Residential Development:  
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- 35                   a) New principal structures and new net fill are prohibited unless it has been  
36                   demonstrated through hydrologic and hydraulic analyses performed in  
37                   accordance with standard engineering practice that the proposed structure  
38                   would not result in any increase in flood levels within the community  
39                   during the occurrence of the base flood discharge. If built, new principal  
40                   structures shall have the lowest floor (including basement) elevated to at  
41                   least base flood elevation.  
42                   b) Replacement structures with no increase in footprint are allowed as under  
43                   substantial improvements, however replacement structures must be built to  
44                   base flood elevation or higher.  
45

- 1 c) Existing buildings to be substantially improved that are located in Zones  
2 A, A1-30 and AE shall have the lowest floor, including basement, elevated  
3 to base flood elevation or higher.  
4
- 5 d) Manufactured homes to be placed and existing manufactured homes to be  
6 substantially improved that are:  
7 1. located in a new manufactured home park or subdivision, outside  
8 of a manufactured home park or subdivision, in an expansion to an  
9 existing manufactured home park or subdivision, or in a  
10 manufactured home park or subdivision which has incurred  
11 substantial damage from a flood shall be elevated on a permanent  
12 foundation such that the lowest floor of the manufactured home is  
13 elevated to at least one foot above the base flood elevation and be  
14 securely anchored to an adequately anchored foundation system to  
15 resist floatation, collapse, and lateral movement during the  
16 occurrence of the base flood.  
17 2. located in an existing manufactured home park, where elevating a  
18 replacement home to at least base flood elevation is not possible,  
19 the lowest floor shall be supported by reinforced piers or other  
20 foundation elements of at least equivalent strength that are no less  
21 than 48 inches in height above grade and be securely anchored to  
22 an adequately anchored system to resist floatation, collapse, and  
23 lateral movement.  
24
- 25 e) A copy of the final Elevation Certificate must be filed with the AO within  
26 one month of occupation or use of the structure to confirm conformance  
27 with the elevation requirements of this bylaw.  
28

29 3. Non-Residential Development:

- 30 a) New construction located in Zones A, A1-30, and AE shall meet the  
31 requirements in VII B 2 and have the lowest floor, including basement,  
32 elevated to base flood elevation or higher.  
33 b) Existing buildings to be substantially improved located in Zones A, A1-  
34 30, AE shall have the lowest floor, including basement, elevated to base  
35 flood elevation (or higher) or together with attendant utility and sanitary  
36 facilities be designed so that below the base flood elevation the structure is  
37 watertight with walls substantially impermeable to the passage of water  
38 and with structural components having the capability of resisting  
39 hydrostatic and hydrodynamic loads and effects of buoyancy.  
40 c) A permit for a building proposed to be floodproofed shall not be issued  
41 until a registered professional engineer or architect has reviewed the  
42 structural design, specifications and plans, and has certified that the design  
43 and proposed methods of construction are in accordance with accepted  
44 standards of practice for meeting the provisions of this subsection.

1 d) A copy of the final Elevation Certificate must be filed with the AO within  
2 one month of occupation or use of the structure to confirm conformance  
3 with the elevation requirements of this bylaw.  
4

5 4. Subdivisions:

6 a) New subdivision proposals and other proposed development (including  
7 proposals for manufactured home parks and subdivisions) that are greater  
8 than 50 lots or 5 acres, whichever is the lesser, shall include base flood  
9 elevation data.

10 b) Subdivisions (including manufactured home parks) shall be designed to  
11 assure:

- 12 1. such proposals minimize flood damage within the flood-prone  
13 area,
- 14 2. public utilities and facilities, such as sewer, gas, electrical, and  
15 water systems are located and constructed to minimize or eliminate  
16 flood damage,
- 17 3. adequate drainage is provided to reduce exposure to flood hazards,  
18 and
- 19 4. any access roads to habitable structures or critical facilities shall be  
20 at or above base flood elevations and able to withstand a 100-year  
21 event without failure or overtopping.  
22

23 5. Enclosed Areas Below the Lowest Floor:

24 a) Fully enclosed areas below grade on all sides (including below grade  
25 crawlspaces and basements) are prohibited.

