

Bolton Land Use & Development Regulations
Addendum: Flood Hazard Area Bylaw Amendments (Highlighted)
Adopted by the Bolton Selectboard: July 19, 2010
Effective Date: August 9, 2010

Note: The following includes all affected sections of the Bolton Land Use & Development Regulations as amended and in effect. For specific changes (insertions, deletions) please reference the marked-up version as adopted by the Select Board, until such time as these are incorporated in the full text of the bylaws.

ARTICLE I. AUTHORITY & PURPOSE

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Section 1.3 Application & Interpretation

- (A) The application of these regulations is subject to all provisions of the Act as most recently amended.
- (B) In accordance with the Act [§4446], no **land development** or **subdivision** of land shall commence in the Town of Bolton except in conformance with these regulations (see Table 1.1). Any land development or subdivision of land not specifically authorized under these regulations, unless otherwise exempted under the Act or Section 9.2 (Exemptions) is prohibited.

(1) Note: "Development" as defined for purposes of flood hazard area management and regulation under Section 10.3 includes uses, structures or activities that otherwise may be exempted from municipal regulation under the Act, or Section 9.2 of these regulations.

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Section 1.5 Amendments

- (A) These regulations, including any zoning maps incorporated by reference, may be amended or repealed only in accordance with the requirements and procedures established in the Act [§§4441, 4442].
- (B) Proposed amendments shall be submitted to the Planning Commission for consideration. If a proposed amendment is supported by a petition signed by not less than five percent (5%) of registered Bolton voters, the Planning Commission shall make only technical corrections to the proposed amendment and shall prepare a written report as required under the Act [§4441(c)].
- (C) Proposed amendments to Flood Hazard Area Overlay District regulations shall be sent to the Vermont Agency of Natural Resources, River Management Program, at least fifteen days prior to the first public hearing to be reviewed for conformance with federal and state program requirements.

ARTICLE II. ZONING DISTRICTS

Section 2.1 Zoning Districts & Zoning Map

(A) For the purposes of these regulations, the Town of Bolton is divided into the following zoning districts, in accordance with the Act [§4414(1)]:

Village District	(V)
Resort Village District	(RV)
Resort Residential District	(RR)
Rural I District	(RI)
Rural II District	(RII)

Forest District	(FOR)
Conservation District	(CON)
Flood Hazard Area Overlay	(FHO I, II)

(B) The location and boundaries of each zoning district are shown on the official “Town of Bolton Zoning Map,” which is incorporated and adopted by reference as part of these regulations. Flood Hazard Overlay District boundaries for Special Flood Hazard Areas are shown in and on the most current Flood Insurance Study (FIS) and Flood Insurance Rate Maps (FIRMs) issued for the Town of Bolton by the Federal Emergency Management Agency, National Flood Insurance Program, as provided by the Secretary of the Agency of Natural Resources [10 V.S.A. §753], which are adopted by reference and declared to be part of these regulations. The official zoning map and overlay district maps, located in the Bolton Town Office, shall be the final authority as to the current zoning status of land and waters in the town.

(C) The official “Town of Bolton Zoning Map” shall be identified by the signatures of the Selectboard, as attested to by the Bolton Town Clerk. Changes may be made to this zoning map only in accordance with the bylaw amendment process specified in Section 1.5 and the Act. A reduced copy of the official zoning map is included in these regulations.

Section 2.2 Boundary Interpretations

(C) In the Flood Hazard Area Overlay District (designated Special Flood Hazard Areas), where available (i.e., in Zones A1-A30, AE and AH) base flood elevations and floodway limits provided by the National Flood Insurance Program (NFIP) in the Flood Insurance Study and accompanying maps shall be used to administer and enforce flood hazard area overlay district provisions of these regulations. In Special Flood Hazard Areas where base flood elevations and floodway limits have not been provided by the NFIP (i.e., Zone A) it is the applicant’s responsibility to develop the necessary base flood elevations and floodway information. Where available, the applicant shall use data provided by the Federal Emergency Management Agency, other federal agencies, or the state.

(D) When the Zoning Administrator cannot definitely determine the location of a district boundary, the Planning Commission and/or appropriate state or federal official may be consulted prior to issuing a determination. A determination by the Zoning Administrator regarding the location of a district boundary may be appealed to the Development Review Board under Section 9.5.

(1) If uncertainty exists with respect to the boundary of a Special Flood Hazard Area or floodway within the Flood Hazard Area Overlay District, a Letter of Map Amendment (LOMA) issued by the Federal Emergency Management Agency shall constitute proof of boundary location.

Section 2.3 Application of District Standards

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(B) All uses and structures, unless specifically exempted from these regulations under Section 9.2, and all development within the Flood Hazard Area Overlay District, as defined for purposes of flood hazard area management under Section 10.3, must comply with applicable standards for the district(s) in which they are located, as found in Tables 2.1-2.8. The standards for each district shall apply uniformly to each class of use or structure, unless otherwise specified in these regulations. Nonconforming uses and structures must meet the requirements of Section 3.8.

(D) Overlay district standards, including Flood Hazard Area Overlay District standards, shall be applied concurrently with the standards for the underlying zoning district(s). Where the overlay district imposes more restrictive standards on the use of land or structures, the standards of the overlay district shall apply.

TABLE 2.8 FLOOD HAZARD AREA OVERLAY DISTRICTS

(A) Purpose. The purposes of the Flood Hazard Area Overlay Districts are to (1) protect public health, safety, and welfare by preventing or minimizing hazards to life and property due to flooding; to (2) manage development, as specifically defined for this purpose, within designated Special Flood Hazard Areas (SFHAs) according to the town's adopted municipal and hazard mitigation plans; and to (3) ensure that the town is eligible for continued membership in the National Flood Insurance Program so that the town, its residents and businesses may qualify for federal flood insurance, and for available federal disaster recovery and hazard mitigation funds.

(B) Permitted Uses:

1. Accessory Structure [max: 500 sq.ft.;see Section 5.5]
2. Agriculture [see Section 9.2]
3. Forestry [see Section 9.2]
4. Group Home* [see Section 4.12]
5. Home Child Care* [see Section 4.8]
6. Home Occupation* [see Section 4.13]
7. Public Utility [as reviewed and approved by the state]
8. Recreational Vehicle [see Section 5.5]
9. Storage Tank [see Section 5.5]
10. Water Supply/Wastewater Systems [as reviewed and approved by the state].
11. Stream crossings [bridges, culverts; as reviewed and approved by the state].
12. Stream channel or floodplain management activities [as reviewed and approved by the state].

* within an existing single family dwelling.

Note: Applications for permitted uses that are subject to the requirements of this overlay district under Section 5.5 shall be referred by the Zoning Administrator to the state for review. State recommendations for compliance with applicable requirements shall be incorporated as conditions of zoning permit approval.

