

Planning Commission 2024

Tuesday - April 16, 2024 at 6:00 p.m.

Planning Commission

Special Meeting

Hybrid Meeting - Heald Auditorium/Zoom

AGENDA

Join Zoom Meeting:

[Ludlow Planning Commission - April 16, 2024 Zoom Link](#)

Meeting ID: 999 9677 6407

Passcode: 428636

1. Call the meeting to order.
2. Roll Call by Recording Secretary
3. Opening Statement by Chair
4. Considerations of any Changes, Additions or Removal to the Agenda
5. Annual Board Reorganization
 - a. Nominate and Elect a Chair
 - b. Nominate and Elect a Vice Chair
 - c. Nominate and Elect a Recording Secretary
 - d. Nominate and Elect a Clerk
 - e. Adopt Robert's Rules of Order
 - f. Chose a Paper of Record
 - g. Adopt our Rules of Procedure
6. Approval of Minutes
 - February 22, 2024- will be moved to May's Meeting
March 19, 2024
7. Comments from Citizens (5 minutes)

8. Flood Hazard Regulations in Village and Town Zoning. Jason from MARC will be at our meeting to help us update this section.

[2022 VT Model Stand Alone Flood Hazard Bylaw](#)

9. Junkyard Ordinance/Bylaw
10. Energy Chapter
11. Noise Chapter
12. Next Month's Agenda Planning:
 - Flood Hazard Regulations
 - Junkyard Ordinance/Bylaw
 - Noise Chapter
13. Other Business
 - Board Member Comments (5 minutes)
 - Citizen Comments (5 minutes)
14. Adjourn

PLANNING COMMISSION RULES OF PROCEDURE

April 18, 2023

ARTICLE 1 GOVERNING RULES

- 1.1 ESTABLISHMENT OF THE COMMISSION. As used in these rules, the term "Commission" shall mean the Ludlow Planning Commission duly appointed by the legislative bodies of the Town and Village of Ludlow under the authority of 24 V.S.A. §4322.
- 1.2 SOURCE OF AUTHORITY. The Commission of the Town and Village of Ludlow shall be governed by the provisions of all applicable State Statutes, Municipal Plan and Bylaws, and these rules under the authority of 24 V.S.A. 4323(b).

ARTICLE 2 MEMBERSHIP

- 2.1 MEMBERSHIP Members of the Commission shall be appointed by, and any vacancy filled, by the Select Board. The Commission shall have five (5) voting members. At least Four (4) members of the Commission shall be resident of Ludlow. If not a resident of Ludlow, the 5th member of the Commission shall be a resident of an abutting village or town. The members of the Select Board shall be nonvoting ex officio members of the commission.
- 2.2 TERMS. Members shall be appointed for a four-year term. The terms shall be staggered so that no more than two (2) terms expire in the same year.
- 2.3 REMOVAL. Any member of the Commission may be removed for cause by the Select Board upon written charges and after a public hearing.
- 2.4 VACANCIES. At the direction of the Chairperson, the Clerk shall give immediate notice of any vacancy to the Select Board and request a replacement. Any vacancy among the officers of the Commission shall be filled by election, for the unexpired term, at the next regular meeting of the Commission.

ARTICLE 3 ORGANIZATIONAL MEETING

- 3.1 Each year, at the first regular meeting of the Commission, after the appointment of members by the Select Board, the Commission shall; elect a Chairperson, Vice Chairperson, Clerk, and Recording Secretary; designate the paper of record; shall establish the time and dates of the regular scheduled meetings; and adopt Rules of Procedure.

ARTICLE 4 OFFICERS AND DUTIES

- 4.1 DUTIES OF THE CHAIRPERSON. The Chairperson shall call the meeting together, preside over all meetings of the Commission, put all questions, maintain order, decide all questions of order and procedure, subject to these rules, and shall appoint any committee found necessary to carry out the business of the Commission, subject to the order of the majority of the voting members of the Commission.
- 4.2 SIGNATURE. The Chairperson's signature shall be the official signature of the Commission.
- 4.3 DUTIES OF THE VICE-CHAIRPERSON. The Vice-Chairperson shall assume the duties and powers of the Chairperson in his or her absence.
- 4.4 CLERK. A Clerk, who may or may not be a member of the Commission, shall be appointed by a majority of the Commission. The Clerk shall conduct all official correspondence, subject to these rules and at the direction of the Commission, shall send all notices required by law and these Rules of Procedure; shall prepare reports and perform other duties as directed by the Chairperson.
- 4.5 RECORDING SECRETARY. The recording secretary shall keep the minutes of all Commission actions and proceedings, showing the vote of each member upon each motion, or if absent, disqualified, or failing to vote, shall so indicate; and shall include in the minutes the names of all persons in attendance. All minutes and other official actions shall be filed with the Town Clerk as a public record. The recording secretary shall cause all meetings to be electronically recorded and the minutes shall be sent by to each member.

ARTICLE 5 MEETINGS

- 5.1 REGULAR MEETINGS. Regular meetings of the Commission shall be held in the Town Hall, starting at 6:00 P.M., on the 3rd Tuesday of each month, unless changed by the Commission. The Clerk shall give each member of the Commission forty-eight (48) hours prior notice of the cancellation of such meeting. A meeting may be recessed to a later date provided that the meeting is recessed to a time and place certain prior to adjournment.
- 5.2 SPECIAL MEETINGS. Special meetings of the Commission may be called by the Chairperson provided voting members are given at least forty-eight (48) hours notice for the purpose, time, place, and agenda of such meeting. Only items on the agenda shall be discussed.
- 5.3 ORDER OF BUSINESS. The order of business at all regular meetings of the Commission shall be as follows:

1. Call to order
 2. Roll Call
 3. 3. Consideration of any Changes, Additions or Removal to the Agenda
 4. Reading and approval of the minutes of the preceding meetings.
 5. Comments from citizens
 6. Items of business
 7. Other business
 8. Adjournment
- 5.4 TIME OF MEETING. Regularly scheduled meeting shall begin at 6:00 P.M., unless the Commission shall by majority vote in session set a later starting time. The Commission shall not begin considering any matter on the agenda not yet under consideration by the hour of 8:00 P.M. except by unanimous consent of the Commission members present.
- 5.6 OPEN MEETING. All meetings of the Commission shall be open to the public, subject to the Vermont Open Meeting Law.

ARTICLE 6 VOTING

- 6.1 QUORUM. For the conduct of a meeting and the taking of any action a quorum must be present, which must consist of, at least, three (3) voting members of the Commission.
- 6.2 MAJORITY VOTE REQUIRED. Determination on any matter before the Commission shall require the concurrence of three (3) voting members of the Commission, regardless of any vacancies or disqualifications.
- 6.3 CONFLICT OF INTEREST. No Commission member shall participate in any vote, on any matter in which he or she or his or her spouse, household member, employer or full time employee has a direct personal or pecuniary interest. "Conflict of interest" does not arise in the case of a vote on a matter in which the member has a personal or pecuniary interest in the outcome no greater than that of other persons generally affected by the vote.

ARTICLE 7 COMMITTEES

- 7.1 COMMITTEES. The Commission may establish committees to investigate and make recommendations on issues of interest to the Commission. The work of committees shall be advisory only; the Commission proper shall conduct all official business.
- 7.2 COMMITTEE MEETINGS A majority of the members shall constitute a quorum. Each committee shall maintain a written record of its meeting and shall deliver such record to the Commission. The record of each committee shall include at least the following: the date and place of the meeting, members attending, and any final report

or recommendations.

ARTICLE 8 GENERAL RULES

- 8.1 **PARLIAMENTARY AUTHORITY** Robert's Rules of Order Revised, latest edition, shall govern all questions of procedure that are not otherwise provided by these rules or by state law.
- 8.2 **ADOPTION.** Upon adoption, the clerk shall file a copy of these rules and all amendments with the Town Clerk as a public record and post a copy in one or more public places.
- 8.3 **AMENDMENTS.** These rules may be amended at any regular meeting by the unanimous vote of the Commission provided that such amendment had been presented in writing to each member of the Commission at least [48] hours preceding the meeting at which the vote is taken.
- 8.4 **ATTENDANCE.** A Commission member may be excused for nonattendance of a meeting for valid reasons if he or she notifies the Commission Chairperson prior to the meeting. A Commission member may be removed if he or she has three (3) consecutive unexcused absences from meetings or if total absences exceed one fourth of the total meetings in a calendar year. Absenteeism beyond the prescribed limits shall be grounds for recommendation of dismissal to the Select Board.
- 8.5 **RECORDS.** A file of all documents, physical evidence, public proceedings, and decisions showing the vote, absence, or failure to vote of each member upon question shall be kept by the clerk as part of the records of the Commission. All records of the Commission shall be public records.