26 b) Fully enclosed areas above grade shall be:

- 27 1. used solely for parking of vehicles, building access, or storage and  
28 such a condition shall clearly be stated in any permits.
- 29 2. designed to automatically equalize hydrostatic flood forces on  
30 exterior walls by allowing for the entry and exit of floodwaters.
- 31 3. certified by a registered professional engineer or architect or meet  
32 or exceed the following minimum criteria: A minimum of two  
33 openings having a total net area of not less than one square inch for  
34 every square foot of enclosed area subject to flooding shall be  
35 provided. The bottom of all openings shall be no higher than one  
36 foot above grade. Openings may be equipped with screens,  
37 louvers, valves, or other coverings or devices provided that they  
38 permit the automatic entry and exit of floodwaters.  
39

40 6. Recreational Vehicles: Recreational Vehicles placed on sites with special flood  
41 hazard areas shall be fully licensed and ready for highway use.  
42

43 7. Accessory Structures: A small accessory building less than 250 square feet need  
44 not be elevated to the base flood elevation provided the building shall meet VII B  
45 1 and B 5:  
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- 1           8. Water Supply Systems: New and replacement water supply systems shall be  
2           designed to minimize or eliminate infiltration of flood waters into the systems.  
3
- 4           9. Sanitary Sewage Systems: New and replacement sanitary sewage systems shall be  
5           designed to minimize or eliminate infiltration of flood waters into the systems and  
6           discharges from the systems into flood waters.  
7
- 8           10. On-Site Waste Disposal Systems: On-site waste disposal systems shall be located  
9           to avoid impairment to them or contamination from them during flooding.  
10
- 11          11. Watercourse Carrying Capacity: The flood carrying capacity within any altered or  
12          relocated portion of a watercourse shall be maintained.  
13
- 14          12. Bridges and culverts, which by their nature must be placed in or over the stream,  
15          must have a stream alteration permit from the Agency of Natural Resources.  
16

17    *Note that building to higher than Base Flood Elevations may result in significant reduction in*  
18    *flood insurance costs.*

19 **VIII.        Variances to the Development Standards**

- 20
- 21    A. Variances shall be granted by the Development Review Board after a hearing noticed in  
22    the same manner as for a conditional use and only in accordance with 24 V.S.A. §4469  
23    and in accordance with the criteria for granting variances found in 44 CFR, Section 60.6,  
24    of the National Flood Insurance Program regulations. Any variance issued will inform the  
25    applicant in writing over the signature of a community official that the issuance of a  
26    variance to construct a structure below the base flood elevation increases risk to life and  
27    property and will result in increased flood insurance premiums up to amounts as high as  
28    \$25 for \$100 of coverage. Such notification shall be maintained with a record of all  
29    variance actions.  
30
  - 31    A. Nonconforming Structures and Uses: The Board may, after public notice and hearing,  
32    approve the repair, relocation, replacement, or enlargement of a nonconforming structure  
33    within a flood hazard area provided that:  
34
    - 35          1. The proposed development is in compliance with all the Development Standards  
36          of this bylaw;
    - 37          2. A nonconforming structure that is substantially damaged or destroyed may be  
38          reconstructed only in circumstances when the structure cannot be relocated to a  
39          less hazardous location on the parcel. The lowest floor of the reconstructed  
40          structure must be rebuilt to base flood elevation, and the structure must otherwise  
41          comply with all requirements of the National Flood Insurance Program;
    - 42          3. Nonconforming structures or uses shall be considered abandoned where such  
43          structures or uses are discontinued for more than 24 months; and

- 1           4. An individual manufactured home lot in an existing manufactured home park that  
2           is vacated shall not be considered a discontinuance or abandonment of  
3           nonconformity. Replacement manufactured homes must be placed so as to meet  
4           the development standards in this bylaw.  
5

6           B. A decision in favor of the appellant shall be granted if all the following facts are found,  
7           and the supporting findings are specified in the decision:

- 8
- 9           1. There are unique physical circumstances or conditions, including irregularity,  
10           narrowness, or shallowness of lot size or shape, or exceptional topographical or  
11           other physical conditions peculiar to the particular property, and that unnecessary  
12           hardship is due to these conditions, and not the circumstances or conditions  
13           generally created by the provisions of the bylaw in the neighborhood or district in  
14           which the property is located;
- 15           2. Because of these physical circumstances or conditions, there is no possibility that  
16           the property can be developed in strict conformity with the provisions of the  
17           bylaw, and that the authorization of a variance is therefore necessary to enable the  
18           reasonable use of the property;
- 19           3. Unnecessary hardship has not been created by the appellant;
- 20           4. The variance, if authorized, will not alter the essential character of the  
21           neighborhood or district in which the property is located, substantially or  
22           permanently impair the appropriate use or development of adjacent property,  
23           reduce access to renewable energy resources, or be detrimental to the public  
24           welfare;
- 25           5. The variance, if authorized, will represent the minimum variance that will afford  
26           relief and will represent the least deviation possible from the bylaw and from the  
27           plan; and
- 28           6. The variance will not result in increased flood heights, increased susceptibility to  
29           flooding or erosion, additional threats to public safety or infrastructure (including  
30           emergency services during flood events), or extraordinary public expense.