(C) Conditional Uses:

Village District (FHO I):

Development, as defined under Section 10.3 and regulated by the municipality to meet the purposes of this district, including all uses allowed within the underlying zoning district, unless specifically prohibited within this overlay district under Subsection (E)(5).

All Other Districts (FHO II):

Development, as defined under Section 10.3, and limited in the FHOD II to the following uses, infrastructure and activities, unless specifically prohibited within this overlay district under Subsection (E)(5):

1. Accessory Structure [only to an existing or allowed use; see Section 5.5]
2. Excavation/ Grading [only as necessary for and incidental to an allowed use]
3. Fill [only as needed to elevate structures; see Section 5.5]
4. Improvements [only to an existing structure – i.e., addition, replacement, relocation, elevation, floodproofing; see Section 5.5]
5. Parking [at grade, for existing uses]
6. Pond
7. Public Facility [only if functionally dependent on stream access; see Section 5.5]
8. Public Utility [see Section 5.5]
9. Recreation/Outdoor [no structures]
10. Road Improvements [to existing roads]

(D) Dimensional Standards (unless otherwise specified for a particular use):

As required for the underlying zoning district.

(E) Supplemental District Standards

(1) Where the standards of the Flood Hazard Area Overlay District differ from underlying district standards, the more restrictive shall apply.

(2) "Development" for purposes of flood hazard area regulation is separately defined under Section 10.3 and shall apply to the regulation of all uses, associated infrastructure and activities within Flood Hazard Area Overlay Districts, including those uses and activities that may otherwise be exempted from regulation under Section 9.2. Any development that is not specifically listed under (A) or (B), or prohibited in this district, shall be regulated as a conditional use.

TABLE 2.8 FLOOD HAZARD AREA OVERLAY DISTRICTS, CONTINUED

- (3) No new development shall be allowed in a Flood Hazard Area Overlay District (SFHAs) if it can reasonably be located outside of the district on the parcel to be developed, or on another parcel in common ownership.
- (4) **Uses.** Uses permitted within Flood Hazard Area Overlay Districts include agriculture and forestry, undeveloped open space, those uses generally allowed within existing single family dwellings which do not require structural alterations (i.e., home child care and home occupations); minor accessory uses and structures, if found by the Zoning Administrator following state review, to meet applicable flood hazard area management requirements under Section 5.5; and uses that are otherwise regulated by the state. All other uses and structures including but not limited to new or expanded single family dwellings, additions and accessory structures, are subject to review under Sections 5.4 and 5.5, as well as all other applicable municipal and state regulations. A “permitted” use in the underlying zoning district will be reviewed only in accordance with the standards set forth in Section 5.5, and not other conditional use standards under Section 5.4.
- (5) **Prohibited Development.**
- (a) The following development is specifically prohibited within all Flood Hazard Area Overlay Districts (all designated SFHAs): (i) storage and salvage yards; (ii) accessory structures within floodways (iii) new fill, except as necessary to elevate structures or for approved channel or floodplain management activities; (iv) excavation and grading, except as required for and incidental to allowed uses; and (iv) critical facilities as defined under Section 10.3. New critical facilities are also prohibited within 500-year floodplains as mapped by the Federal Emergency Management Agency.
- (b) The following development also is specifically prohibited within Flood Hazard Area Overlay District II (outside of the underlying Village District): (i) new principal buildings, including both residential and nonresidential buildings, (ii) public facilities except for public facilities that, because of their function, require siting within a flood hazard area for stream or river access; and (iii) new roads, except as required to serve stream crossings approved by the state.
- (6) **Mandatory Requirements.** Mandatory state [§§4412, 4424] and federal [44 CFR 60.3 and 60.6] requirements for continued community eligibility in the National Flood Insurance Program including, but not limited to, associated structural standards, definitions, administrative and variance requirements, are hereby adopted by reference and shall be applied to all development in these overlay districts. Accordingly:
- (a) Applications for development within a Flood Hazard Area Overlay District must include information required under Section 5.5(D), and are subject to state and federal agency referral requirements under Section 5.5(E).
- (b) Development in a Flood Hazard Area Overlay District shall be subject to flood hazard area review standards under Section 5.5(F), in addition to applicable requirements of the underlying zoning district and these regulations.
- (c) Requests for variances for development within a Flood Hazard Area Overlay District must meet the requirements of Section 9.6(C), in addition to variance requirements under Section 9.6(A).
- (d) Permits, certifications and variance actions for development within a Flood Hazard Area Overlay District shall be recorded by the Zoning Administrator in accordance with Section 9.9(F)(2).
- (7) **Liability Warning & Disclaimer.** These regulations do not imply that land outside of Flood Hazard Area Overlay Districts (SFHAs) will be free from flood damages. These regulations shall not create liability on the part of the Town of Bolton, or any municipal official or employee thereof, for any flood damages that result from reliance on these regulations, or any administrative decision lawfully made hereunder.

ARTICLE III. GENERAL REGULATIONS

Section 3.1 Abandoned & Damaged Structures

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(B) **Damaged Structures.** No zoning permit shall be required for the stabilization of a damaged structure to prevent hazards to public health and safety, or to adjoining properties, structures or uses; nor for the timely repair or reconstruction of a damaged structure to the extent of its prior condition and use. However:

- (1) Repair or reconstruction of a damaged structure must begin within one (1) year and be substantially completed within two (2) years of the date of the event resulting in its damage or destruction.
- (2) A zoning permit shall be required for any repair or reconstruction that results in changes in structural dimensions (e.g., height or footprint), density (e.g., number of units), or use under applicable provisions of these regulations.
- (3) Any repair or restoration of a nonconforming structure that increases the degree of noncompliance is subject to review by the Development Review Board under Section 3.8.
- (4) The repair or replacement of a damaged structure within the Flood Hazard Area Overlay District is subject to conditional use review and must comply with all applicable requirements under Section 5.5. The reconstruction of a substantially damaged or destroyed nonconforming structure within the Flood Hazard Area Overlay District may be reconstructed in the same location only if it cannot be relocated to a less hazardous location on the parcel. The lowest floor of the reconstructed structure must be elevated above the base flood elevation, and the structure must otherwise comply with all applicable requirements of the National Flood Insurance Program under Section.

Section 3.8 Nonconforming Uses & Structures

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(B) **Nonconforming Structure.** In accordance with the Act [§4412(7)], any structure, or portion thereof, legally in existence as of the effective date of these regulations which does not meet the requirements of these regulations shall be considered a nonconforming structure. A nonconforming structure may continue to be occupied indefinitely, subject to the following limitations:

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- (5) A nonconforming structure located in the Flood Hazard Area Overlay District may be relocated, structurally improved, enlarged, or reconstructed as allowed under these regulations, subject to conditional use and applicable flood hazard area requirements under Section 5.5.