Robert's Rules of Order: Quick Reference Guide

Robert's Rules of Order is the standard set of rules to run orderly meetings. The rules help provide the most fairness to all meeting attendees. They were first published in 1876 by Henry M. Robert.

Agenda Items	Typical Language Used by Person Running the Meeting
Call to Order	"I call this meeting to order."
Roll Call	"Will the secretary please do roll call?" "We have a quorum. Will the secretary please read the minutes of the last meeting?"
Reading and Approval of Minutes	"Are there any corrections to the minutes?" "If there are no corrections, the minutes stand approved."
Officer Reports	"We'll now move to the officer's reports. Will the treasurer please read or submit their report?" "Are there any questions concerning the treasurer's report?" "Will the vice president now give their report?"
Unfinished Business	"We'll now move on to unfinished business. At the last meeting..."
New Business	"The meeting is now open for new business." "It has been moved and seconded that... Is there any further discussion?" "We will now vote on the motion to... All in favor say 'aye' and all opposed say 'nay'. The motion (passes/fails)."
Announcements	"Are there any announcements?" "The next meeting will be held on..."
Adjournment	"May I please have a motion to adjourn the meeting?"

Handling Motions

- Member says, "I move to..."
- Another member seconds the motion by saying "I second" or a chair asks, "Is there a second?"
- Chair states the motion and asks for discussion.
- Members enter a debate. Make of motion has first right of floor. Debate only on the merits of the motion!
- Debate is closed when no members seek further discussion.
- Chair puts the motion to vote.
- Chair announces the results of the vote.

Ludlow Planning Commission
Meeting Minutes: Regular Meeting
March 19, 2014
6:00 P.M.

Regular Meeting

I. Call to Order:

The Regular Meeting of the Ludlow Planning Commission was called to order on Tuesday, March 19th at 6:00PM at the Ludlow Town Hall in the Heald Auditorium by Terry Carter

II. Role Call

Board:

Terry Carter
Ryan Silvestri
Ted Stryhas
Judy Pullinen

Public:

Eric Alden
Jarrod Jowdy
Noah Schmidt

III. Approval of Minutes

The Minutes from February 22nd were tabled and the Minutes from February 27th were accepted on a motion by Ryan and seconded by Judy and passed.

IV. Comments from Citizens

Jared Jowdy asked if he should speak about Flood Hazard language now or during item #7. Terry responded to bring his concerns up during #7 agenda item. Judy Pullinen asked when a new member to the Planning Board would be appointed. Terry stated at the April Select Board Meeting.

V. Flood Hazard Regulations in Village and Town Zoning

Terry stated that our current Flood Hazard Zoning Regulations are ten years old so we need to update them. Jason sent us model flood hazard zoning regulations updated in 2022. In his email Jason suggested that we may chose to skip the river corridor provision, add back in the local flood hazard area and consider whether to increase out BFE (Base Flood Elevation) from 1 foot to 2 feet. We initially started making changes to the charts on the Summary Tables (Page 1 and 2), but then decided to hold off until we have Jason with us to answer our questions.

The new model regulations were read aloud by Terry and by Ryan. Along the way we came up with questions to ask Jason at our next meeting and corrected abbreviations that were not identified when they were first used in the document. Some of the questions we

wrote down ended up being answered as we went along, so here are the questions we have for Jason:

1. Explain IV B 2. "On streams with a watershed size greater than half a square mile for which River Corridors are not mapped, the standards shall apply to the area measured as 50 feet from the top of the stream bank or slope.
2. Has this model language been approved by FEMA?
3. Explain IV D 3. River Corridor Performance Standard. (page 5).
4. V D 2 c. Interior improvements or repairs to existing buildings that cost less than 500 dollars?
5. V E 3 Fuel storage tanks and vents must be elevated above the DFE (4 feet) and securely anchored.; Storage tanks may be placed underground if a qualified professional certifies the installation will be anchored and protected from flood forces.
6. V E 4 on page 9, Clarify what this means?

VI. Next Month's Agenda Planning:

Flood Hazard Regulations

Energy Chapter: Terry suggested we take a look at the one Cavendish just passed. Noah explained that that chapter is 5 years old,

Junkyard Ordinance

Noise Ordinance: Suggested by Jarrod to be clearer about decibel levels.

Vii: Other Business

Regional Planner, Christine Eggleton contacted Terry about attending a Pollution Reduction Grant Zoom Session tomorrow at 2:15. Terry asked if other PC members wanted to attend but they were unavailable.

VIII. Adjourn

Motioned by Judy, seconded by Ryan and passed at 7:30 PM.

Respectfully Submitted:

Written by Judy Pullinen, Typed by Terry Carter

Town of _____
Flood Hazard and River Corridor Bylaw

I. Statutory Authorization and Effect

In accordance with 24 V.S.A. Chapter 117, §§ 4424 and 4414, this is a bylaw for areas at high risk of flood damage in the Town of _____, Vermont. Except as additionally described below, all administrative procedures follow municipal procedures under 24 V.S.A. Chapter 117 and 44 CFR § 60.3(d).

II. Purpose

- A.** To implement the goals, policies, and recommendations in the municipal plan;
- B.** To protect health, safety and welfare of the public, 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-related inundation and erosion hazards;
- C.** Support equitable wellbeing for the entire community;
- D.** Ensure that development in our community protects floodplain and river corridor functions, and avoids and reduces damage from flooding and erosion;
- E.** Manage all flood hazard areas pursuant to 24 VSA §4382 and 10 VSA §§751, 753; and
- F.** Make the Town of _____, its citizens, and businesses eligible for federal flood insurance, federal disaster recovery funds, and hazard mitigation funds, as may be available.

III. Summary Table: Development Review in Hazard Areas

- P** – Permitted (Administrative Permit)
- C** – Conditional Use Review and Permit
- X** – Prohibited
- A** – Exempted
- S** – State Permit Required

#	Activity	River Corridor	Flood Hazard Areas	Floodway
1	New Structures	C	C	X
2	Storage	C	C	X
3	Improvements to Existing Structures	P, C	P, C	C

		River Corridor	Flood Hazard Areas	Floodway
4	Small Accessory Structures	P, C	P	X
5	At Grade Parking	P	P	C
6	Replacement water supply or septic systems	P, C	P	P, C
7	Fill or grading resulting in no net loss of flood storage	P, C	C	C
8	Fill or grading resulting in a loss of flood storage	P, C	X	X
9	Road maintenance	A	A	A
10	Road improvements	C	C	C
11	Bridges and culverts	S, A	S, A	S, C
12	Channel management	S, A	S, A	S, C
13	Recreational vehicles	P	P	P
14	Open space, recreation	A	A	A
15	Forestry and Agriculture	S, A	S, A	S, A

IV. River Corridor Protection

A. Purpose

River corridors provide rivers and stream channels with the space necessary to maintain or reestablish floodplain access and to reduce erosion hazards through natural physical processes. It is the intent of this bylaw to protect public health and safety by avoiding new encroachments into river corridors and minimizing erosion-related damage to existing structures.

A permit is required from the Administrative Officer (AO) for all development that is located within the River Corridor except as provided in Section IV C.1. Where River Corridors and Flood Hazard Areas overlap, the Flood Hazard Area provisions shall also apply.

B. River Corridor Boundaries

1. This article applies to the River Corridors in the Town of _____ Vermont, as published by the Agency of Natural Resources (ANR) including refinements to that data which are hereby adopted by reference.

2. On streams with a watershed size greater than half a square mile for which River Corridors are not mapped, the standards shall apply to the area measured as 50 feet from the top of the stream bank or slope.

3. The information presented on any maps, or contained in any studies adopted by reference, is presumed accurate. If uncertainty exists with respect to the boundaries of the River Corridor, the location of the boundary on the property shall be determined by the Administrative Officer (AO).

