

## **ARTICLE VIII: FLOOD HAZARD AREA REGULATIONS**

### **SECTION 801: STATUTORY AUTHORIZATION**

To affect the purposes of 10 V.S.A. Chapter 32, and in accord with the Vermont Planning and Development Act, 24 V.S.A., Chapter 117, SECTIONs 4424, 4411, 4414, there are hereby established zoning regulations for areas of special flood hazard in the Town of Bristol.

### **SECTION 802: STATEMENT OF PURPOSE**

It is the purpose of these regulations to promote the public health, safety, and general welfare, to prevent increases in flooding caused by the uncontrolled development of lands in areas of special flood hazard, and to minimize losses due to floods by:

1. restricting or prohibiting uses that are dangerous to health, safety, or property in times of flood or cause excessive increase in flood heights or velocities.
2. requiring that uses vulnerable to floods, including public facilities that serve such uses, shall be protected against flood damage at the time of initial construction.
3. protecting individuals from buying lands that are unsuited for their intended purposes because of flood hazard.

### **SECTION 803: LANDS TO WHICH THESE REGULATIONS APPLY**

These regulations shall apply to all lands in the Town of Bristol identified as areas of special flood hazard on the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRM), dated August 5, 1986, and any revisions thereto.

### **SECTION 804: OFFICIAL FLOOD HAZARD AREA MAP**

The Official Flood Hazard Area Map shall consist of the FEMA Flood Insurance Study, including the Flood Insurance Rate Maps (FIRM), and Flood Boundary and Floodway Maps. The official Flood Hazard Area Map, together with all explanatory matter thereon and attached thereto, is hereby adopted by reference and declared to be part of these Regulations. The Official Flood Hazard Area Map may be altered with appropriate approval if adequate field data is developed which would show actual conditions in more detail.

### **SECTION 805: INTERPRETATION OF DISTRICT BOUNDARIES**

The Zoning Administrator shall determine the boundaries of any designated area of special flood hazard by utilizing the base flood elevation data contained in the Flood Insurance Study, or in the absence of such data, by obtaining, reviewing, and reasonably utilizing any base flood elevation data available from a federal or state agency. Appeals with respect to a boundary interpretation shall be made by filing a notice with the Secretary of the Development Review Board within fifteen days of the decision or act.

### **SECTION 806: PERMITTED USES**

Upon issuance of a permit by the Zoning Administrator, the following open space uses shall be permitted within the area of special flood hazard to the extent that they are not prohibited by any other ordinance and provided that they do not require the erection of structures or storage of materials and equipment, the borrowing of fill from outside the flood hazard area, or channel modification or relocation, and do not obstruct flood flows, affect the water-carrying capacity of the regulatory floodway or channel, or increase off site flood damage-potential:

1. Agricultural uses, such as general farming, pasture, orchard, grazing, outdoor plant nurseries, truck farming, and forestry.
2. Recreation uses, such as parks, picnic grounds, tennis courts, golf courses, golf driving ranges, archery and shooting ranges, hiking and riding trails, hunting and fishing areas, game farms, fish hatcheries, wildlife sanctuaries, nature preserves, swimming areas, and boat launching sites.
3. Accessory residential uses, such as lawns, gardens, parking areas, and play areas.

## **SECTION 807: CONDITIONAL USES**

All new construction, substantial improvement, and development uses prescribed by the Town of Bristol zoning ordinance that do not meet the requirements of SECTION 806 and fall within the designated area of special flood hazard are permitted only upon the granting of a conditional use permit by the Development Review Board in accordance with the procedures and requirements of SECTIONS 810, 811, and 812 of these regulations.

## **SECTION 808: PERMIT REQUIREMENTS AND APPLICATION PROCEDURES**

Permits are required for all proposed new construction, substantial improvements, and other development as defined by this Article, including the placement of mobile homes, within all lands to which these regulations apply.

All zoning permit applications shall be submitted to the Zoning Administrator, on forms furnished by him, who shall determine, on application, whether or not the proposed development is located within the area of special flood hazard by the procedures established in SECTION 805 of these regulations.

If the proposed use will be located in the areas of special flood hazard and meets the requirements of SECTION 806 of these regulations, the Zoning Administrator shall issue a permit. If the proposed use does not meet the requirements of SECTION 806, the Zoning Administrator shall refer all applicants to the Development Review Board.