Section 3.10 Outdoor Storage

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(D) **Flood Hazard Areas.** Outdoor storage of materials within the Flood Hazard Area Overlay District (Special Flood Hazard Areas), including above ground storage tanks, is also subject to review and approval under Section 5.5. Salvage yards and storage facilities for floatable materials, chemicals, explosives, flammable liquids or other hazardous or toxic materials are specifically prohibited within floodway areas.

Section 3.13 Ponds [Constructed]

(A) **Intent.** The construction of any pond within the Flood Hazard Area Overlay District, or a pond in any other district that impounds more than 100,000 cubic feet of water, other than a fire pond, snowmaking pond, or detention or retention pond constructed as part of a stormwater management, water

or wastewater treatment system approved in accordance with these regulations, shall require a zoning permit. The intent of regulating pond construction is to protect the lives and property of Bolton residents, the infrastructure of the community, and the natural environment by:

...

(E) **Flood Hazard Areas.** For any pond constructed within the Flood Hazard Area Overlay District (Special Flood hazard Areas), conditional use review and approval under Section 5.5 is required prior to the issuance of a zoning permit.

Section 3.17 Surface Waters & Wetlands

(A) No alteration or relocation of the natural course of any stream or brook shall be allowed except to rectify a natural catastrophe for the protection of the public health, safety, and welfare, or to cross a stream or brook for the purpose of access.

(1) Within the Flood Hazard Area Overlay District (Special Flood Hazard Areas), the carrying capacity of any altered or relocated watercourse shall be maintained, as required under Section 5.5.

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(F) At minimum, one-half of the required setback distance, as measured from the surface water or wetland, shall be maintained as a naturally vegetated buffer. No development, excavation, landfill, or grading shall occur within the buffer area, and vegetation shall be left in an undisturbed state, with the exception of limited clearing and site development associated with the following encroachments, allowed subject to conditional use review and approval under Section 5.4:

- (1) road, rail, driveway and utility crossings,
- (2) bank stabilization or restoration projects, designed and constructed in accordance with applicable state and federal regulations,
- (3) unpaved pedestrian and recreation paths,
- (4) landscaping to maintain physical and visual access (including pruning and selective cutting), and
- (5) pond or river access improvements (e.g., piers, docks, and boat ramps).

Such encroachments shall be sited and designed to minimize surface runoff, channeling, and soil erosion.

Section 3.18 Water Supply & Wastewater Systems

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(B) **Standards.** Water supply and wastewater disposal systems shall be designed and installed by qualified professionals licensed by the state (i.e., a professional engineer, designer, site technician, installer) in accordance with the following:

...

(3) Water supply and wastewater disposal systems located within the Flood Hazard Area Overlay district shall also meet requirements specific to such systems under Section 5.5.

ARTICLE IV. SPECIFIC USE STANDARDS

Section 4.4 Camper (Recreation Vehicle, Temporary Shelter)

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(D) Flood Hazard Areas. Campers stored within the Flood Hazard Area Overlay District (Special Flood Hazard Areas) must meet the requirements under Section 5.5 applying to Recreational Vehicles, as defined for purposes of flood hazard area management under Section 10.3. Accordingly, in addition to the above requirements, recreation vehicles stored within the Flood Hazard Area Overlay District must be fully licensed and ready for highway use.

Section 4.9 Extraction & Quarrying

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(C). No extraction, excavation, dredging or filling activities shall occur within required riparian and wetland buffer areas, in accordance with the requirements of Section 3.17. Within the Flood Hazard Area Overlay District (Special Flood Hazard Areas), extraction, excavation, dredging or filling activities are subject to conditional use review under Section 5.5; fill is allowed only as necessary to elevate structures above the base flood elevation.

Section 4.15 Mobile Home Park

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(C) In accordance with the Act [§4412(7)(B)], if a mobile home park legally in existence as of the effective date of these regulations is determined to be nonconforming under these regulations, its nonconforming status shall apply only to the park as a whole, and not to individual mobile home sites within the park. Accordingly, the requirements of Section 3.8 shall not apply to an individual mobile home site for the purpose of replacing an existing mobile home on the site with a mobile home of the same or larger footprint, as long as a distance of at least 10 feet is maintained from adjoining mobile home sites. Sites within an existing park that are vacated shall not be considered discontinued or abandoned.

(D) No new or expanded mobile (manufactured) home park or subdivision shall be allowed within the Flood Hazard Area Overlay District (Special Flood Hazard Areas). Replacement mobile homes within an existing mobile home park located in the Flood Hazard Area Overlay District must meet requirements for elevation and anchoring under Section 5.5.

Section 4.17 Public Facility or Utility

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(C) Public facilities and utilities located within the Flood Hazard Area Overlay District (Special Flood Hazard Areas) which are subject to municipal regulation must meet applicable requirements for such facilities and utilities under Section 5.5.

(D) New critical public facilities, as defined under Section 10.3 for flood hazard area management purposes, shall not be located within the Flood Hazard Area Overlay District, including designated Special Flood Hazard Areas (100-year flood plain), nor within the mapped 500-year flood hazard area as shown on National Flood Insurance Maps.

Section 4.18 Salvage Yard

(A) New or expanded salvage yards, to include facilities for the storage of four (4) or more unregistered vehicles, may be permitted within designated zoning districts subject to conditional use review under Section 5.4 and the following requirements:

...

- (3) Designated yard areas are specifically prohibited within surface water and wetland setback and buffer areas, as required under Section 3.17, within the Flood Hazard Area Overlay District (designated Special Flood Hazard Areas) and water supply Source Protection Areas (see Sections 3.15 and 5.5).

Section 4.20 Temporary Structure or Use

(A) **Temporary Structure.** Structures used for temporary office or storage space, including trailers and mobile homes, or for special events requiring a permit under Subsection (B), may be allowed as a temporary accessory structure to an existing or permitted use in any zoning district, in accordance with the following:

...

- (3) Temporary structures located within the Flood Hazard Area Overlay District (Special Flood Hazard Areas) are subject to conditional use review under Section 5.5, and must meet applicable requirements for development within this district.

ARTICLE V. DEVELOPMENT REVIEW

Section 5.1 Applicability

(A) Development review procedures and related standards under this article apply only to development that requires approval of the Development Review Board prior to the issuance of a zoning permit, under one or more of the following review procedures:

...

- (3) **Flood Hazard Area Review.** Conditional use approval, including the application of flood hazard area development review standards under Section 5.5, is required for all listed “conditional uses” within designated Flood Hazard Area Overlay Districts (Special Flood Hazard Areas) including but not limited to new buildings in the underlying Village District, and additions or improvements to existing buildings in other underlying zoning districts (see Table 2.8). If a conditional use in the Flood Hazard Area Overlay district is a “permitted use” in an underlying zoning district, it shall be subject to review only under flood hazard area district standards in Section 5.5(D), and not other conditional use standards under Sections 5.4.