4. If the applicant disagrees with the determination made by the AO or with the river corridor as mapped, the applicant has the option to either:

a. Hire a licensed land surveyor or registered professional engineer to stake out the River Corridor boundary as mapped on the property; or,

b. Provide data as needed for ANR to update the river corridor map following the Flood Hazard Area and River Corridor Protection Procedure (“Procedure”); or

c. Request a letter of determination from ANR that the proposed development meets the Performance standard in the Procedure.

C. Development Review in River Corridors

1. Exempted Activities

The following activities do not require a permit under this section of the bylaw:

a. The removal of a building or other improvement in whole or in part, so long as the ground elevations under and adjacent to the removed structure remain unchanged;

b. Any changes to a structure that will not change the footprint of the structure;

c. Maintenance of existing sidewalks, roads, parking areas, stormwater drainage, bridges, culverts, and channel stabilization;

d. Functionally dependent uses that must be placed in or cross over rivers and streams, that are not located in a flood hazard area, and that have coverage under a Stream Alteration Permit, if required, under 10 V.S.A. Chapter 41 and the rules adopted thereunder including the construction, removal, or repair of bridges and culverts, associated transportation and utility networks, dams, and dry hydrants;

e. Planting projects which do not include any construction or grading;

f. Subdivision of land that does not involve or authorize development;

g. Activities exempt from municipal regulation and requiring a permit from ANR under the Vermont Flood Hazard Area and River Corridor Rule (CVR 12-030-024) including:

i. State-owned and operated institutions and facilities;

ii. Forestry operations or silvicultural (forestry) activities conducted in accordance with the Vermont Department of Forests and Parks Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont or other accepted silvicultural practices, as defined by the Commissioner of Forests, Parks and Recreation;

iii. Agricultural activities conducted in accordance with the Vermont Agency of Agriculture, Food and Market’s Required Agricultural Practices (RAPs). Prior to

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the construction of farm structures, the farmer shall notify the AO in writing of the proposed activity. The notice shall contain a sketch of the proposed structure including setbacks;

iv. Public utilities regulated under 30 V.S.A. § 248;

v. Telecommunications facilities regulated under 30 V.S.A. § 248a;

2. Prohibited Development in the River Corridor

a. New structures, fill, and development that do not meet the standards in Section IV.D Development Standards;

b. Any other development that is not exempt, permitted, or listed as a conditional use which would cause or contribute to fluvial erosion hazards.

3. Permitted by Administrative Review

The following development activities meeting the Development Standards in the River Corridor in Section IV. D1 or 2, may be permitted directly by the AO:

a. Small accessory structures not larger than 500 square feet;

b. Improvements to utilities along an existing right of way and serving a building;

c. Replacement on-site septic systems;

d. Access and parking;

e. An attached deck or patio to an existing structure that is 200 square feet or less and is located no less than 100 feet from the top of bank;

f. Unimproved trails on native grades and soils that will be relocated as needed to accommodate channel adjustments and avoid degradation to bank stability and riparian habitat;

g. River or floodplain restoration projects that do not involve fill, structures, utilities, or other improvements, and which have written confirmation from the ANR Regional Floodplain Manager that the project is designed to meet or exceed the applicable standards in this bylaw;

4. Conditional Use Review

Conditional use review and approval by the DRB in accordance with 24 V.S.A. § 4461 is required prior to the issuance of a permit by the AO for any activity in the River Corridor that is not exempt, prohibited, or eligible for administrative review.

D. Development Standards within the River Corridor

These are the minimum standards for development in the River Corridor. Where more than one district is involved, the most restrictive standard shall take precedence.

1. In-Fill: Development must be located no closer to the top of bank than the existing primary structures, within a gap that is no more than 300 feet (see Figure 1), or

2. Down River Shadow: An addition to an existing habitable structure, or an accessory structure that is adjacent to an existing structure, shall be located in the shadow area directly behind and further from the channel than the existing structure, or within 50 feet to the downstream side and no closer to the top of bank. Below-ground utilities may also be placed within the same shadow dimensions of an existing below-ground system (see Figure 2). Only primary structures existing before this bylaw may be considered for shadowing other development.

3. River Corridor Performance Standard

Proposals that do not meet the infill or shadowing criteria in section D. 1 or 2 must demonstrate, and the DRB must find, that the proposed development will:

- a. not be placed on land with a history of fluvial erosion damage or threatened by fluvial erosion; and,
- b. not cause the river reach to depart from or further depart from the channel width, depth, meander pattern, and slope associated with natural stream processes and equilibrium conditions; and,
- c. not result in a need for bank armoring or stream channelization as a result of the proposed development, that would increase flood elevations and velocities, or alter the sediment regime triggering channel adjustments and erosion in adjacent and downstream locations.

4. The DRB may request or consider additional information to determine if the proposal meets the River Corridor Performance Standard, including data and analysis from a consultant qualified in the evaluation of river dynamics and erosion hazards; and comments provided by the DEC Regional Floodplain Manager on whether the proposal meets the River Corridor Performance Standard.

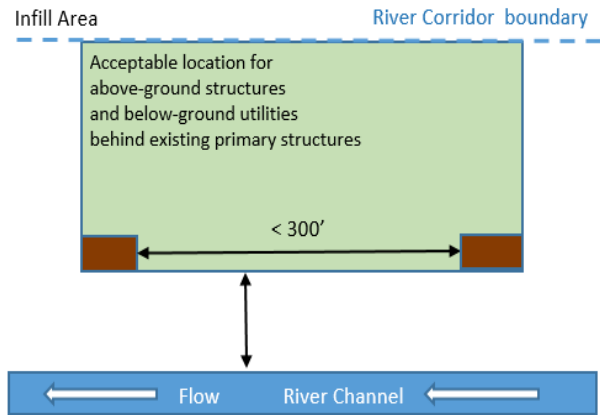


Figure 0: In-fill Development Standard

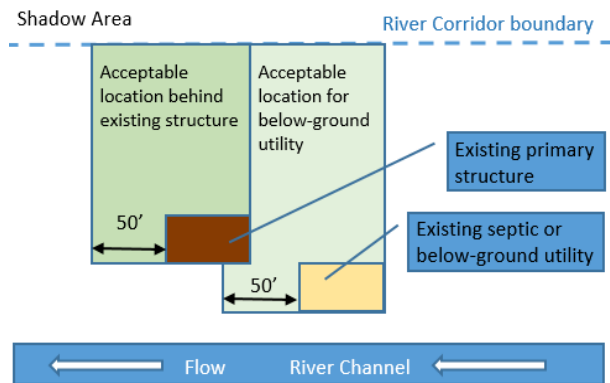


Figure 0: Shadow Area Development Standard

5. New paths or alterations to paths that provide access to the water for the public, and promote the public trust uses of the water, shall not necessitate bank armoring, and must be relocated when the channel adjusts toward the path.

V. Flood Hazard Area Protection

A. Purpose - To protect public health and safety by avoiding cumulative increases in flood elevations, velocities, and river instability; the cumulative loss of beneficial floodplain functions; and to minimize flood damage to development and services already located within this hazard zone.

B. Lands to Which this Bylaw Applies

1. Flood Hazard Areas

This bylaw shall apply to the Special Flood Hazard Areas (SFHA) as mapped in the Town of _____, Vermont identified in and on the most current flood insurance studies and maps published by the Department of Homeland Security, Federal Emergency Management Agency (FEMA), National Flood Insurance Program (NFIP), as provided by the Secretary of the Agency of Natural Resources (ANR) pursuant to 10 V.S.A. § 753, which are hereby adopted by reference and declared to be part of this bylaw.