## **SECTION 809: RECORDS**

The Zoning Administrator shall maintain a record of:

1. the elevation, in relation to mean sea level, of the lowest habitable floor, including the basement, of all new construction or substantial improvement of structures and whether or not such structures contain a basement; and
2. the elevation, in relation to mean sea level, to which such structures have been flood proofed.
3. all permits issued under Article VIII of these regulations

## **SECTION 810: CONDITIONAL USE REVIEW PROCEDURES**

Upon receiving an application for conditional use permit under these regulations, the Development Review Board shall, prior to holding a hearing and rendering a decision thereon, obtain from the applicant:

1. base flood elevation data for all portions of the property proposed to be subdivided or developed.
2. the elevation, in relation to mean sea level, of the lowest habitable floor, including basement, of all new construction or substantial improvement of structures:
3. where flood proofing is proposed in lieu of elevation, the elevation, in relation to mean

4. certification from a registered professional engineer or architect that the designed and proposed method of construction of buildings to be flood proofed are in accordance with accepted standards of practice meeting the flood proofing criteria of SECTION 812 of these Regulations.
5. a description of the extent to which any watercourse will be altered or relocated as a result of the proposed development and that its capacity to carry floodwaters has not been compromised.

In addition, the Development Review Board shall require such of the following information as it deems necessary for determining the suitability of the site for the proposed use:

1. Plans drawn to scale, showing the location, dimensions, contours, and elevations of the lot; the size and location on the site of existing or proposed structures, fill or storage of materials; the location and elevations of streets, water supply, and sanitary facilities; and the relation of the above to the location of the channel, floodway, and base flood elevation.
2. A typical valley cross-section showing the channel of the stream, elevation of land areas adjoining each side of the channel, and cross-sectional areas to be occupied by the proposed development.
3. A profile showing the slope of the bottom of the channel or flow line of the stream.
4. Specifications for building construction and materials, flood proofing, mining, dredging, filling, grading, paving, excavating, or drilling, channel improvement, storage of materials, water supply, and sanitary facilities.

In unnumbered A zones, the Development Review Board shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source as criteria for approval of all land development under SECTION 812.

The Development Review Board shall notify adjacent communities and the Vermont Department of Environmental Conservation River Management Program (DEC/RMP) prior to approval of an alteration or relocation of a watercourse and shall submit copies of such notifications to the FEMA Administrator.

The Development Review Board shall transmit one copy of the information required by subsections 810(1) and 810(2) to the Vermont DEC/RMP in accordance with 24 V.S.A., SECTION §4424).

In reviewing each application, the Development Review Board shall consider the evaluation of the Vermont Department of Water Resources and shall determine the proposed use will conform to the development standards of SECTION 812 of these Regulations.

In accordance with 24 V.S.A., SECTION §4424 no permit may be granted for new construction or the development of land in any area designated as a flood plain by the Vermont DEC/RMP prior to the expiration of a period of 30 days following the submission of a report to the Vermont DEC/RMP under SECTION 810(5) above.

## **SECTION 811: CONSIDERATIONS BY THE DEVELOPMENT REVIEW BOARD**

In reviewing each application, the Development Review Board shall consider:

1. the danger to life and property due to increased flood heights or velocities caused by

- encroachments.
2. the danger that materials may be swept onto other lands or downstream to the injury of others.
  3. the proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions under conditions of flooding.
  4. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
  5. the importance of the services provided by the proposed facility to the community.
  6. the necessity to the facility of a waterfront location.
  7. the availability of alternative locations not subject to flooding for the proposed use.
  8. the compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
  9. the relationship of the proposed use to the proposed comprehensive plan, insofar as it has been developed.
  10. the safety of access to the property in times of flood for ordinary and emergency vehicles.
  11. the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
  12. the costs of providing governmental and public facilities and services during and after flooding.
  13. such other factors as are relevant to the purposes of this ordinance.

## **SECTION 812: CONDITIONS ATTACHED TO CONDITIONAL USE APPROVAL**

As a condition of approval, the Development Review Board shall specifically require that:

1. All new construction or substantial improvement of any residential structure have the first floor and basement floor elevated to or above the base flood elevation, unless the Town of Bristol has been granted an exception by the Administrator for the allowance of basements flood proofed below the base flood level;
2. All new construction or substantial improvement of nonresidential structures have the lowest floor, including basement, elevated to or above the base flood elevation, or be flood proofed below the base flood level in accordance with subsection (3) of this section.
3. The lowest floor, including basement, and attendant utility and sanitary facilities of all new construction or substantial improvement below the base floor elevation be flood proofed so that 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 the effects of buoyancy;
4. Structures shall be:
  - 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. be constructed with materials resistant to flood damage,
  - c. be constructed by methods and practices that minimize flood damage, and
  - d. be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located to prevent water from entering or accumulating within the components during conditions of flooding.
5. Development within the floodway is prohibited unless a registered professional engineer certifies that the proposed development will not result in any increase in flood levels during the occurrence of the base flood.
6. On-site waste disposal systems be located to avoid impairment to them or contamination from them during flooding.
7. New and replacement manufactured homes shall be elevated on properly compacted fill

such that the top of the fill (the pad) under the entire manufactured home is above the base flood elevation.