5.1 DEVELOPMENT REVIEW APPLICATION MATERIALS			
Required Information (unless waived)	Site Plan Review	Conditional Use Review	Flood Hazard Area Review
Names, addresses of property owner(s) of record and persons preparing the application	Y	Y	Y
Names, addresses of the owner(s) of record of adjoining and facing properties; proof of notification of adjoining property owners	Y	Y	Y
Project description (summary, one page maximum)	Y	Y	Y
Site location map showing project location in relation to town roads, surface drainage and adjoining and facing parcels	Y	Y	Y
Copy of an approved subdivision plat showing the lot to be developed and any applicable development restrictions or conditions of subdivision approval (for lots within approved subdivisions)	Y	Y	Y
Statement of compliance with all applicable zoning district standards including overlay district and specific use standards	Y	Y	Y
Site plan, drawn to scale, prepared by a registered land surveyor, civil engineer, architect, landscape architect or other person(s) approved by the Board, showing as applicable:	Y	Y	Y
1. Date, scale, north arrow, title block, preparer information	Y	Y	Y
2. Legal property boundaries	Y	Y	Y
3. Zoning district boundaries (inc. designated flood hazard areas)	Y	Y	Y
4. Required setbacks and designated building envelope(s), if any	Y	Y	Y
5. Existing site features: topography, including 5ft.contours, steep slopes (15% to 25%) very steep slopes (>25%), prominent ridgelines and hill tops; land use/cover, including tree lines; surface waters, wetlands, shorelines, and associated setback and buffer areas; critical wildlife habitat areas; existing structures (e.g., buildings, walls, fence lines, signs); known historic sites and structures; parking, loading and service areas; roads and driveways; utility corridors; water supply and wastewater system locations; rights-of-way and easements.	Y	Y	Y
6. Proposed land uses and structures (footprints); accesses, driveways, and pedestrian walkways; parking, loading and service areas; utility corridors; water supply and wastewater system locations; rights-of-way and easements	Y	Y	Y
7. Proposed site grading and drainage	Y	Y	Y
8. Proposed landscaping, screening, outdoor lighting and signage	Y	Y	
9. Channel, floodway and base elevations			Y
Photographs of the site	Y	Y	
Traffic (trip) generation rates and circulation patterns	Y	Y	

Draft legal documents (e.g., proposed easements, improvement, development and/or maintenance agreements)	Y	Y	
Construction schedule, including the sequence and timing of proposed site development and related improvements	Y	Y	Y
The following information, as applicable for a particular use or zoning district, or as requested by the Board to determine conformance with these regulations:			
1. Landscaping plan (including landscaping material specifications)	Y	Y	
2. Outdoor lighting plan (including lighting fixture specifications)	Y	Y	
3. Open space management plan (for forest, farm land)	Y	Y	
4. Buffer management plan (for surface waters, wetlands)	Y	Y	
5. Stormwater management and erosion control plan	Y	Y	
6. Site reclamation plan (for earth extraction activities)		Y	
7. Traffic impact analysis		Y	
8. Community service/facility impact analysis		Y	
9. Environmental impact analysis (e.g., water quality, habitat)		Y	
10. Visual impact analysis		Y	
11. FEMA Elevation Certificate (for substantial improvements)			Y
12. FEMA Floodproofing Certificate (for nonresidential buildings)			Y
13. Hydraulic analysis (for development located within the floodway)			Y
14. Description of proposed watercourse alterations or relocations			Y

Section 5.5 Flood Hazard Review

(A) **Purpose.** The purposes of the Flood Hazard Area Overlay District (Table 2.8) and associated requirements under this section, are to:

- (1) protect public health, safety, and welfare within designated Special Flood Hazard Areas by preventing or minimizing hazards to life and property due to flooding, in accordance with the Act [§4424], to
- (2) manage “development” as specifically defined for purposes of flood hazard area management under Section 10.3, according to the town’s adopted municipal and hazard mitigation plans; and to
- (3) ensure that the town is eligible for continued membership in the National Flood Insurance Program (NFIP) so that the town, local residents and businesses within designated Special Flood Hazard Areas e may qualify for federal flood insurance , and for available federal disaster recovery and hazard mitigation funds.

(B) **Applicability.** Flood Hazard Area Overlay Districts (FHO) include all Special Flood Hazard Areas (SFHAs) in and on the most current Flood Insurance Study (FIS) and Flood Insurance Rate Maps (FIRMs) issued for the Town of Bolton by the NFIP, as provided by the Agency of Natural Resources. All development within a FHO District, with the exception of permitted uses within the district as identified in Table 2.8, shall be subject to conditional use review by the Development Review Board under Section 5.4, and the following flood hazard area regulations. Permitted uses within the underlying district, which would otherwise not be subject to conditional use review, are not required to meet conditional use standards under Subsections 5.4(C) through (E). Conditional uses within the underlying district are subject to both conditional use and flood hazard area requirements.

(C) **Review Process.** Applications shall be reviewed in accordance with the procedures for conditional use review under Section 5.4(B).

(D) **Application Requirements.** In addition to a development review application prepared in accordance with Table 5.1, an applicant for conditional use review within a FHO district shall submit to the Zoning Administrator the following:

- (1) A site plan showing the location of all water bodies, special flood hazard areas, floodways, and existing and proposed drainage; proposed fill, and pre- and post development grades.
 - (a) Where base flood elevations and/or floodway limits have not been provided by the National Flood Insurance Program, it is the applicant's responsibility to develop necessary data. Where available, the applicant shall use data provided by FEMA, the state, or other federal agencies.

- (2) The location on the site plan, and elevations of all roads, water supply and wastewater facilities in relation to channel, floodway, and base flood elevations.

- (3) Building elevations showing the elevation of the lowest floor as referenced to the same vertical datum as the elevation on the current Flood Insurance Rate Map. A completed FEMA "Elevation Certificate" prepared by a registered surveyor, engineer, architect or other state official who is authorized by the state to certify building elevation information shall be required for substantial improvements to existing structures.

- (4) Where floodproofing is proposed (as allowed for nonresidential buildings), a completed FEMA "Floodproofing Certificate" prepared by a registered professional engineer or architect who is authorized by the state to certify floodproofing design and construction.

- (5) Hydraulic analyses, prepared and certified by a registered professional engineer, for development located within the floodway or within Zones AE, AH and A1-30 where base flood elevations and/or flood limits have not been determined.
 - (a) Development shall not be permitted within these areas unless it is demonstrated that the cumulative effect of proposed development, when combined with all other existing and anticipated encroachment, will not increase the based flood elevation more than one (1.00) foot at any point in the community. The demonstration must be supported by technical data that conforms to standards hydraulic engineering principles.