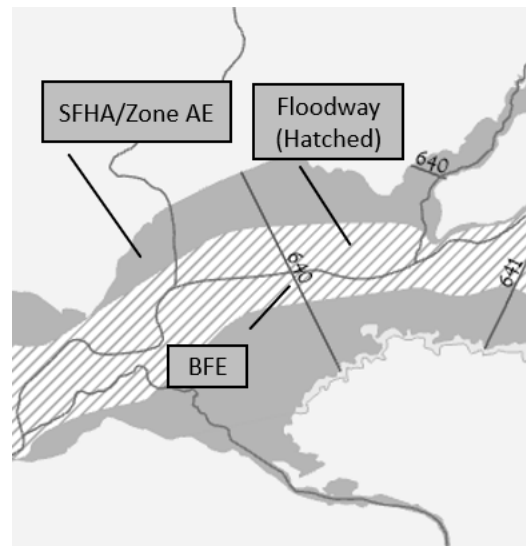
2. Base Flood Elevations and Floodway Limits

a. Where available, base flood elevations (BFE) and floodway limits provided by the NFIP and in the Flood Insurance Study and accompanying maps shall be used to administer and enforce this bylaw.

b. The floodway, as adopted by this community, shall consist of the channel of a river or other watercourse and the adjacent land areas that shall be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point.

c. In the SFHA where base flood elevations and/or floodway limits have not been provided by the NFIP in the Flood Insurance Study and accompanying maps, it is the applicant's responsibility to develop the necessary data. Where available, the applicant shall use data provided by FEMA, or state or federal agencies to administer this bylaw.

d. If the Town acquires data that indicates a change in published base flood elevations, the Town will, within 6 months, submit the technical or scientific data to Vermont ANR and the NFIP Map Specialist.



C. Jurisdictional Determination

1. The information presented on any maps, or contained in any studies, adopted by reference, is presumed accurate.
2. If uncertainty exists with respect to the boundaries of the Flood Hazard Area, the location of the boundary shall be determined by the Administrative Officer (AO).

D. Development Requirements in the Flood Hazard Areas

1. Permits

Except as provided in Section V D.2 Exempted Activities, a permit is required from the AO for all development that is located within the Special Flood Hazard Area. Development that requires conditional use approval or a variance from the Development Review Board (DRB) under this bylaw must have such approvals prior to the issuance of a permit by the AO. All permits shall require that a permittee have all other necessary permits from state and federal agencies before work may begin.

2. Exempted Activities

The following activities do not require a permit under this section of this bylaw:

- a. The removal of a building in whole or in part, so long as the ground elevations under and adjacent to the removed structure remain unchanged;
- b. Routine maintenance of existing buildings;
- c. Interior improvements or repairs to existing buildings that cost less than 500 dollars;
- d. Maintenance of roads, bridges, or stormwater drainage;
- e. Streambank stabilization, and abutment work that do not reduce the cross-sectional flow area of the river or stream channel and have coverage under a Stream Alteration Permit, if required;
- f. Planting projects which do not include any construction or grading activities in accordance with 24 V.S.A. § 4424(c);
- g. Subdivision of land that does not involve or authorize development;
- h. The following activities are exempt from municipal regulation, but may require a permit under the State's "Vermont Flood Hazard Area and River Corridor Rule" (Environmental Protection Rule, Chapter 29):
 - i. State-owned and operated institutions and facilities;
 - ii. Forestry operations and silvicultural (forestry) activities conducted in accordance with the Vermont Department of Forests and Parks Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont or other accepted silvicultural practices, as defined by the Commissioner of Forests, Parks and Recreation;

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iii. Agricultural activities conducted in accordance with the Vermont Agency of Agriculture Food and Market's Required Agricultural Practices (RAPs). Prior to the construction of farm structures, the farmer shall notify the AO in writing of the proposed activity. The notice shall contain a sketch of the proposed structure including setbacks meeting community requirements;

iv. Public utilities regulated under 30 V.S.A. § 248;

v. Telecommunications facilities regulated under 30 V.S.A. § 248a;

3. Administrative Review; Permitted Development

The following development activities in the Special Flood Hazard Area and meeting the Development Standards in Section V E, may receive a permit from the AO without review by the DRB:

a. Outside of the Floodway:

i. Accessory structures not greater than 500 square feet;

ii. New fill for existing associated transportation and utility networks or to accommodate a replacement on-site septic system, if it can be demonstrated that no other practicable alternative is available;

iii. Recreational vehicles or travel trailers;

iv. River and floodplain restoration projects, including dam removal, that restore natural and beneficial floodplain functions and include written confirmation from the ANR Regional Floodplain Manager that the project is designed to meet or exceed the applicable standards in this bylaw;

b. Within the entire Special Flood Hazard Area:

i. Improvements or repairs from damage to structures that do not expand the existing footprint and do not meet the definition of "substantial improvement" or "substantial damage";

ii. Building utilities;

iii. At or below grade development (e.g. parking areas);

iv. Open fencing or posts;

v. Municipal transportation infrastructure improvements designed by the Vermont Agency of Transportation that have written confirmation from the ANR Regional Floodplain Manager that the project is designed to meet or exceed the applicable standards in this bylaw;

4. Prohibited Development:

a. New critical facilities;

b. New residential or non-residential structures in the Floodway;

c. Storage of materials or junk yards;

5. Conditional Use Review

In accordance with 24 V.S.A. § 4414, conditional use review and approval by the DRB is required prior to the issuance of a permit by the AO for any activity in the Special Flood Hazard Area that is not exempt, prohibited, or eligible for administrative review.

E. Development Standards within the Flood Hazard Area

1. No net loss of flood storage capacity,

a. Except as needed to fill an existing basement or mitigate an existing structure;

2. All development below the Design Flood Elevation (DFE), 2 feet above the base flood elevation, except development that is exempt under Section V D2, shall be:

- a. Reasonably safe from flooding;
- b. Designed (or modified) and adequately anchored to prevent flotation, collapse, release, or lateral movement of the structure;
- c. Constructed with materials resistant to flood damage;
- d. Constructed by methods and practices that minimize flood damage;
- e. 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;
- f. Adequately drained to reduce exposure to flood hazards;

3. Fuel storage tanks and vents must be elevated above the DFE and securely anchored;

Storage tanks may be placed underground if a qualified professional certifies the installation will be anchored and protected from flood forces.

4. In Zones AE and A1 – A30 where floodway limits have not been determined, development shall not be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated encroachment, will not increase the base flood elevation more than one foot at any point within the community. The demonstration shall be supported by technical data that conforms to standard hydraulic engineering principles and certified by a registered professional engineer;

5. Recreational vehicles, equipment, boat trailers, portable toilets, construction trailers, and other travel trailers shall:

- a. Be currently registered, licensed, and ready for highway use; or
- b. Be on site for fewer than 180 consecutive days; or
- c. Meet the requirements for structures in Section V E 12;

6. Water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

11.2022 Model Stand-Alone Bylaw/ Appendix

7. 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;
8. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding;
9. The flood carrying capacity within any altered or relocated portion of any watercourse shall be maintained, any alteration or relocation shall not result in any decrease of stream equilibrium;
10. Bridges, culverts, and channel management activities, which by their nature shall be placed in or over the watercourse, shall have a Stream Alteration permit from the Agency of Natural Resources, if required;
11. Subdivisions and Planned Unit Developments shall be accessible by dry land access;

12. Structural Standards

- a. New or Substantially Improved structures shall have the lowest floor, including basement, elevated to or above the Design Flood Elevation (two feet above base flood elevation). This shall be documented in the proposed and as-built condition with a FEMA Elevation Certificate;
- b. New non-residential structures, and non-residential structures to be substantially improved, replaced, or that have incurred substantial damage shall:
 - i. Meet the standards of Section V E 12a, above; or,
 - ii. Have the lowest floor, including basement, together with attendant utility and sanitary facilities, designed so that to at least two feet above the base flood elevation the structure is dry floodproofed, meaning 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;

A permit for dry floodproofing 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;
- c. New or Substantially Improved structures in Zone AO shall have the lowest floor, including basement, elevated above the highest adjacent grade, at least two feet above the depth number specified on the community's FIRM (flood insurance rate map), or at least three feet if no depth number is specified;
- d. Critical facilities to be substantially improved shall have the lowest floor, including basement, elevated or dry-floodproofed at least one foot above the elevation of the 0.2% annual flood height (500-year floodplain), or three feet above base flood elevation, whichever is higher;
- e. Historic structures being substantially improved shall meet the requirements in this bylaw other than the Lowest Floor Elevation (Section V E. 12);

- f. Fully enclosed areas below grade on all sides (including below grade crawlspaces and basements) are prohibited;
- g. Fully enclosed areas below the lowest floor, that are above grade, below the DFE, and subject to flooding, shall:
 - i. Be solely used for parking of vehicles, storage, or building access, and such a condition shall clearly be stated on any permits; and be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Such designs shall be certified by a registered professional engineer or architect; or,
 - ii. meet or exceed the following minimum criteria: A minimum of two openings on two walls 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 adjacent 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; and
 - iii. A small accessory structure of 500 square feet or less need not be elevated to the base flood elevation if adequate flood openings are provided, the structure is placed on the site so as to offer the minimum resistance to the flow of floodwaters, and the construction meets the criteria in Section V E2 above.

