

FLOOD HAZARD AREA BYLAW
TOWN OF GUILFORD, VERMONT

COPY

SECTION 1.0 STATUTORY AUTHORIZATION

To effect the purposes of 10 V.S.A. Chapter 32, and in accordance with 24 V.S.A. §4424, there is hereby established an ordinance for areas of special flood hazard in the Town of Guilford, Vermont.

SECTION 2.0 STATEMENT OF PURPOSE

It is the purpose of this Bylaw to promote the public health, safety, and general welfare, to prevent increases in flooding causes by the uncontrolled development of lands in flood hazard areas, to minimize losses due to flooding, and to maintain the Town's eligibility to participate in the National Flood Insurance Program.

SECTION 3.0 FLOOD HAZARD AREA MAP

This Bylaw shall apply to all lands in the Town of Guilford, Vermont identified as areas of special flood hazard in and on the most current flood insurance studies and maps published by the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), National Flood Insurance Program (NFIP), as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. § 753, which are hereby adopted by reference and declared to be part of these regulations.

SECTION 4.0 INTERPRETATION OF FLOOD HAZARD AREA BOUNDARIES

The Administrative Officer shall determine the location of boundaries of the flood hazard areas by scaling distances on the Map. When making a determination as to whether or not a particular structure or site is within a certain designated flood hazard area boundary, the Administrative Officer may require the owner to furnish necessary survey data to determine the exact location and elevation of structure or site.

SECTION 5.0 APPEALS

Any interested person as defined by section 4465 of 24 V.S.A. may appeal a decision or act of the Administrative Officer by filing a notice of appeal with the Secretary of the Board of Adjustment or the Town Clerk if no Secretary has been elected, within 15 days of the date of decision. A copy of the notice of appeal must be filed with the Administrative Officer. A notice of appeal filed under this section shall be in writing and include the following information, in accordance with section 4466 of the Act:

- (1) the name and address of the appellant,

- (2) a brief description of the property with respect to which the appeal is taken,
- (3) a reference to applicable provisions of these regulations,
- (4) the relief requested by the appellant, including any request for a variance from one or more provisions of these regulations, and
- (5) the alleged grounds why such relief is believed proper under the circumstances.

Interested persons as defined by 24 V.S.A., section 4465 may appeal decisions of the Board of Adjustment to the Environmental Court by filing a notice of such appeal within 30 days of the date of decision. The notice of appeal shall be filed by certified mailing, with fees, to the Environmental Court and by mailing a copy to the Municipal Clerk, or the Administrative Officer if so designated, who shall supply a list of interested persons (including the applicant if not the appellant), to the appellant within five (5) working days. Upon receipt of the list of interested persons, the appellant shall, by certified mail, provide a copy of the notice of appeal to every interested person. If any one or more of those persons are not then parties to the appeal, upon motion they shall be granted leave by the court to intervene.

SECTION 6.0 PERMIT REQUIREMENTS, ISSUANCE OF PERMITS

In accordance with 24 V.S.A., section 4448 and 4449, no development as defined in these regulations may commence on lands to which these regulations apply unless a permit has been duly issued. No permit may be issued by the Administrative Officer except in conformance with these regulations. No permit shall take effect until the expiration of 15 days from the date on which the permit was granted, or, in the event that notice of appeal is properly filed, the permit shall not take effect until final adjudication of the appeal.

Conditional use permits approved by the Board of Adjustment are required for the construction of new buildings, the substantial improvement of existing buildings, the placement of manufactured homes and any development within the floodway. Permits for all other development may be issued by the Administrative Officer.

Permit applications shall not be deemed to have been received by the town until the Administrative Officer or the Secretary of the ZBA has determined that the application is complete and includes all required information.

SECTION 7.0 PROCEDURES

- 7.1 Prior to issuing a permit, a copy of the application and supporting information shall be submitted by the administrative officer to the State National Floodplain Insurance Program Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section in accordance with 24 V.S.A. §4424. A permit may be issued only following receipt of comments from the Agency or the expiration of 30 days from the date the application was mailed to the Agency, whichever is sooner.

- 7.2 Adjacent communities and the Stream Alteration Engineer at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section shall be notified at least 30 days prior to issuing any permit for the alteration or relocation of a watercourse and copies of such notification shall be submitted to the Administrator of the National Flood Insurance Program. Any permit issued shall assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
- 7.3 Proposed development shall be reviewed by the administrative officer or the appropriate municipal panel to assure that all necessary permits have been received from those government agencies from which approval is required by Federal, State or Municipal law.

SECTION 8.0 REQUIREMENTS FOR APPLICATIONS FOR PERMITS

All applications for permits shall include the following:

- a. Two (2) copies of plans, drawn to scale showing the nature, location, dimensions and elevations of the lot.
- b. Existing and proposed structures including the elevation of the lowest habitable floor including basement and confirmation as to whether such structures contain a basement.
- c. Proposed fill and/or storage of materials.
- d. Proposed floodproofing measures and the elevation to which any structure will be floodproofed.
- e. The relationship of the proposal to the location of the river centerline.
- f. The extent of the flood hazard area and the base flood elevation utilizing the best information available.
- g. All new subdivision proposals and other proposed development (including proposals for manufactured home parks and subdivisions) that are greater than 50 lots or 5 acres, whichever is the lesser, shall include base flood elevation data.