- (6) A description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.

- (7) The total value of all proposed structural improvements, including the cost of all materials, repairs, built-in appliances, labor, overhead and profit, in relation to the market value of the building, excluding the value of land and existing accessory structures (see application form instructions).

Calculation: $(\text{Total Cost of Improvement} / \text{Market Value of Building}) \times 100 = X \%$

**Note that if the estimated cost of the proposed project exceeds 50% of the building's market value, it meets the definition of a "substantial improvement" under Section 10.3, and as such must meet all requirements for new construction.

(E) **Additional Notice & Referral Requirements.** In addition to public hearing notice requirements for conditional use review under Subsection 5.3, the following shall also apply:

- (1) Prior to issuing a zoning permit or conditional use approval for any development within the Flood Hazard Area Overlay District, including any allowed permitted or conditional use, a copy of the complete application and supporting information, shall be submitted to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources. A permit may be issued only following the 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) Applications that include proposals to alter or relocate a watercourse also shall be submitted to adjacent communities, the Stream Alteration Engineer at the Vermont Agency of Natural Resources, and the Army Corps of Engineers. A permit may be issued only following the 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.

(F) **Flood Hazard Overlay District Standards.** The following minimum standards apply within a FHO District to all development, as defined under Section 10.3 for purposes of flood hazard area management. The Development Review Board may impose specific conditions or require project modifications for development within the Flood Hazard Area Overlay District in accordance with the following standards and associated state or federal program requirements.

(1) No new development shall be allowed in a Flood Hazard Area Overlay District (an SFHA) if it can reasonably be located outside of the district on the parcel to be developed, or on another parcel in common ownership.

(2) **Prohibited uses.** The following development is specifically prohibited within all Special Flood Hazard Areas (SFHAs):

- (a) new and expanded salvage yards and storage facilities for floatable materials, chemicals explosives, flammable liquids, or other hazardous or toxic materials;
- (b) fill, except as necessary to elevate buildings above the base flood elevation, or for state-approved channel or floodplain management activities;
- (c) excavation and grading except as necessary and incidental to an approved use;
- (d) enclosures that are below grade on all sides, including below grade basements and crawl spaces;
- (e) new critical public facilities, which are also prohibited within the 500-year floodplain depicted on current federal Flood Insurance Rate Maps.

New principal structures are prohibited within the Flood Hazard Area Overlay District outside of the Village District (FHOD II).

(3) **Floodways.** Development and other encroachments within floodways are prohibited unless a registered professional engineer certifies that the proposed development (a) will not result in any increase in flood levels (0.00 feet) during the occurrence of the base flood; and (b) will not increase any risk to surrounding properties, facilities or structures from flooding. Certification shall be supported by hydraulic studies performed in accordance with standard engineering principles. .

(a) New structures and facilities, including new buildings, accessory structures, fuel storage tanks and water supply and wastewater systems, are prohibited within floodway areas, unless associated with a use that functionally requires stream access.

(b) Public utilities may be placed underground within floodway areas, and hydraulic analyses may be waived, if a professional engineer certifies that there will be no change in surface grade, and the utilities will be adequately protected from scour.

(4) All development shall be designed to (a) be reasonably safe from flooding, to (b) minimize flood damage to the proposed development and to public facilities and utilities; (c) to provide adequate drainage to reduce exposure to flood hazards, and be sited to (d) minimize potential conflicts with changes in stream channel location over time.

- (5) All buildings and other structures shall be (a) designed, modified, operated, maintained and adequately anchored to prevent flotation, collapse, release or lateral movement of the structure during the occurrence of the base flood, (b) be constructed with materials resistant to flood damage, (c) be constructed by methods and practices that minimize flood damage, and (d) be 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.
- (6) Fuel storage tanks required to serve existing or approved uses shall be (a) elevated above the base flood elevation and be securely anchored to prevent flotation; or (b) placed underground and securely anchored, as certified by a qualified professional.
- (7) The flood carrying and sediment transport capacity within any altered or relocated portion of a watercourse shall be maintained, and any alteration or relocation shall not result in any decrease in stream stability.
- (8) New and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate the infiltration of flood waters into the systems and discharges from the systems into flood waters.
- (9) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- (10) New and replacement manufactured homes shall be elevated on properly compacted fill such that the top of the fill (the pad) under the entire manufactured home is above the base flood elevation.
- (11) The lowest floor, including basement, of all new buildings, except for accessory buildings under Section (11), shall be elevated above the base flood elevation.
- (12) Small accessory buildings of 500 square feet or less that represent a minimal investment may be built below the base flood elevation provided that the building shall:
 - (a) not be used for human habitation or the storage of hazardous materials, as specified in the written conditions of approval,
 - (b) be designed to have low flood damage potential,
 - (c) be constructed and placed on the building site so as to offer minimal resistance to the flow of floodwaters,
 - (d) be firmly anchored to prevent flotation which may result in damage to other structures, and
 - (e) service facilities such as electrical and heating equipment elevated or floodproofed above the base flood elevation.
- (13) Existing buildings to be substantially improved for residential purposes shall be modified or elevated to meet the requirements of Subsection (10), as documented, in as-built condition, by a FEMA Elevation Certificate.
- (14) Existing buildings to be substantially improved for nonresidential purposes shall either (a) meet the requirements of Subsection (10), or (b) be designed to be so that the structure, and attendant utility and sanitary facilities are watertight below the base flood elevation with substantially impermeable walls and structural components that have the capability to resist hydrostatic and hydrodynamic loads and effects of buoyancy. 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.
- (15) All new construction and substantial improvements with fully enclosed areas below the lowest floor that are subject to flooding (below the base flood elevation) shall be:

- (a) used only for parking, storage and building access, as clearly stated on permits and approvals issued for construction, and
- (b) designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. 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 cover coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(16) Recreational vehicles stored in this district shall either:

- (a) be fully licensed and ready for highway use, or
- (b) meet the standards of Subsection (9) for manufactured homes, including elevation and anchoring requirements.

(G) **Other permits.** Proposed development within the flood hazard area overlay district shall also be reviewed to assure that all necessary permits have been received from federal or state agencies from which approval is required under federal or state law. The Zoning Administrator or Development Review Board may require the submission of a project review sheet issued by a state permit specialist to determine what other permits may be required for a particular project. No certificates of occupancy or compliance shall be issued under Section 9.4 until copies of all required permits have been submitted to the town.

(H) **Variances.** In addition to the standards for granting variances set forth in Section 9.6(A), requests for variances within the Flood Hazard Area Overlay District must also comply with the standards set forth in Section 9.6(C).