F. Development Standards within the Floodway

1. Within the Floodway new encroachments are prohibited except for the following, which also shall comply with Section V F.2, below:
 - a. changes to existing structures where the footprint is proposed to expand horizontally into the floodway less than 500 square feet;
 - b. new encroachments relating to bridges, culverts, roads, stabilization projects, public utilities, functionally dependent uses, and river or floodplain restoration projects;
 - c. new encroachments relating to health and safety measures, such as replacement of pre-existing on-site septic and water supply systems, if no other practicable alternative is available.
2. Within the Floodway all proposed new encroachments are required to provide a hydraulic analysis, performed by a registered professional engineer, in accordance with standard engineering practice, certifying that the proposed development will:
 - a. Not result in any increase in flood levels during the occurrence of the base flood;
 - b. Not increase base flood velocities; and,
 - c. Not increase any risk to surrounding properties, facilities, or structures from erosion or flooding.

3. For development that will not result in any change in grade, the hydrologic & hydraulic analyses may be waived, where the applicant will provide pre- and post-development elevations demonstrating that there will be no change in grade, and that the development will be adequately protected from scour.

VI. Other Provisions

A. Precedence of Bylaw

The provisions of this bylaw shall not in any way impair or remove the necessity of compliance with any other local, state, or federal laws or regulations. Where this bylaw imposes a greater restriction the provisions here shall take precedence.

B. Validity and Severability

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

C. Warning of Disclaimer of Liability

This bylaw does not imply that land outside of the areas covered by this bylaw will be free from flood or erosion damages. This bylaw shall not create liability on the part of the Town of _____, or any municipal official or employee thereof, for any flood or erosion damages that result from reliance on this bylaw, or any administrative decision lawfully made hereunder.

VII. Administration

A. Administrative Officer (AO)

An Administrative Officer (AO) shall be appointed to administer this bylaw pursuant to 24 V.S.A. § 4448. The AO shall administer this bylaw literally and in doing so shall inspect development, maintain records, enforce this bylaw, and perform all other necessary tasks to carry out the provisions of this bylaw and the statutory requirements of 24 V.S.A. Chapter 117. The AO shall not have the power to permit any land development that is not in conformance with this bylaw.

B. Development Review Board (DRB)

A Development Review Board (DRB) shall be appointed by the Selectboard in accordance with 24 V.S.A. § 4460. The DRB shall have the duties and responsibilities as described in 24 V.S.A. Chapter 117 and as otherwise required by the municipal bylaws.

C. Applications All applications for development shall include:

1. A site plan that depicts the proposed development including water, Flood Hazard Areas, and River Corridor boundaries; the shortest horizontal distance from the proposed development to the top of bank of any stream, any existing and proposed drainage, any proposed fill, pre- and post-development grades, and the elevation of the proposed lowest floor as referenced to the same vertical datum as the elevation on the current Flood Insurance Rate Maps.
2. A copy of the ANR Permit Navigator Results Summary.

D. Action and Referrals

1. Within 30 days of receipt of a complete application the AO shall issue or deny a permit in writing or refer it to the DRB.
2. Any application for a proposed conditional use, variance, or appeal shall be referred by the AO to the DRB in accordance with 24 V.S.A. §§ 4448 and 4469.
3. Any application regarding New Construction, Substantial Improvement, development in a Floodway, development in a River Corridor, or a Variance shall be submitted by the AO to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources in accordance with 24 V.S.A. § 4424. A permit may be issued 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.
4. If the applicant is seeking a permit for the alteration or relocation of a watercourse, copies of the application shall be submitted by the AO to the adjacent communities, the River Management Engineer at the Vermont Agency of Natural Resources, and the Army Corps of Engineers.

E. Public Notice

Prior to the issuance of a permit, proposals needing conditional use review, or consideration for a variance or appeal, must have a warned public hearing. Public notice of the hearing shall be provided by the AO at least 15 days before the date of the hearing by all the following:

1. Publication of the date, place, and purpose of the hearing in the newspaper of general circulation;
2. Posting of the same information in three or more public places within the municipality, including posting of notice by the applicant within view from the public right of way nearest to the property for which an application is made; and,
3. Written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to any public right-of-way. In any situation in which a variance is sought regarding setbacks from a state highway, written notification shall be sent to the Secretary of Transportation. The notification shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal.
4. The applicant shall bear the cost of the public warning and notification of adjoining landowners.

F. Decisions

1. Decisions on applications that go to the DRB for review shall be made in accordance with 24 V.S.A. § 4464 including all findings of fact, conclusions, and conditions.
2. The DRB shall consider comments from the ANR.
3. No permit shall be issued by the AO for any use or structure which requires the approval of the DRB until such approval has been obtained.

G. Permits

1. Where eligible, a permit shall be issued by the AO only in accordance with 24 V.S.A. Chapter 117;

2. Permits must state that all other necessary permits from state and federal agencies must be obtained before work may begin. A notice of permit, on a form prescribed by the municipality within view from the public right-of-way most nearly adjacent to the subject property must be posted until the appeals period has passed. Any Appeals shall be made within 15 days of permit issuance.

3. The AO, within three days of the date of issuance of a permit, shall deliver a copy of the permit to the listers of the municipality, and shall post a copy of the permit in the Town Offices for a period of 15 days from the date of issuance.

4. No permit shall take effect until the time for appeal (15 days) has passed, or in the event that a notice appeal is properly filed, no such permit shall take effect until adjudication of that appeal by the DRB is complete and the time for taking an appeal to the Environmental Division of the Superior Court has passed without an appeal being taken. If an appeal is taken to the Environmental Division, the permit shall not take effect until the Environmental Division rules in accordance with 10 V.S.A. § 8504.

5. Within 30 days after a permit has been issued, or within 30 days of the issuance of any notice of violation, the appropriate municipal official shall:

a. deliver the original or a legible copy of the permit or notice of violation or a notice of permit generally in the form set forth in 24 V.S.A. § 1154(c) to the town clerk for recording as provided in 24 V.S.A. § 1154(a); and,

b. file a copy of that permit in the offices of the municipality in a location where all municipal land use permits shall be kept.

6. Expiration

a. A permit shall remain valid for two (2) years from the date it is issued as long as substantial land development has been made;

b. Permits shall run with the land regardless of owner;

c. Structures shall be considered abandoned where the structures are no longer being maintained as a habitable structure for a period of at least five years, regardless of evidence of intent to re-establish such use. A habitable structure is structurally sound, weathertight, with functional drinking water, wastewater, and heating systems.

H. Variances

Variances may be granted in writing by the DRB only in accordance with all the criteria in 24 V.S.A. § 4469 after a public hearing noticed in accordance with 24 V.S.A. § 4464. If the proposed development is located within any Flood Hazard Area, the proposal shall comply with 44 C.F.R. § 60.6 (Code of Federal Regulations). Any variance issued in the Flood Hazard Area shall not increase flood heights and shall inform the applicant in writing over the signature of a

community official that the issuance of a variance to construct a structure below the BFE 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. Appeals of a Permit Decision

Appeals from any decision or act of the AO in connection with this bylaw, shall be made to the DRB as provided for in 24 V.S.A. § 4465. Appeals from any decision of the DRB in connection shall be made to the Vermont Superior Court, as provided for in 24 V.S.A. § 4471.

J. Administrative Responsibilities

1. The AO shall properly file and maintain a record of:

- a. All permits and supporting documents;
- b. A FEMA Elevation Certificate for any new, replacement or substantially improved buildings (not including accessory buildings) in the Flood Hazard Area;
- c. All floodproofing and other certifications required under this regulation; and,
- d. All decisions of the AO and DRB (including those for Substantial Improvement, Substantial Damage, appeals, variances, and violations) and all supporting findings of fact, conclusions, and conditions.
- e. All Certificates of Occupancy, and receipts as required for the determination of Substantial Improvement.

