

**INTERIM ZONING BYLAWS**  
**3.8 FLOOD HAZARD DISTRICT**  
**\*\*\*ADOPTED: AUGUST 4, 2011\*\*\***

**3.8.1 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 Westford, Vermont.

**3.8.2 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.
- E. Encourage maintenance of flood hazard areas for open space uses and/or useable open space that complements the use and development of adjacent areas, as provided for in the Westford Town Plan.

**3.8.3 LANDS TO WHICH THESE REGULATIONS APPLY**

These regulations shall apply to all areas in the Town of Westford, 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.

The Flood Hazard District is superimposed on all underlying zoning districts. All lands to which the Flood Hazard District applies must meet the requirements of the underlying zoning districts and the Flood Hazard District. Where there is a conflict between the underlying zoning district and the Flood Hazard District, the more restrictive shall apply.

**3.8.4 DEVELOPMENT PERMIT REQUIRED**

A permit is required for all proposed construction or other development in areas of special flood hazard. Conditional use approval by the Development Review Board is required for:

1. New accessory structures, ~~and~~ roadways, [bridges, or culverts](#);
2. Substantial improvement of existing buildings;
3. [Improvements to existing roadways, bridges or culverts](#);
4. [Channel management activities or public projects which are functionally dependant on](#)

[stream access or stream crossing:](#)  
[5. Public utilities.](#)

prior to being permitted by the Administrative Officer. 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.

### 3.8.5 PROCEDURES

- A. Prior to issuing a permit 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.
- C. Proposed development shall be reviewed by the appropriate municipal panel who shall require a Vermont Agency of Natural Resources Permit Review Sheet for the project. The permit review sheet should identify all State and Federal agencies from which permit approval is required for the proposal, and shall be filed as a required attachment to the Town permit application. The identified permits, or letters indicating that such permits are not required, shall be submitted to the Administrative Officer and attached to the permit application before work can begin.
- D. Applicants shall provide the following information in addition to that required elsewhere in this bylaw:
  - a. existing and proposed elevations at the corners of proposed foundations and all utilities and land alterations;
  - b. lowest elevation of the lowest floor (including basement) for all existing and proposed buildings;
  - c. a certified plan for flood proofing and a description of any proposed storage of materials.
- E. No Certificate of Occupancy shall be issued until the Administrative Officer has determined that the building or use of land has been completed in accordance with this bylaw and the terms of the permit and has obtained verification of as built elevations.

### 3.8.6 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.

### 3.8.7 DEVELOPMENT STANDARDS

All special flood hazard areas including A and AE zones.

1. Development within the regulatory floodway, as determined by Section 3.8.6A 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. Development within the special flood hazard area is prohibited with the exception of cumulative substantial improvements within the footprint of existing buildings, accessory structures, roadways, [bridges, culverts, channel management, public projects which are functionally dependant on stream access or stream crossing, or public utilities](#) or grading that does not raise existing grades.
3. Until a regulatory floodway has been designated, no new construction, substantial improvements, or other development shall be permitted in Zones A1-30, AE, and AH 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.
4. Junkyards, wastewater disposal systems, critical facilities, elderly or assisted living residential development, all residential development, storage facilities for floatable materials, chemicals, explosives, flammable liquids, or other hazardous or toxic materials, and fill are prohibited within all special flood hazard areas.
5. 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, 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.

6. Residential Development:

- (a) Existing buildings to be substantially improved that are located in the special flood hazard area shall have the lowest floor, including basement, elevated to or above 1 foot above the base flood elevation.
- (b) Existing manufactured homes to be substantially improved that are:
  - (i) located 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 one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement during the occurrence of the base flood.
  - (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 floatation, collapse, and lateral movement.
- (c) 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.\*

7. Non-Residential Development:

- (a) New construction located in the special flood hazard area shall have the lowest floor, including basement, elevated to or above 1 foot above the base flood elevation.
- (b) Existing buildings to be substantially improved located in the special flood hazard area shall have the lowest floor, including basement, elevated to or above 1 foot above the base flood elevation or together with attendant utility and sanitary facilities be designed so that to 1 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. Floodproofing below 1 foot above BFE provides no credit for flood insurance rating purposes. Credit can only be assigned if the building is elevated to 1 foot above BFE.
- (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.

8. 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 lesser, shall include base flood elevation data.

- (b) Subdivisions (including manufactured home parks) shall be reasonably safe from flooding and 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.

9. Enclosed Areas Below the Lowest Floor:

- (a) Enclosed areas below the lowest floor which are subject to flooding shall be used solely for parking of vehicles, building access, or storage.
- (b) 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.

10. 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).

11. 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 and 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
- (f) All building utility equipment including electrical and heating must be elevated or floodproofed.

12. Water Supply Systems: New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.

13. 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.

14. On-Site Waste Disposal Systems: On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

15. Watercourse Carrying Capacity: The flood carrying capacity within any altered or relocated portion of a watercourse shall be maintained.

\* The Agency of Natural Resources will be contacted for additional information as necessary (i.e. data, site plans, etc).

### 3.8.8 DUTIES AND RESPONSIBILITY OF ADMINISTRATIVE OFFICER

The Administrative Officer shall maintain a record of:

- (a) All permits issued 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; and
- (e) All variance actions, including justification for their issuance.

\* The Agency of Natural Resources will be contacted for additional information as necessary (i.e. data, site plans, etc).

### 3.8.9 VARIANCES TO THE DEVELOPMENT STANDARDS

Variances shall be granted by the Development Review Board 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.

### 3.8.10 WARNING OF THE 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 Westford 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.

### 3.8.11 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.

### 3.8.12 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.

### 3.8.13 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 seven-day 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.