(1) Any variance issued in the Special Flood Hazard Area will not increase flood heights, and 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 \$25 for \$100 of coverage. Such notification shall be maintained with a record of all variance actions.

(I) **Violations.** Violations of flood hazard area regulations, as defined for this purpose under Section 10.3 shall be noticed, issued and reported in accordance with Section 9.7.

(J) **Zoning Administrator Duties.** In addition to other permit recording requirements under Section 9.8(G)(1), the Zoning Administrator shall, in accordance with Section 9.8(F)(2), also maintain a record of:

- (1) all permits issued for development in Special Flood Hazard Areas, including the total estimated construction cost of permitted development,
- (2) the elevation in relation to mean sea level (consistent with the elevation datum on the Flood Insurance Rate Map), of the lowest floor, including basement, of all new or substantially improved buildings, except for minor accessory structures approved under Subsection (11).
- (3) the elevation in relation to mean sea, level (consistent with the elevation datum on the Flood Insurance Rate Map), to which buildings have been floodproofed,
- (4) all certifications required under this regulation, including as-built Elevation and Floodproofing Certificates, and
- (5) all variances and violations issued for development within this district, including supporting findings of fact and justifications for their issuance.

ARTICLE VI. SUBDIVISION REVIEW PROCEDURES

Table 6.2 Subdivision Application Requirements			
	Sketch Plan	Preliminary Plan	Final Plan
(A) Application Information [unless waived by the DRB]			
Application Form [number of copies]	2 originals & 5 copies	2 originals & 5 copies	2 originals & 5 copies
Application Fee [as set by the Selectboard]		Y	Y
Name of project, if any		Y	Y
Name, address of subdivider [landowner and/or subdivider]	Y	Y	Y
Written description of proposed development plans, including Number and size of lots; general timing of development	Y	Y	Y
Waiver request in writing [optional]	Y	Y	
Names, addresses of adjoining property owners [from Bolton Grand List]		Y	Y
Evidence of written notification to all adjoining property owners of intent to subdivide (certificate of service or mailing receipts)		Y	Y
(B) Plan/Plat Mapping Requirements			
	Sketch	Draft Plat	Final Plat
Materials [original, copies may be paper]	Paper	Paper	Mylar
Preparer Information, Certifications [Surveyors, Designers, etc.]		Y	Y
Scale [minimum 1 inch = 200' ; or as specified by Board]	Y	Y	Y
Date, North Arrow, Legend`	Y	Y	Y
Project boundaries and property lines	Drawn	Drawn	Surveyed
Existing and proposed lot lines, dimensions, numbers	Drawn	Drawn	Surveyed
Monument Locations			Y
Adjoining land uses, roads and drainage	Y	Y	Y
Zoning district designations and boundaries	Y	Y	Y
Contour Lines [minimum 5' intervals, 2' in septic areas, or as specified]		Y	Y
A general indication of land cover, including forested areas and forest type, tree lines, and land in current or recent (prior 3 years) agricultural production	Y	Y	Y
The location of natural and physical site features, including watercourses, wetlands and associated buffers; special flood hazard areas, including base flood elevations; areas of steep slope (15 to 25%) and very steep slope (>25%); critical wildlife habitat areas; historic sites and structures; and all buildings, fences and walls	General Locations	Specific Locations	Specific Locations
Existing and proposed roads, paths, shared parking areas, associated rights-of- way or easements, distances and dimensions	Drawn	Drawn	Surveyed
Proposed building envelopes, dimensions [or footprints if specified]		Y	Y
Existing and proposed utilities: power, water, wastewater and stormwater systems, and associated rights-of-way or easements		Drawn	Surveyed
Proposed park, playground or other recreation areas, or areas to be dedicated for public use		Drawn	Surveyed
Proposed landscaping and screening		Y	Y

Section 6.4 Preliminary Subdivision Review [major subdivisions]

(A) **Purpose.** The purpose of preliminary subdivision plan review, which applies to all major subdivisions, is to identify significant issues or concerns associated with a proposed subdivision under the provisions of these regulations, and to provide the subdivider with guidance to address identified issues and concerns prior to preparing final engineering plans for the subdivision and related site improvements.

(B) **Application Requirements.** Within six (6) months of the date of the issuance of a sketch plan determination by the Development Review Board, the subdivider shall submit an application and associated fees for preliminary plan review to include, unless otherwise specified or waived by the Development Review Board under Section 6.3, two (2) originals and five (5) copies of the information specified for preliminary subdivision plans in Table 6.2.

(1) For subdivisions located within the Flood Hazard Area Overlay District, a copy of the complete application and supporting information, including mapped base flood elevations, shall be submitted to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources. Preliminary subdivision approval may be issued only following the 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) Subdivision applications that include proposals to alter or relocate watercourses also shall be submitted to adjacent communities, the Stream Alteration Engineer at the Vermont Agency of Natural Resources, and the Army Corps of Engineers. Preliminary subdivision approval may be issued only following the 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.

Section 6.5 Final Subdivision Review [all subdivisions]

(A) **Application Requirements.** Unless otherwise waived or extended by the Development Review Board, the subdivider shall within six (6) months of the date of sketch plan approval (for minor subdivisions) or preliminary plan approval (for major subdivisions), submit an application for final subdivision approval, including final plat approval. If the subdivider fails to do so, s/he may be required to submit a new sketch plan or preliminary plan for review by the Board. The application for final subdivision approval shall include associated fees and, unless otherwise specified or waived by the Development Review Board under Section 6.2, one original and eight copies of the information specified for final plans and associated plats under Table 6.2.

(1) For subdivisions located within the Flood Hazard Area Overlay District, a copy of the complete application and supporting information, including mapped base flood elevations, shall be submitted to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources. Final subdivision approval may be issued only following the 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) Subdivision applications that include proposals to alter or relocate watercourses also shall be submitted to adjacent communities, the Stream Alteration Engineer at the Vermont Agency of Natural Resources, and the Army Corps of Engineers. Final subdivision approval may be issued only following the 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.

...

(E) **Certificate of Compliance.** The Development Review Board may also require, as a condition of subdivision approval, that a certificate of compliance be obtained under Section 9.4 to ensure that required improvements have been installed in accordance with the conditions of subdivision approval prior to any further land development. The satisfactory completion of any improvements shall be

determined by the Zoning Administrator in accordance with Section 9.4. A certificate of compliance shall not be issued for any subdivision that is not in compliance with the conditions of subdivision approval. Where a certificate of compliance has been required by the Board, the Zoning Administrator shall not issue a zoning permit for the development of a subdivided lot within the subdivision until the certificate has been issued.