31 **IX.       Warning of Disclaimer of Liability**  
32

33       This bylaw does not imply that land outside of the areas of special flood hazard or land use  
34       permitted within such districts will be free from flooding or flood damages. This bylaw shall not  
35       create liability on the part of the Town of Chelsea or any town official or employee thereof for  
36       any flood damages that result from reliance on this bylaw or any administrative decision lawfully  
37       made thereunder.  
38  
39  
40

1 **X. Validity and Severability**  
2

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

5 **XI. Precedence of Bylaw**  
6

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

10 **XII. Violations, Enforcement, Appeals and Penalties**  
11

12 It shall be the duty of the Administrative Officer to enforce the provisions of this bylaw. In  
13 accordance with 24 V.S.A., section 4451, any person who is found to have violated this bylaw  
14 shall be fined by the court not more than \$100.00 for each offense. It may be necessary for the  
15 AO to inspect the property in order to determine compliance with permit requirements. No  
16 action may be brought under this section unless such notice as required in has been given as  
17 described below in this part. In default of payment of the fine, the violator shall pay double the  
18 amount of the fine. Each day that a violation is continued shall constitute a separate offense. All  
19 fines collected for the violation of bylaws shall be paid over to the Town of Chelsea.

20 Whenever any development occurs contrary to these flood hazard area regulations, the  
21 Administrative Officer shall notify the alleged offender of the violation by certified mail to  
22 correct the violation. No action may be brought unless the alleged offender has had at least a  
23 seven-day warning notice by certified mail. An action may be brought without the seven-day  
24 notice and opportunity to cure if the alleged offender repeats the violation after the seven-day  
25 notice period and within the next succeeding twelve months. The seven-day warning notice shall  
26 state that a violation exists, that the alleged offender has an opportunity to cure the violation  
27 within the seven days, that failure to cure may result in loss of flood insurance, and that the  
28 alleged offender will not be entitled to an additional warning notice for a violation occurring  
29 after the seven days and within the next succeeding 12 months.

30 If the violation is not remedied within 7 days, or appealed, the Administrative Officer shall file a  
31 copy of the notice of alleged violation in the municipal land use permit files, with the Town  
32 Clerk for filing in the land records, and shall also mail a copy to the alleged violator, the state  
33 NFIP Coordinator and the Administrator of the National Flood Insurance Program. Section  
34 1316 of the National Flood Insurance Act of 1968, as amended, authorizes FEMA to deny flood

1 insurance to a property declared by a community to be in violation of their flood hazard area  
2 regulations. The notice shall consist of:

- 3 1. the name of the property owner and address or legal description of the property  
4 sufficient to confirm its identity or location,
- 5 2. a clear and unequivocal declaration that the property is in violation of a cited State or  
6 local law, regulation, or bylaw,
- 7 3. a clear statement that the public body making the declaration has authority to do so  
8 and a citation to that authority,
- 9 4. evidence that the property owner has been provided notice of the violation and the  
10 prospective denial of insurance, and
- 11 5. a clear statement that the declaration is being submitted pursuant to Section 1316 of  
12 the National Flood Insurance Act of 1968, as amended.

13 Copies of the notice of violation will be:

- 14 1. Mailed to the Vermont NFIP Coordinator and, within 30 days be
- 15 2. Filed in the land use permit files; and,
- 16 3. Delivered to the municipal clerk for recording in the land records.

17 Violations of the RAP are subject to enforcement under applicable Vermont law including, but  
18 not necessarily limited to, the provisions of 6 V.S.A. Section 4812. Such violations in the special  
19 flood hazard area shall be immediately reported to the Secretary of Agriculture for enforcement,  
20 and a copy of the report shall be sent to the VT DEC NFIP Coordinator. Agricultural  
21 development that is not a qualified RAP is the responsibility of Chelsea to administer and  
22 enforce according to these bylaws.

23 Structures that are built with loans, purchased with mortgage or other federal investments will be  
24 required to obtain flood insurance. A structure built below the base flood elevation increases risk  
25 to life and property and will result in increased flood insurance premiums up to amounts as high  
26 as \$25 for \$100 of coverage. Failure to obtain a permit for development in the Special Flood  
27 Hazard Area may jeopardize the participation of the town in the National Flood Insurance  
28 Program.