2. Substantial Improvement and Substantial Damage Determinations

- a. In the event of damage of any kind to a structure located within any Flood Hazard Area, the AO shall determine if Substantial Damage occurred regardless of any intended repair at that time.
- b. In the review of any proposal for the repair or improvement of a structure located within any Flood Hazard Area District, the AO shall determine if the proposal indicates Substantial Improvement.
- c. Substantial Improvement or Substantial Damage determinations shall be made in accordance with current FEMA and ANR guidance, or by a procedure meeting FEMA standards and established by the Town in accordance with 24 V.S.A. § 1972.

3. Certificate of Occupancy

- a. A Certificate of Occupancy (CO) is required for any new or Substantially Improved primary structure permitted under this bylaw. It shall be unlawful to use or occupy any structure within the areas affected by this bylaw, until a CO is issued by the AO in accordance with 24 V.S.A. § 4449 stating that the structure conforms to the requirements of this bylaw.
- b. A certificate of occupancy is not required for structures that were built in compliance with the bylaws at the time of construction and have not been improved since the adoption of this bylaw.

c. Upon receipt of the application for a certificate of occupancy, the AO shall review the permit conditions and inspect the premises to ensure that:

- i. any required state and federal permits have been received,
- ii. all work has been completed in conformance with the zoning permit and associated approvals, and
- iii. all required as-built documentation has been submitted to the AO (e.g. updated FEMA Elevation Certificate, dry floodproofing certificate, as-built volumetric analysis, or as-built floodway encroachment analysis).

d. If a certificate of occupancy cannot be issued, notice will be sent to the owner and copied to the lender.

4. Enforcement

a. This bylaw shall be enforced in accordance with 24 V.S.A. §§ 1974a, 4451, and 4452. All notices of violation shall be provided to the State NFIP Coordinator.

b. No new flood insurance shall be provided for any property which the Federal Insurance Administrator finds has been declared to be in violation of local flood hazard area regulations. If any appeals have been resolved, but the violation remains, the AO shall submit a declaration to the Administrator of the National Flood Insurance Program requesting a denial of flood insurance to the property pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended. New and renewal flood insurance shall be denied to a structure upon a finding by the Federal Insurance Administrator of a valid declaration of a violation.

VIII. Definitions

“Accessory dwelling” means an efficiency or one-bedroom apartment that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation. Accessory dwellings are residential structures.

“Accessory structure” means a structure which is: 1) detached from and clearly incidental and subordinate to the principal use or structure on a lot, 2) located on the same lot as the principal structure or use, 3) clearly and customarily related to the principal structure or use, and 4) only used for vehicle parking, storage, or primarily building access. Examples include, garages, garden and tool sheds, and playhouses, but do not include “accessory dwellings.”

“Area of special flood hazard” is synonymous in meaning with the term “special flood hazard area” for the purposes of this bylaw.

“Associated transportation and utility networks” means those transportation and utility networks connected to a bridge, culvert, or utility for the purpose of crossing a river or stream and do not include transportation or utility networks within the river corridor that merely run parallel to a river or stream .

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

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“Base Flood Elevation” (BFE) is the elevation of the water surface elevation resulting from a flood that has a one 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.

“Basement” means any area of a building having its floor elevation below ground level on all sides, including crawlspaces.

“Channel” means an area that contains continuously or periodic flowing water that is confined by banks and a streambed.

“Compensatory storage” means a volume not previously used for flood storage and which shall be incrementally equal to or exceed the theoretical volume of flood water at each elevation, up to and including the base flood elevation, which would be displaced by the proposed project. Such compensatory volume shall have an unrestricted hydraulic connection to the same waterway or water body. Further, with respect to waterways, such compensatory volume shall be provided within the same reach of the river, stream, or creek.

“Common plan of development” means where a structure will be refurbished or constructed under one approved plan or permit, but in separate stages, phases, or in combination with other construction activities. Such work may be planned unit by unit and may take place at different times, on different schedules.

“Construction trailer” means a vehicle which is: (1) built on a single chassis; (2) 500 square feet or less when measured at the largest horizontal projection; (3) designed to be self-propelled or permanently towable; and (4) designed for use as a temporary office facility used to support management of a construction project, and not as a permanent structure.

“Critical facilities” means facilities that are vital to public health and safety, including police stations, fire and rescue facilities, hospitals, shelters, schools, nursing homes, water supply and waste treatment facilities.

“Design Flood Elevation” (DFE) in the Town of _____ means the Base Flood Elevation plus two feet.

“Designated center” means a downtown, village center, new town center, growth center, or neighborhood development area designated pursuant to 24 V.S.A. chapter 76A.

“Development” means any human-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 .

“Encroachment” means fill or development that reduces the functional river corridor (impairs the equilibrium condition) or increases flood levels.

“Equilibrium condition” means the width, depth, meander pattern, and longitudinal slope of a stream channel that occurs when water flow, sediment, and woody debris are transported by the stream in such a manner that it generally maintains dimensions, pattern, and slope without unnaturally aggrading or degrading the channel bed elevation.

“Fill” means any placed material that changes the natural grade, increases the elevation, redirects the movement of flood water, or diminishes the flood storage capacity at the site. Temporary storage of material for less than 180 days is not considered fill.

“Flood hazard” means those hazards related to damage from flood-related inundation or erosion.

“Flood Insurance Rate Map” (FIRM) means an official map of a community, on which the Federal Insurance Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

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

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

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

“Fluvial erosion” means the erosion or scouring of riverbeds and banks during high flow conditions of a river. Fluvial erosion is most likely to occur within the river corridor.

“Grading” means the movement or replacement of topsoil or other material originating on the site and within the hazard area. Grading results in minor or no changes in topographic elevations. If new material is brought from outside the hazard area and such new material is not offset with an equal or greater removal of material from the portion of the site within the hazard area, the new material shall be considered “fill” and shall not be considered grading.

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

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

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“Maintenance” means periodic actions required to keep up a condition and that do not significantly change the materials or extent of an existing condition in the hazard area.

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

“New construction” means structures for which the start of construction commenced on or after the effective date of floodplain management regulation adopted by the community and includes any subsequent improvements to such structures.

“Nonconforming structure” means a structure or part of a structure that does not conform to the present bylaws but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a structure improperly authorized as a result of error by the administrative officer. Structures that were in violation of the regulations in effect at the time of their creation, and remain so, remain violations and are not nonconforming structures.

“Nonconforming use” means use of land that does not conform to the present bylaws but did conform to all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a use improperly authorized as a result of error by the administrative officer.

“Non-residential” includes: businesses, churches, schools, nursing homes, pool houses, clubhouses, recreational buildings, government buildings, mercantile structures, industrial structures, and warehouses.

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

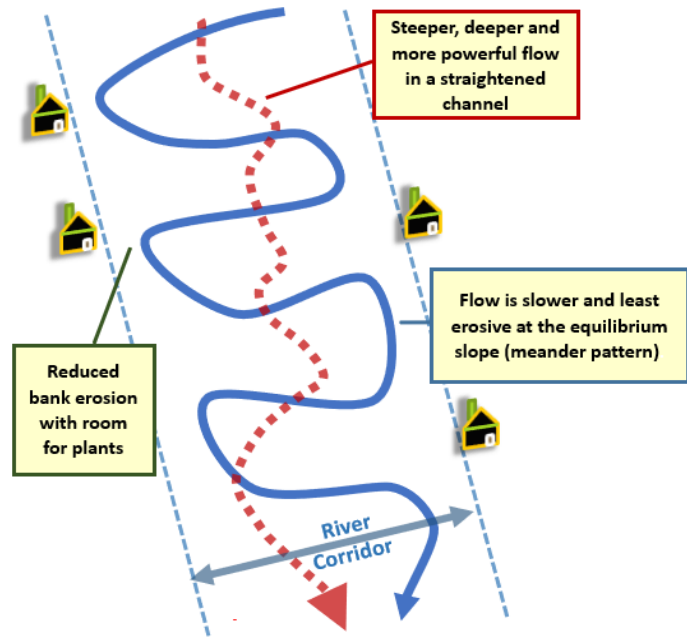
“Replacement structure” means a new building placed in the same footprint as the pre-existing building and does not include a change in use.