- (1) A certificate of compliance shall be required for all subdivisions within the Flood Hazard Area Overlay District to also ensure that all required municipal, state and federal permits have been obtained.

ARTICLE VII. SUBDIVISION REVIEW STANDARDS

Section 7.3 Protection of Natural & Cultural Resources

...

(C) **Flood Hazard Areas.** All subdivisions (and planned unit developments) within the Flood Hazard Area Overlay District (Special Flood Hazard Areas) shall meet all applicable flood hazard area development standards under Section 5.5, and the following requirements:

- (1) Lot boundaries shall be configured to prevent the fragmentation Special Flood Hazard Areas unless appropriate legal mechanisms are put in place to ensure their permanent protection. At minimum, Special Flood Hazard Areas shall be identified as “Protected Open Space” on the subdivision plat as recorded in the land records of the town, in accordance with Section 7.4.
- (2) Building envelopes shall be located and sized to exclude Special Flood Hazard Areas. Building envelopes are allowed within the Flood Hazard Area Overlay District only where it overlays the Village District.
- (3) Subdivisions shall be designed to avoid siting structures, driveways, roads and other infrastructure and utilities within Special Flood Hazard Areas, and to minimize potential flood damage within these areas.
- (4) Utilities and facilities serving the subdivision that are functionally required to be located within Special Flood Hazard Areas shall be located and constructed to minimize or eliminate flooding.
- (5) Adequate drainage shall be provided to reduce exposure to flood hazards.
- (6) The subdivision shall be accessible by dry land during the occurrence of the base flood.

ARTICLE VIII. PLANNED UNIT DEVELOPMENT [PUDS, PRDS]

Section 8.5 Review Standards

(A) **General Standards.** In addition to meeting all applicable subdivision review standards under Article VII, a proposed PRD or PUD shall:

- (1) be consistent with the goals and policies of the *Bolton Town Plan* currently in effect, the purpose of the zoning district(s) in which it is located, and all applicable regulations not modified under PRD or PUD review and approval;

- (2) present an environmentally sensitive, effective and unified treatment of the site(s), which to the extent feasible:
 - (a) locates or clusters development on the most developable portions of the site(s), and excludes from development environmentally sensitive areas, including: areas of very steep slope, surface waters, wetlands and associated buffer areas, source protection areas, and, outside the Village District, designated **Special Flood Hazard Areas**;

ARTICLE IX. ADMINISTRATION & ENFORCEMENT

Section 9.2 Exemptions

(A) In accordance with the Act [§4446], the following uses and structures have been determined to impose no impact or a *de minimus* impact on the surrounding area and the overall pattern of land development in the town and are exempted from these regulations, **except within Flood Hazard Area Overlay Districts (SFHAs). Outside of this district no** permit or approval shall be required for:

Section 9.3 Zoning Permit

(A) **Applicability.** No land development subject to these regulations shall commence in the Town of Bolton until a zoning permit has been issued by the Zoning Administrator in accordance with the Act [§§4448, 4449] and these regulations.

...

(3) Additional copies of applications which require referral to a state agency shall be provided by the applicant and will be forwarded by the Zoning Administrator to the appropriate state agency within 10 business days of receipt of the application. **This includes all applications for development within the Flood Hazard Area Overlay District (see Section 5.5).**

...

(B) **Issuance of Zoning Permits.** A zoning permit shall be issued by the Zoning Administrator only in accordance with the Act [§4449] and the following provisions:

(3) **For uses requiring state agency referral under Section 5.5, no zoning permit shall be issued until a response has been received from the state, or the expiration of 30 days following the submission of the application to the state, whichever is sooner.**

Section 9.4 Certificates of Occupancy & Compliance

(A) **Certificate of Occupancy.** A certificate of occupancy issued by the Zoning Administrator is required prior to the use or occupancy of land or a principal structure, or part thereof, for which a zoning permit has been issued.

(1) An application for a certificate of occupancy shall be provided with the zoning permit issued by the Zoning Administrator. The applicant shall submit the application to the Zoning Administrator upon completion of required improvements, but prior to the use or occupancy of the land or structure. **The Zoning Administrator may also require the submission of a state project review sheet and copies of required state and federal permits to ensure that all necessary permits and approvals have been obtained by the applicant.**

- (2) A certificate of occupancy shall not be issued until the applicant demonstrates that all necessary municipal, state and federal permits and approvals have been obtained, and the Zoning Administrator determines that the development has been completed in conformance with such permits and approvals. The applicant also must provide certification from a professional engineer or site technician licensed by the state that any wastewater system has been installed and tested as approved by the town and/or state. The Zoning Administrator may inspect the premises to ensure that all work has been completed in conformance with the zoning permit and associated approvals prior to issuing a certificate.

(B) **Certificate of Compliance.** After the effective date of these regulations the Development Review Board may require that, as a condition of final subdivision approval under Section 6.5, a certificate of compliance be obtained to ensure that public and private improvements have been installed in accordance with the conditions of subdivision approval prior to any further land development.

- (1) The application for a certificate of compliance shall be submitted to the Zoning Administrator, to include plans drawn to scale which show the location of all monuments, utilities, structures, roadways, easements, and other improvements as constructed. The Zoning Administrator shall rely on information submitted as part of the subdivider's application for subdivision approval to determine whether the as-built drawings conform to the approved plat and associated conditions of approval. The Zoning Administrator may also require the submission of a state project review sheet and copies of required state and federal permits to ensure that all necessary permits and approvals have been obtained by the applicant.
- (2) A certificate of compliance shall not be issued until the applicant also demonstrates that all other required municipal, state and federal permits and approvals have been obtained, and the Zoning Administrator determines that the development has been completed in conformance with all such permits and approvals.

Section 9.6 Variances

...

(C) **Variances within Flood Hazard Areas.** In addition to requirements under Subsection (A), variances for development within the Flood Hazard Overlay District shall be granted by the Development Review Board only all in accordance with all of the following, as required under the Act [§4424(E)]:

- (1) The criteria for granting variances found in CFR Section 60.6 of the National Flood Insurance Program.
- (2) A determination that during the base flood discharge, the variance will not result in increased flood levels.
- (3) A determination that the structure or other development is protected by methods that minimize flood damages during the base flood and will result in no additional threats to public safety, extraordinary public expenditures, or nuisances.
- (4) The determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (5) Any variance issued within the Flood Hazard Area Overlay District shall include as part of the written decision, over the signature of a municipal official, the statement 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 \$25 for \$100 of coverage." Such notification shall be maintained with a record of all variance actions.

Section 9.7 Violations & Enforcement

(A) **Violations.** The commencement or continuation of any land development, subdivision or use that is not in conformance with the provisions of these regulations shall constitute a violation. All violations will be pursued in accordance with the Act [§§4451, 4452]. Each day that a violation continues shall constitute a separate offense. The Zoning Administrator shall institute in the name of the Town of Bolton, any appropriate action, injunction or other proceeding to enforce the provisions of these regulations. All fines imposed and collected for violations shall be paid over to the town.