### 29 XIII. Definitions

30

31 **“Accessory Structure”** means a structure which is: 1) detached from and clearly incidental and  
32 subordinate to the principal use of or structure on a lot, 2) located on the same lot as the principal  
33 structure or use, and 3) clearly and customarily related to the principal structure or use. For  
34 residential uses these include, but may not be limited to garages, garden and tool sheds, and  
35 playhouses.

1 **“Area of Special Flood Hazard”** is synonymous in meaning with the phrase “special flood  
2 hazard area” for the purposes of these regulations.

3 **“Base Flood”** means the flood having a one percent chance of being equaled or exceeded in any  
4 given year (commonly referred to as the “100-year flood”).

5 **“Base Flood Elevation” (BFE)** is the elevation of the water surface elevation resulting from a  
6 flood that has a 1 percent chance of equaling or exceeding that level in any given year. On the  
7 Flood Insurance Rate Map, the elevation is usually in feet, in relation to the National Geodetic  
8 Vertical Datum of 1929, the North American Vertical Datum of 1988, or other datum referenced  
9 in the Flood Insurance Study report, or the average depth of the base flood, usually in feet, above  
10 the ground surface.

11 **“BFE”** see Base Flood Elevation

12 **“Common plan of development”** is where a structure will be refurbished over a period of time.  
13 Such work might be planned unit by unit.

14 **“Critical facilities”** - include police stations, fire and rescue facilities, hospitals, shelters,  
15 schools, nursing homes, water supply and waste treatment facilities, and other structures the  
16 community identifies as essential to the health and welfare of the population and that are  
17 especially important following a disaster. For example, the type and location of a business may  
18 raise its status to a Critical Facility, such as a grocery or gas station.

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

22 **“Fill”** means any placed material that changes the natural grade, increases the elevation, or  
23 diminishes the flood storage capacity at the site.

24 **“FIRM”** see Flood Insurance Rate Map

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

1 **“Flood Insurance Rate Map” (FIRM)** means an official map of a community, on which the  
2 Federal Insurance Administrator has delineated both the special flood hazard areas and the risk  
3 premium zones applicable to the community. In some communities the hazard boundaries are  
4 available in paper, pdf, or Geographic Information System formats as a Digital Flood Insurance  
5 Rate Map (DFIRM).

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

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

11 **“Floodproofing”** means any combination of structural and non-structural additions, changes, or  
12 adjustments to structures which reduce or eliminate flood damage to real estate or improved real  
13 property, water and sanitary facilities, structures and their contents.

14 **“Floodway”** means the channel of a river or other watercourse and the adjacent land areas that  
15 must be reserved in order to discharge the base flood without cumulatively increasing the water  
16 surface elevation more than one foot at any point. Please note that Special Flood Hazard Areas  
17 and floodways may be shown on a separate map panels.

18 **“Floodway, Regulatory in Chelsea”** means the channel of a river or other watercourse and the  
19 adjacent land areas that must be reserved in order to discharge the base flood without  
20 cumulatively increasing the water surface elevation more than one foot at any point.

21  
22 **“Functionally dependent use”** means a use which cannot perform its intended purpose unless it  
23 is located or carried out in close proximity to water.

24 **“Historic structure”** means any structure that is: (a) listed individually in the National Register  
25 of Historic Places (a listing maintained by the Department of the Interior) or preliminarily  
26 determined by the Secretary of the Interior as meeting the requirements for individual listing on  
27 the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as  
28 contributing to the historical significance of a registered historic district or a district preliminarily  
29 determined by the Secretary to qualify as a registered historic district; (c) individually listed on a  
30 state inventory of historic places in states with historic preservation programs which have been  
31 approved by the Secretary of the Interior; or (d) individually listed on a local inventory of  
32 historic places in communities with historic preservation programs that have been certified  
33 either: (i) by an approved state program as determined by the Secretary of the Interior or (ii)  
34 directly by the Secretary of the Interior in states without approved programs.

1 **“Letter of Map Amendment (LOMA)”** is a letter issued by the Federal Emergency Management  
2 Agency officially removing a structure or lot from the flood hazard zone based on information  
3 provided by a certified engineer or surveyor. This is used where structures or lots are located  
4 above the base flood elevation and have been inadvertently included in the mapped special flood  
5 hazard area.

6 **“Lowest floor”** means the lowest floor of the lowest enclosed area, including basement, except  
7 an unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access  
8 or storage in an area other than a basement area is not considered a building’s lowest floor  
9 provided that such enclosure is not built so as to render the structure in violation of the  
10 applicable non-elevation design requirements of 44 CFR 60.3.