“River” means the full length and width, including the bed and banks, of any watercourse, including rivers, streams, creeks, brooks, and branches which experience perennial flow.

“River” does not mean constructed drainageways, including water bars, swales, and roadside ditches.

“River corridor” means the land area adjacent to a river that is required to accommodate the dimensions, slope, planform, and buffer of the naturally stable channel and that is necessary for the natural maintenance or natural restoration of a dynamic equilibrium condition and for minimization of fluvial erosion hazards, as delineated by the Vermont Agency of Natural Resources in accordance with river corridor protection procedures. (10 V.S.A. § 1422).

“Special flood hazard area” (SFHA) is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. For purposes of this bylaw, 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, AE, AO, AH, or A1-30 in the most current flood insurance studies and on the maps published by FEMA. Maps of this area are available for viewing in the municipal office or online from the FEMA Map Service Center: mhc.fema.gov. Base flood elevations have not been determined in Zone A where the flood risk has been mapped by approximate methods. Base flood elevations are shown at selected intervals on maps of special flood hazard areas that are determined by detailed methods. Please note, where floodways have been determined they may be shown on separate map panels from the Flood Insurance Rate Maps.



“Start of construction” for purposes of floodplain management, determines the effective map 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 foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

“Storage” means the aggregation of materials, items, or objects whether natural or human-made; that is kept as a stockpile, collection, or inventory; where individual materials from the stockpile, collection or inventory may change, but where the general footprint of the stored materials continues to be used for the same purpose; whether set upon the land or within a container, structure, or facility; and that would not otherwise be in compliance with these development standards.

“Structure” means a walled and roofed building, as well as a manufactured home, including gas or liquid storage tanks.

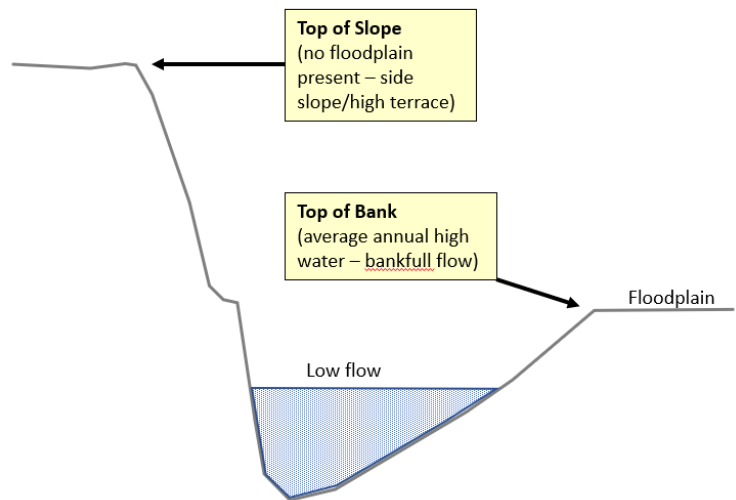
“Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged conditions would equal or exceed 50 percent of the market value of the structure before the damage occurred.

“Substantial improvement” means any repair, reconstruction, rehabilitation, addition, or other improvement of a structure after the date of adoption of this bylaw, the cost of which, over three years or over the period of a common plan of development, cumulatively equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either: (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been previously identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (b) Any alteration of an “historic structure,” provided that the alteration will not preclude the structure’s continued designation as an “historic structure.”

“Top of bank” means the point along a streambank where an abrupt change in slope is evident, and where the stream is generally able to overflow the banks and enter the adjacent floodplain during flows at or exceeding the average annual high water stage.

“Top of slope” means a break in slopes adjacent to steep-banked streams that have little or no floodplain; or a break in slope where the side slopes adjacent to an incised, or deeply cut, channel meet floodplains that have been abandoned or are undergoing abandonment.

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



VILLAGE OF LUDLOW, VERMONT

ORDINANCE REGULATING OUTDOOR STORAGE OF JUNK AND JUNK VEHICLES

1. Enabling Authority
2. Definitions
3. Requirements
4. Enforcement & Penalties
5. Severability
6. Publication and Effective Date

ARTICLE 1. ENABLING AUTHORITY

WHEREAS, the Village of LUDLOW has, by authority granted in 24 V.S.A. Chapters 59 & 61, the powers to adopt, amend, repeal, and enforce ordinances, and to manage and regulate outdoor storage of junk and junk motor vehicles within its boundaries;

NOW, THEREFORE, to protect the public health, safety and well being, and to promote the responsible use of resources and protection of the environment, the Board of Trustees of the Village of LUDLOW hereby adopts this ordinance to regulate outdoor storage of junk and junk motor vehicles.

ARTICLE 2. DEFINITIONS

As used in this ordinance, the following terms shall have the respective meanings here assigned to them:

- 2.01 “Abandon” means to leave without claimed ownership for 30 days or more.
- 2.02 “Abutting property owner” means any person or persons, corporation or other entity that owns, leases, or in any other way uses or controls the real property abutting any portion of the property of another.
- 2.03 “Enforcement Officer” means any Police Officer appointed by the Board of Trustees to enforce the provisions of this ordinance.
- 2.04 “Highway” means any highway, road, street or other public way, regardless of classification.

- 2.05 “Household appliance” means any range, stove, refrigerator, washing machine, clothes dryer, water pump, power tool and the like.
- 2.06 “Junk” means old or discarded scrap copper, brass, iron, steel or other metals, or materials including but not limited to tires, household appliances, furniture, rope, rags, batteries, glass, rubber debris, waste, trash, construction debris, plumbing fixtures, or any discarded, dismantled, wrecked, scrapped, or ruined motor vehicle or parts thereof. Any of the above items used in a bona fide agricultural operation are excluded from this definition.
- 2.07 “Junkyard” means any place of outdoor storage or deposit that is maintained, operated or used in connection with a business for storing, keeping, processing, buying or selling junk or as a scrap metal processing facility. “Junkyard” also means any place of outdoor storage or deposit, not in connection with a business, which is maintained or used for the storing or keeping of four (4) or more junk motor vehicles which are visible from any portion of a public highway. However, the term does not include a private garbage dump or a sanitary landfill that is in compliance with 24 V.S.A. §§ 2201 et seq. and any applicable state regulations. It does not mean a garage where wrecked or disabled motor vehicles are stored for less than 90 days for inspection or repairs.
- 2.08 “Junk motor vehicle” means a discarded, dismantled, wrecked, scrapped or ruined motor vehicle or parts thereof, an unregistered motor home not connected to water and/or sewer, or a vehicle other than an on-premise utility vehicle which is allowed to remain unregistered for a period of 90 days from the date of discovery.
- 2.09 “Motor vehicle” means any vehicle propelled or drawn by power other than muscular power, including trailers. Functional vehicles and equipment used for agricultural and construction operations are excluded from this definition.
- 2.10 “Traveled way” means that portion of a public highway designed for the movement of a motor vehicle, shoulders, and roadside parking, rest, observation areas, and other areas immediately adjacent and contiguous to the traveled portion of the roadway.

ARTICLE 3. REQUIREMENTS

- 3.01 It shall be unlawful to place, discard or abandon junk or four (4) or more junk motor vehicles in a place where any such item is visible from the traveled way of a highway or town road, or visible to an abutting landowner from that portion of the abutter’s land used on a regular basis.

Any such item so placed, discarded or abandoned is hereby declared to be a public nuisance.

