

Bolton Planning Commission Report: Proposed Flood Hazard Area Regulation Bylaw Amendments January 2010

This report is presented for public review in accordance with 24 V.S.A. §4441(c) which states: “When considering an amendment to a bylaw, the planning commission shall prepare and approve a written report on the proposal.”

Description & purpose of proposed bylaw amendments:

Proposed amendments to the “Bolton Land Use & Development Regulations” as adopted in 2005 are attached. These amendments will affect all property owners within the Flood Hazard Overlay District (Table 2.8), which includes Special Flood Hazard Areas (100-year floodplains) identified in and on the current Flood Insurance Study (FIS) and Flood Insurance Rate Maps (FIRMS) for the town, as published by the National Flood Insurance Program and provided by the state. These studies and maps are available for inspection and review at the Bolton Town Office during regular business hours.

The primary purpose of the proposed amendments is to bring the town’s current flood hazard area regulations into compliance with federal requirements for continued municipal participation in National Flood Insurance Program (NFIP). Community participation in this program allows the town and affected property owners to obtain flood insurance, and also available federal hazard mitigation and disaster relief funds.

Proposed amendments include a few substantive changes under the Flood Hazard Area Overlay District (Table 2.8), and under related development review standards (Section 5.5) and expanded and updated definitions (Section 10.3, as proposed), as well as minor changes (e.g., cross-references, clarifications) under other sections of the regulations.

Development, including new residential and nonresidential structures, will continue to be allowed within Special Flood Hazard Areas (outside of floodways) in the Village District (FHO I), but must be designed to be reasonably safe from flooding, to minimize potential flood damage and reduce exposure to flood hazards, and to meet minimum federal standards for anchoring, elevation, construction and floodproofing. New development within flood hazard areas outside of the Village District (FHO II) will continue to be limited to accessory structures and improvements to existing structures.

Proposed changes to the town’s existing flood hazard area regulations include the following:

- Clarifying that there are, currently in effect, two flood hazard districts – one for flood hazard areas within the underlying Village District (FHO I, as proposed) in which new development is allowed, and a second for flood hazard areas outside of the Village District (FHO II, as proposed), in which development is more restricted.
- Prohibiting salvage yards, contractors yards and storage facilities for floatable materials, chemicals, explosives, flammable liquids, or other hazardous or toxic materials – now prohibited only within floodways – within more broadly mapped special flood hazard areas.
- Prohibiting new structures, including accessory structures, within floodways.
- Prohibiting fill within all special flood hazard areas, except as required to elevate new and substantially improved structures to or above the base flood elevation (100-year flood level).
- Exempting small accessory structures (footprint of 500 sq. ft. or less) from elevation requirements, if sited and constructed to minimize flood hazards.
- Clarifying existing federal program requirements for:

- Applicants – including required application information and certifications.
- Permits – to ensure that required municipal, state and federal permits are obtained.
- Recreational vehicles – including RV use and storage within special flood hazard areas.
- Nonconforming structures – including substantially damaged and historic structures.
- Variances – including federal variance criteria.
- Bylaw administration – including updated application referral, recordkeeping, and enforcement requirements.

It is important to note that there are no substantive changes to existing, federally-required minimum construction standards under the proposed regulations.

Given that, the Bolton Planning Commission finds that the proposed amendments:

1. ***Conform with or further the goals and policies contained in the municipal plan, including the effect of the proposal on the availability of safe and affordable housing.*** As specified in the 2007 Bolton Town Plan, it is a policy of the town to: “Identify and manage pollution, flooding and fluvial erosion hazards along rivers and streams...” and to “reduce flood hazard...through strict regulations governing development ...” (p. 17).

Accordingly, the town plan recommends a “Flood Hazard Area Overlay District” (p.12) to regulate development within flood hazard areas, the purposes of which are also referenced in the town’s current bylaws (Table 2.8):

2.9 Flood Hazard Area Overlay District

The Flood Hazard Area Overlay District includes all designated flood hazard areas. The purpose of the Flood Hazard Area Overlay District is to (1) protect public health, safety, and welfare by preventing or minimizing hazards to life and property due to flooding, and (2) to ensure that private property owners within designated flood hazard areas are eligible for flood insurance under the National Flood Insurance Program (NFIP).

Given that the proposed regulations are specifically intended in part to ensure that private property owners within designated flood hazard areas will continue to be eligible for flood insurance under the NFIP, they conform to the stated purpose of this district.

Under existing and proposed minimum standards, new, substantially improved and replacement residential structures, including manufactured (mobile) homes, are allowed within special flood hazard areas in the Village District (where development is specifically encouraged) as long as they meet federal program requirements for elevation, anchoring and construction. These standards are intended to protect public health, safety and welfare in flood hazard areas, and as such may add to the cost of but do not preclude affordable housing development in this area. No change to existing minimum standards for additions or improvements to existing residential structures, including manufactured homes, outside of the Village District is proposed. As such proposed amendments to existing regulations will not affect the current or future availability of affordable housing in the community, except as necessary to ensure that new and improved housing within flood hazard areas is safely designed and constructed to minimize attendant hazards.

2. ***Are compatible with future land uses and densities of the municipal plan.*** The proposed regulations conform to the extent and intent of the Flood Hazard Area Overlay District as described in the municipal plan (p. 12). This district is a type of overlay district – allowed land uses and densities of development are defined by the underlying zoning district, except for uses that are

specifically prohibited within mapped special flood hazard and/or floodway areas. Existing provisions for planned unit development that allow higher densities of development clustered outside of these areas also may apply.

3. ***Carry out, as applicable, any specific proposals for any planned community facilities.*** Most planned community facilities and utilities will continue to be allowed within special flood hazard areas, subject to applicable standards of review and development. The Planning Commission does recommend that “critical public facilities,” as defined and included in the proposed regulations, be prohibited within mapped 100-year and 500-year floodplains. Such facilities include public safety and emergency response facilities and services that must operate and function during flood events:

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 one percent or greater annual chance of flooding (the "100-year" floodplain) or a 0.2 percent or greater annual chance of flooding (the "500-year" floodplain).

Proposed bylaw amendments were approved by the Planning Commission for public hearing on December 7, 2009. The public hearing on proposed flood hazard area bylaw amendments, as warned in accordance with 24 V.S.A. §4444, will be held on January 21, 2010, 7:00 pm at the Bolton Town Office.

Linda Baker, Chair
Bolton Planning Commission