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

15 **“Minor Improvement”** means any interior repairs or improvements for which the total cost  
16 exceeds \$500, but do not reach the Substantial Improvement threshold established by the NFIP  
17 (see following page).

18 **“New construction”** for regulation under this bylaw, means structures for which the *start of*  
19 *construction* commenced on or after the effective date of the floodplain management regulation  
20 adopted by the community and includes any subsequent improvements to such structures.

21 **“Non-residential”** includes, but is not limited to: small business concerns, churches, schools,  
22 nursing homes, farm buildings (including grain bins and silos), pool houses, clubhouses,  
23 recreational buildings, government buildings, mercantile structures, agricultural and industrial  
24 structures, and warehouses.

25 **“Recreational vehicle”** means a vehicle which is: (a) Built on a single chassis; (b) 400 square  
26 feet or less when measured at the largest horizontal projection; (c) Designed to be self- propelled  
27 or permanently towable by a light duty truck; and (d) Designed primarily not for use as a  
28 permanent dwelling but as a temporary living quarters for recreational, camping, travel, or  
29 seasonal use.

30 **“Special Flood Hazard Area”** is the floodplain within a community subject to a 1 percent or  
31 greater chance of flooding in any given year. For purposes of these regulations, the term “area of  
32 special flood hazard” is synonymous in meaning with the phrase “special flood hazard area”.  
33 This area is usually labeled Zone A, AO, AH, AE, or A1-30 in the most current flood insurance  
34 studies and on the maps published by the Federal Emergency Management Agency. Maps of this  
35 area are available for viewing in the municipal office or online from the FEMA Map Service  
36 Center: [msc.fema.gov](http://msc.fema.gov) Base flood elevations have not been determined in Zone A where the

1 flood risk has been mapped by approximate methods. Base flood elevations are shown at  
2 selected intervals on maps of Special Flood Hazard Areas that are determined by detailed  
3 methods. Please note, where floodways have been determined they may be shown on separate  
4 map panels from the Flood Insurance Rate Maps.

5 **“Start of construction”** for purposes of floodplain management, determines the effective map or  
6 bylaw that regulated development in the Special Flood Hazard Area. The “start of construction”  
7 includes substantial improvement, and means the date the building permit was issued provided  
8 the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other  
9 improvement was within 180 days of the permit date. The actual start means either the first  
10 placement of permanent construction of a structure on a site, such as the pouring of slab or  
11 footings, the installation of piles, the construction of columns, or any work beyond the stage of  
12 excavation; or the placement of a manufactured home on a foundation. Permanent construction  
13 does not include land preparation, such as clearing, grading and filling; nor does it include the  
14 installation of streets and/or walkways; nor does it include excavation for a basement, footing,  
15 piers, or foundations or the erection of temporary forms; nor does it include the installation on  
16 the property of accessory buildings, such as garages or sheds not occupied as dwelling units or  
17 not part of the main structure. For a substantial improvement, the actual start of construction  
18 means the first alteration of any wall, ceiling, floor, or other structural part of a building,  
19 regardless whether that alteration affects the external dimensions of the building.

20 **“Structure”** means, for regulatory purposes under this bylaw, a walled and roofed building, as  
21 well as a manufactured home, and any related built systems, including gas or liquid storage  
22 tanks.

23 **“Substantial damage”** means damage of any origin sustained by a structure whereby the cost of  
24 restoring the structure to its before-damaged conditions would equal or exceed 50 percent of the  
25 market value of the structure before the damage occurred.

26 **“Substantial improvement”** means any reconstruction, rehabilitation, addition, or other  
27 improvement of a structure after the date of adoption of this bylaw, the cost of which, over three  
28 years, or over the period of a common plan of development, cumulatively equals or exceeds 50  
29 percent of the market value of the structure before the “start of construction” of the  
30 improvement. This term includes structures which have incurred “substantial damage”,  
31 regardless of the actual repair work performed. The term does not, however, include either:

32 Any project for improvement of a structure to correct existing violations of state or local health,  
33 sanitary, or safety code specification which have been identified by the local code enforcement  
34 official and which are the minimum necessary to assure safe living conditions or

35 Any alteration of a “historic structure”, provided that the alteration will not preclude the  
36 structure’s continued designation as a “historic structure”.

1    ***“Violation”*** means the failure of a structure or other development to be fully compliant with this  
2 bylaw. A structure or other development without the elevation certificate, other certifications, or  
3 other evidence of compliance required in 44 CFR 60.3 is presumed to be in violation until such  
4 time as that documentation is provided.

5