- (1) **Flood Hazard Area Violations.** For violations within the Flood Hazard Area Overlay District (Special Flood Hazard Areas), a copy of the notice of violation shall be mailed to the State NFIP Coordinator. If the violation remains after all appeals have been resolved, the Administrative Officer shall submit a declaration to the Administrator of the National Flood Insurance Program requesting a denial of flood insurance for the property pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.
- (2) **AAP Violations.** Known violations of state Accepted Agricultural Practices shall be immediately reported to the Secretary of Agriculture for enforcement under 6. V.S.A. §4812.

Section 9.8 Administrative Requirements & Procedures

(A) **Recording Requirements.**

- (1) Within 30 days of the issuance of a municipal land use permit or notice of violation, the Zoning Administrator shall deliver either the original, a legible copy, or a notice of the municipal land use permit or notice of violation to the Town Clerk for recording in the land records of the town generally as provided in 24 V.S.A. §1154(c), and file a copy in the Town Office in a location where all municipal land use permits shall be kept, as required under the Act [§4449(c)]. The applicant may be charged for the cost of the recording fees.
- (2) For development within the Flood Hazard Area Overlay District, the Zoning Administrator shall also maintain a record of all permits, elevation certificates, elevations, floodproofing certifications and variance actions issued for development within the district as required under Section 5.5(I).

ARTICLE X. DEFINITIONS

Section 10.1 Terms & Usage

(A) General definitions under Section 10.2 shall apply unless otherwise specified or required under these regulations:

- (1) For the purposes of flood hazard area management and regulation under Table 2.8 and Section 5.5, required National Flood Insurance Program (NFIP) definitions contained in 44 CFR Section 59.1 are hereby adopted by reference and shall be used to interpret and enforce these regulations. Definitions of some commonly used terms are provided under Section 10.3.
- (2) In the event that more than one definition under Sections 10.2 and 10.3 may apply, the more specific, restrictive or required definition shall control.

Section 10.2 **General Definitions**

[Note: NFIP-related definitions deleted under Section 10.2; revised and updated under new Section 10.3.]

Section 10.3 **Flood Hazard Area Regulation Definitions**

Administrator: The Federal Insurance Administrator.

Area of Shallow Flooding: A designated AO or AH zone on a community's FIRM with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

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

Base Flood Elevation (BFE): The elevation of the water surface elevation resulting from a flood that has a 1 percent chance of equaling or exceeding that level in any given year. On the Flood Insurance Rate Map the elevation is 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 the average depth of the base flood, usually in feet, above the ground surface. Base flood elevations are shown at selected intervals on maps of Special Flood Hazard Areas that are determined by detailed methods. Base flood elevations have not been determined in Zone A where the flood risk has been mapped by approximate methods.

Construction/New: (1) For purposes of determining insurance rates pertaining to flood hazard area regulation, structures that commenced on or after the effective date of the initial floodplain management regulations adopted by the town, and includes any subsequent improvements to such structures. (2) 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 the town of Bolton and includes any subsequent improvements to such structures.

Basement: Any area of building having its floor subgrade (below ground level) on all sides.

Critical Public Facility: A facility critical to the health and safety of the public and the environment, such as hospitals and nursing homes, emergency operations centers (particularly police, fire, and rescue), vital data storage centers, power generation and other utilities (including related infrastructure such as principal points of utility systems) and any facilities that produce, use or store toxic pollutants as defined under the Clean Water Act and other state and Federal statutes. New critical public facilities are prohibited within floodplains that is subject either to a 1.0% or greater annual chance of flooding (the "100-year" floodplain) or a 0.2% or greater annual chance of flooding (the "500-year" floodplain).

Development: 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 within the Special Flood Hazard Area, identified on the most current Federal Insurance Rate Map (FIRM).

Flood: (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 of 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): An official map of the town, issued by the Federal Insurance Administrator, on which both the areas of special flood hazard and the applicable risk premium zones have been delineated. See also SPECIAL FLOOD HAZARD AREA.

Flood Insurance Study (FIS): An examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Floodplain or Flood-prone Area: Any land area susceptible to being inundated by water from any source (also see Flood).

Floodway (Regulatory): 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. Please note, where floodways have been determined, they may be shown on separate map panels from the Flood Insurance Rate Maps.

Floodproofed//Floodproofing: Any combination of structural and nonstructural additions, changes or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Functionally Dependent Use: A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water.

Historic Structure: 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.

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

Lowest Floor: The lowest floor of the lowest enclosed area, including basement, except 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 (Mobile) Home: A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used as a dwelling unit with or without a permanent foundation when connected to required utilities. For purposes of flood hazard area regulation the term "manufactured home" also includes recreational vehicles that are not fully licensed and ready for highway use. For flood insurance purposes, the term "manufactured home" does not include recreational vehicles, park trailers, campers or other similar vehicles.

Manufactured (Mobile) Home Park or Subdivision: A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Manufactured (Mobile) Home Park or Subdivision/Existing: 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 initial floodplain management regulations adopted by the town.

Manufactured (Mobile) Home Park or Subdivision/Expansion: 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).

Manufactured (Mobile) Home Park or Subdivision/New: 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 initial floodplain management regulations adopted by the town.

Mean Sea Level: The National Geodetic Vertical Datum (NGVD), or other datum to which base flood and other surface elevations are referenced.

Recreational Vehicle: For purposes of flood hazard area regulation, 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 (SFHA): The floodplain within a community subject to a one percent (1 %) or greater chance of flooding in any given year. For purposes of these regulations, the term “area of special flood hazard” is synonymous in meaning with the phrase “special flood hazard area.” This area is usually labeled Zone A, AO, AH, AE, A1-30, or A99 in the most current flood insurance studies and on the maps published by the Federal Emergency Management Agency. See also BASE FLOOD ELEVATION, FLOODWAY.

Start of Construction: For purposes of flood hazard area regulation, determines the effective maps or bylaw that regulated development in the Special Flood Hazard Area. The “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 foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or shed 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: A walled and roofed building, as well as a manufactured (mobile) home, and any related built systems, including gas or liquid storage tanks.

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

Substantial Improvement: Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either (1) before the improvement or repair is started or (2) if the structure has been damaged, and is being restored, before the damage occurred. The term does not, however, include either (1) any project for improvement of the structure to comply with existing state or local health, sanitary, or safety code specifications which are necessary to assure safe living conditions; or (2) any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

Violation: The failure of a structure or other development to be fully compliant with this bylaw or conditions of permit approval. With respect to the flood hazard regulation, 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.