

# TOPSHAM FLOOD HAZARD ORDINANCE

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## **I. Statutory Authorization**

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

There is hereby created an Administrative Officer, who shall be appointed and serve as specified in 24 VSA 4448, and who shall literally administer and enforce this ordinance.

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

## **II. Statement of Purpose**

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

If uncertainty exists with respect to the boundaries 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 area of special flood hazard by scaling distances of 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 area of special flood hazard. Neither the Administrative Officer nor the Board may determine that an area shown on the map as being in a floodway or area of special flood hazard is incorrect.

Applicants who believe that the FIRM or flood study incorrectly shows their property in the area of special flood hazard 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 an area of special flood hazard as mapped. A conditional LOMR-F (CLOMR-F) is needed if fill (if allowed) is proposed to elevate the structure above the base flood. When any revision or amendment is being sought from FEMA, an application to the town under this regulation will not be considered complete until the relevant letter has been issued by FEMA.

Issuance of a LOMR-F or CLOMR-F is not local permission to fill, which may only take place in compliance with this regulation.

### **IV. Development Permit Required**

- A. A flood development permit is required, to the extent authorized by State law, for all proposed construction or other development, including the placement of manufactured homes, in areas of special flood hazard, except for the following activities, which are exempt from regulation under this ordinance:

1. Silvicultural activities (the practice of forestry) not involving the use of buildings and conducted in accordance with Vermont Department of Forest and Parks' Acceptable Management Practices, as such practices are defined by the commissioner of forests, parks, and recreation;
  2. Agricultural activities not involving the use of buildings and conducted in accordance with Vermont Department of Agriculture, Food and Markets' Acceptable Agricultural Practices, as such practices are defined by the secretary of agricultural, food and market;
  3. The removal of a structure or building in whole or in part.
  4. Minor improvements to existing buildings outside the floodway that do not involve fill and do not decrease structure setbacks from any stream.
- B. Permits shall be administered and granted or denied by the Administrative Officer as outlined in 24 VSA §4449.
- C. Conditional use approval, using the process for such in 24 VSA § 4414 and 4464, shall be reviewed and granted, or denied, by the Board using the standards below. prior to being permitted by the Administrative Officer. All decisions by the Board shall meet the standards set out in 4464b.
- D. Conditional Use approval, prior to the granting of a flood development permit is required for:
1. New buildings,
  2. Substantial improvement of existing buildings
  3. Development, and
  4. Subdivisions
- E. Appeals of decisions of the Administrative Officer shall be made to the Board of Adjustment in the time and manner as outline in 24 VSA §4465.
- F. Appeals of decisions of the Board of Adjustment shall be made to the Environmental Court under the provisions of 24 VSA § 4471.

## **V. Referral Procedures**

- A. Prior to issuing a permit, or warning a conditional use hearing, 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.

- B. 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.

## **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.

## **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.

Until a regulatory floodway has been designated, no new construction, substantial improvements, or other development shall be permitted in the area of special flood hazard 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 more than one foot at any point within the community.

### 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. All 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.

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 floodproofed shall not be issued until a registered professional engineer or architect has reviewed the structural design, specifications and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.

4. Subdivisions:

- (a) New subdivision proposals and other proposed development (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.

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 parking of vehicles, building access, or storage.
- (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 only be used for parking or storage,
  - (b) The structure must have the required openings to allow floodwaters in and out,
  - (c) The structure must be constructed using flood resistant materials below the Base Flood Elevation,
  - (d) The structure must be adequately anchored to resist flotation, collapse, and lateral movement, and
  - (e) All building utility equipment including electrical and heating must be elevated or floodproofed.
8. Water Supply Systems: New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
9. Sanitary Sewage Systems: New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
10. On-Site Waste Disposal Systems: On-site wastewater disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
11. Watercourse Carrying Capacity: The flood and sediment carrying capacity within any altered or relocated portion of a watercourse shall be maintained.

### **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 floodproofed;
- 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**

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. Any variance issued will inform the applicant in writing over the signature of a community official that the issuance of a variance to construct a structure below the base flood elevation increases risk to life and property and will result in increased flood insurance premiums

up to amounts as high as \$24 for \$100 of coverage. Such notification shall be maintained with a record of all variance actions.

#### **X. 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 Topsham 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.

#### **XI. Validity and Severability**

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

#### **XII. Precedence of Ordinance**

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

#### **XIII. Enforcement and Penalties**

It shall be the duty of the Administrative Officer to enforce the provisions of this ordinance. Whenever any development occurs contrary to these flood hazard area regulations, the Administrative Officer, 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 ordinance, (c) a clear statement that the public body making the declaration has authority



to do so and a citation to that authority, (d) evidence that the property owner has been provided notice of the violation and the prospective denial of insurance, and (e) a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

#### **XIV. Definitions**

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

***Area of Special Flood Hazard*** see Special Flood Hazard Area.

***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).

***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. 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, 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.

**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.