8. All necessary permits be obtained from those governmental agencies from which approval is required by federal or state law.
9. All land development be reasonably safe from flooding and that:
  - a. all public utilities and facilities serving subdivisions, such as sewer, gas, electrical, and water systems, be located and constructed to minimize or eliminate flood damage, and
  - b. adequate drainage be provided within subdivisions to reduce exposure to flood hazards.
  - c. Upon consideration of those factors in SECTION 911, and the purposes of these Regulations, the Development Review Board shall attach such additional conditions to the granting of a permit as are necessary to meet the purposes and flood hazard area management requirements of these zoning Regulations.

### **SECTION 813: TIME FOR ACTING ON APPLICATION**

The Development Review Board shall hold a properly warned hearing within 30 days of receiving an application, and shall act on such application in a manner described in SECTIONS 811 and 812 of these Regulations within (30) days of the final hearing, subject to the limitation of SECTION 810 (6) of these Regulations. A copy of the public notice shall be mailed to the applicant at least 15 days prior to the hearing date.

### **SECTION 814: ISSUANCE AND TRANSMISSION OF PERMITS**

Upon granting a permit, the Development Review Board shall send to the applicant, by certified mail, a copy of the decision. Copies of the decision shall also be mailed to every person appearing and having been heard at the hearing, to the Zoning Administrator, who shall forthwith issue a permit, and to the Town Clerk as a part of the public records.

### **SECTION 815: EFFECTIVE DATE**

A permitted use permit shall take effect 15 days from the date of issuance. Conditional use permits shall take effect upon adjudication by the Development Review Board.

### **SECTION 816: APPEALS**

An interested person, as defined in 24 V.S.A., SECTION 4464(b), may appeal a decision of the Development Review Board to the Environmental Court in accordance with the provisions of 24 V.S.A., SECTION 4471.

### **SECTION 817: VARIANCES**

Variations shall be granted by the Development Review Board only:

1. in accordance with the provisions of 24 V.S.A., SECTION §4469, 4424(E) and 44CFR SECTION 606.
2. upon a determination that during the base flood discharge the variance will not result in increased flood levels in the designated regulatory floodway, threats to public safety, extraordinary public expense, or create nuisances, cause fraud nor victimization of the public, or conflict with existing local laws or ordinances.
3. The Development Review Board shall notify the applicant that the issuance of a variance to construct a structure below the base flood level:
  - a. will result in increased premium rates for flood insurance commensurate with the resulting increase in risk up to amounts as high as \$25 for \$100 of insurance coverage.

- b. increase risks to life and property.
4. The Development Review Board shall:
  - a. maintain a record of all variance actions, including justification for their issuance, and
  - b. report such variances issued to the Administrator upon request.

### **SECTION 818: FEES**

The Selectboard shall establish such fees as may be necessary for the filing of notices and the processing of hearings and action thereon. All such fees shall be paid to the Town of Bristol upon application for a conditional use permit under these regulations.

### **SECTION 819: WARNING OF DISCLAIMER OF LIABILITY**

These regulations do not imply that land outside the areas of special flood hazard or land uses permitted within such districts will be free from flooding or flood damages. These regulations shall not create liability on the part of the Town of Bristol or any town official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made there under.

### **SECTION 820: PRECEDENCE OF REGULATIONS**

The provisions of these Regulations shall take precedence over any conflicting and less restrictive local laws.

### **SECTION 821: ANNUAL REPORT TO FEDERAL EMERGENCY MANAGEMENT AGENCY**

1. The Zoning Administrator shall, to the extent possible, submit to the Administrator the information required by the FEMA annual report form with respect to the administration and enforcement of these flood hazards area bylaws.
2. A copy of the annual report shall be submitted to the state coordinating agency.

### **SECTION 822: DEFINITIONS**

Definitions related to Article 8 concerning the Flood Hazard Area are included in Article X, Definitions and are highlighted with the symbol “FH” to identify their relevance to the portion of these regulations regulating Flood Hazards.