- 3.02 It shall be unlawful to place, discard or abandon junk or four (4) or more junk motor vehicles upon the land of another with or without the consent of the owner, when any such item is visible from the traveled way of a highway or town road, or visible to an abutting landowner from that portion of the abutter's land used on a regular basis. Any such item so placed, discarded or abandoned is hereby declared to be a public nuisance.
- 3.03 A person who wishes to operate a junkyard within the Village of LUDLOW is required to:
- a. obtain a certificate of approval for the location of the junkyard, and
 - b. obtain a license to operate, establish or maintain a junkyard from the State of Vermont.
- 3.04 Certificate of Approved Location. Application for a certificate of approved location shall be made in writing to the Board of Trustees of the Village of LUDLOW. The application shall contain a description of the land to be included within the junkyard, which description shall be by reference to so-called permanent boundary markers. The procedures to be followed after an application has been made are those specified in 24 V.S.A. §§ 2252-2256, as from time to time amended.
- 3.05 The application shall be accompanied by a certificate from the DRB that the proposed location is not within an established district restricted against such uses or otherwise contrary to such zoning ordinance.”
- 3.06 State Junkyard License. The procedures for obtaining a junkyard license from the State of Vermont are those specified in 24 V.S.A. §§ 2261-2264, as from time to time amended.
- 3.07 All junkyards, scrap yards, and places of outdoor storage of junk shall be effectively screened from public view by a fence or vegetation at least eight feet in height. Any fence shall be of sound construction and of solid vertical board or ‘stockade’ type construction, and shall be maintained neatly and in good repair. Such a fence shall not be used for advertising signs or other displays which are visible from the traveled way of a highway. Any vegetation used for screening shall be of sufficient density so that it effectively screens the area from view. Failure to provide screening as required herein shall be considered a violation of this ordinance.

ARTICLE 4. ENFORCEMENT AND PENALTIES

- 4.01 Upon receiving written notice from the Board of Trustees to do so, the owner of any junk or junk motor vehicle discovered in violation of Article 2 of this ordinance shall remove or screen the item(s) or vehicle(s) from the view of the traveled way of the highway or town road. Such items shall also be screened from the view of an abutting landowner as seen from that portion of the abutter's land used on a regular basis. If the owner of the junk or junk motor vehicle(s) does not remove or screen the items from view within 30 days from the date of mailing of the written notice by the Board of Trustees, the Board of Trustees may notify the appropriate state agency.

ARTICLE 5. ADDITIONAL PROVISIONS FOR JUNK MOTOR VEHICLES

- 5.01 If the owner of the land on which a junk motor vehicle is discovered in violation of Article 2 of this ordinance does not hold title or disclaims title to the vehicle, and the true owner of the vehicle is known or can be ascertained, the true owner shall move, screen or dispose of the vehicle upon receiving written notice from the Board of Trustees.
- 5.02 If the last known registered owner fails or refuses to reclaim the vehicle upon receiving said written notice, or if after an investigation the owner of the vehicle cannot be ascertained, the Board of Trustees may notify the appropriate state agency.
- 5.03 Further procedures by the state agency are specified in 24 V.S.A. § 2272.
- 5.04 A violation of this ordinance shall be a civil matter which may be enforced in the Vermont Judicial Bureau or in the Windsor County Superior Court, at the election of the legislative body.
- 5.05 Violations enforced in the Judicial Bureau shall be in accordance with the provisions of 24 V.S.A. §§ 1974a and 1977 et seq. A civil penalty of not more than \$500.00 per violation may be imposed for violation of this ordinance.
- 5.06 A municipal ticket will be issued 30 days after written notification of violation is mailed by the Board of Trustees if the violation has not been corrected in accordance with this ordinance. Each day that the violation continues shall constitute a separate violation of this ordinance.
- 5.07 For purposes of enforcement in the Judicial Bureau, a town police officer shall be the designated enforcement officer(s). Said designee(s) shall issue tickets and may be the appearing officer at any hearing.

- 5.08 Violations enforced in the Superior Court shall be in accordance with the Vermont Rules of Civil Procedure. The legislative body may pursue all appropriate injunctive relief. In addition, a civil penalty of not more than \$500.00 per violation may be imposed for violation of this ordinance. A civil action may be initiated within [30 days] after written notification of violation is mailed by the Board of Trustees if the violation has not been corrected in accordance with this ordinance. Each day that the violation continues shall constitute a separate violation of this ordinance.

ARTICLE 6. SEVERABILITY

- 6.01 If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Ordinance, or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof.
- 6.02 The Board of Trustees hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional or ineffective.

ARTICLE 7. PUBLICATION AND EFFECTIVE DATE

The foregoing ordinance is hereby adopted by the Board of Trustees of the Village of Ludlow, Vermont on this 10th day of October, 2006.

ARTICLE 7 above is amended to read:

- 7.01 No section of this Ordinance shall be construed to supersede or replace any Vermont statute.
- 7.02 This Ordinance shall be entered in the minutes of the Board of Trustee's meeting, and posted in at least five (5) conspicuous places with the Village of Ludlow and published in a newspaper circulating in the Village on a day not more than fourteen (14) days following the date when the Ordinance is adopted.
- 7.03 This Ordinance shall become effective on June 2, 2008, sixty (60) days after the date of its adoption by the Village Board Trustees, unless a petition is filed with the Village Clerk by May 15, 2008, forty-four (44) days after the date of its adoption. The petition should be addressed to the Village Trustees, should be signed by at least five percent (5%) of the qualified voters of this municipality, and should ask for a special meeting

to be called on the question of disapproving the ordinance.

Questions about the Ordinance may be directed to the Municipal Manager, Ludlow, Vermont, or by calling telephone number (802) 228-2841.

The foregoing ordinance is hereby re-adopted by the Board of Trustees of the Village of Ludlow, Vermont on this 1st day of April, 2008.

**VILLAGE OF LUDLOW
BOARD OF TRUSTEES**

Robert Gilmore, Chair

David Rose

James Fuller

SECTION 550 - PERFORMANCE STANDARDS

550.1 - NOISE

The sound pressure level is not to exceed the following decibel levels at the property line:

General External Exposures – dB (A) (Decibels in a scale perceptible to the human ear)

1. Unacceptable:
 - a) Exceeds 80 dB (A) 60 minutes per 24 hours
 - b) Exceeds 75 dB (A) 8 hours per 24 hours
2. Discretionary, Normally Unacceptable:
 - a) Exceeds 65 dB (A) 8 hours per 24 hours
 - b) Loud repetitive sounds on site
3. Discretionary, Normally Acceptable:
 - a) Does not exceed 65 dB (A) more than 8 hours per 24 hours.
4. Land Use Category:
 - a) Tracts of land in which serenity and quiet are of extraordinary significance and serve an important public need, and where the preservation of those qualities is essential for the area to continue to serve its intended purpose. Such areas could include amphitheaters, particular parks, or portions of parks, or open spaces which are dedicated to, or recognized for, activities requiring special qualities of serenity and quiet. Decibel Level – 60 dB(A)
 - b) Residences, motels, hotels, public meeting rooms, schools, churches, libraries, hospitals, picnic areas, recreation areas, playgrounds, active sports areas, and parks. Decibel Level – 70dB (A).
 - c) Developed lands, properties or activities not included in categories A and B above (see General External Exposure Levels).

550.2 - FLY ASH, DUST, FUMES, VAPORS, GASES, OTHER FORMS OF AIR POLLUTION

No emission shall be permitted which can cause damage to health, animals, vegetation, or other forms of property that can cause any excessive soiling, at any point on the property of others.

550.3 - VIBRATION

No activity shall be permitted which shall cause or result in any noticeable, clearly apparent vibration of or on the property of another landowner under normal conditions.

550.4 - GLARE, LIGHTS, REFLECTION

No glare, lights or reflection shall be permitted which could impair the vision of a driver of any motor vehicle, or which are detrimental to public health, safety and welfare.

550.5 - FIRE, EXPLOSIVE OR SAFETY HAZARD

No fire, explosive or safety hazard shall be permitted which significantly endangers other property owners, or which results in a significantly increased burden on municipal facilities.

550.6 - STORAGE OF FLAMMABLE LIQUIDS

Refer to the Vermont Department of Labor and Industry and uphold their present B.O.C.A. Regulations, or any new regulations when and as may be adopted referring to storage of flammable liquids such as liquid propane gas, fuel oil, gasoline, etc. All State regulations must be found to have been met as part of permit review procedure.

550.7 - ELECTRICAL INTERFERENCE OR HEAT

No excessive electrical interference or heat that is detectable at the boundaries of the property shall be generated.

550.8 - L.P. GAS (LIQUID PROPANE GAS)

Sales and storage of liquid propane fuel shall be subject to the Vermont Department of Labor and Industry's standards and regulations and shall be restricted to areas where the safety, health, and welfare of the public will not be compromised.

550.9- Individuals share a private right for recourse by filing a nuisance complaint with the police or the district court.