SECTION 9.0 BASE FLOOD ELEVATIONS AND FLOODWAY LIMITS

- 9.1. Where available, base flood elevations and floodway limits (or data from which a community can designate regulatory floodway limits) provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps shall be used to administer and enforce these regulations.

- 9.2 In areas where base flood elevations and floodway limits have not been provided (A Zones) by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps, base flood elevations and floodway data provided by FEMA or available from State or Federal agencies or other sources, shall be obtained and utilized to administer and enforce these regulations.
- 9.3 Until a regulatory floodway has been designated, no new construction, substantial improvements, or other development shall be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the community.

SECTION 10.0 STANDARDS

Before a permit may be granted, the Board of Adjustment shall require:

10.1 Floodway Areas

- a. Development within the floodway, as determined by Section 9.2, is prohibited unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice by 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.
- b. Junkyards and storage facilities for floatable materials, chemicals, explosives, flammable liquids, or other hazardous or toxic materials, are prohibited within the floodway.

10.2 Floodway Fringe Areas (i.e., special flood hazard areas outside of the floodway)

1. All Development - All development shall be reasonably safe from flooding and:
 - (a) designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure during the occurrence of the base flood,
 - (b) constructed of materials and utility equipment resistant to flood damage,
 - (c) constructed using methods and practices that minimize flood damage, and
 - (d) constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
2. Residential Development:
 - (a) New construction and existing buildings to be substantially improved shall have the lowest floor, including basement, elevated to or above the base flood elevation.
 - (b) Manufactured homes to be placed and existing manufactured homes to be substantially improved that are:
 - (i) located in a new manufactured home park or subdivision, outside of a manufactured home park or subdivision, in an expansion to an existing

manufactured home park or subdivision, or in a manufactured home park or subdivision which has incurred substantial damage from a flood shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement during the occurrence of the base flood.

- (ii) located in an existing manufactured home park, where elevating a replacement home to or above base flood elevation is not possible, the lowest floor shall be supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored system to resist floatation, collapse, and lateral movement.

3. Non-Residential Development:

- (a) New construction shall have the lowest floor, including basement, elevated to or above the base flood elevation.
- (b) Existing buildings to be substantially improved for non-residential purposes shall either (1) shall have the lowest floor, including basement, elevated to or above the base flood elevation or (2) together with attendant utility and sanitary facilities be designed to be watertight at least one foot above the base flood elevation with walls substantially impermeable and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A permit for a building proposed to be floodproofed shall not be issued until a registered professional engineer or architect has reviewed the structural design, specifications and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.

4. Subdivisions: Subdivisions (including manufactured home parks) shall be designed to assure:

- (a) such proposals minimize flood damage within the flood-prone area,
- (b) public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and
- (c) adequate drainage is provided to reduce exposure to flood hazards.

5. Enclosed Areas Below the Lowest Floor:

- (a) Enclosed areas below the lowest floor which are subject to flooding shall be used solely for parking of vehicles, building access, or storage.
- (b) New construction and existing buildings to be substantially improved with fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one

foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

6. Recreational Vehicles: Recreational Vehicles placed on sites with special flood hazard areas shall either:
 - (a) be on the site for fewer than 180 consecutive days,
 - (b) be fully licensed and ready for highway use, or
 - (c) be permitted in accordance with the elevation and anchoring requirements for "manufactured homes" in section 10.2.2(b).
7. Accessory Structures: A small accessory building that represents a minimal investment need not be elevated to the base flood elevation provided the structure meets the following requirements:
 - (a) The structure shall only be used for parking or storage;
 - (b) The structure shall have the required opening to allow floodwaters in and out;
 - (c) The structure must be constructed using flood resistant materials below the Base Flood Elevation;
 - (d) The structure must be adequately anchored to resist flotation, collapse, and lateral movement; and
 - (f) All building utility equipment including electrical and heating must be elevated or floodproofed.
8. Water Supply Systems and Sanitary Sewage Systems: New and replacement water supply and/or 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
9. On-Site Waste Disposal Systems: On-site waste disposal systems are located so as to avoid impairment of them or contamination from them during flooding
10. Watercourse Carrying Capacity: The flood carrying capacity within any altered or relocated portion of a watercourse shall be maintained.

SECTION 11.0 ADMINISTRATION

- 11.1 An Administrative Officer and a Board of Adjustment shall be appointed in accordance with Sections 4448 and 4460 the Act, for the purpose of administering this Bylaw.
- 11.2 Application for a permit shall be made to the Administrative Officer, who shall transmit such application to the Board of Adjustment.
- 11.3 The provisions of this Bylaw shall be administered as provided by Sections 4440-4454 of the Act.
- 11.5 The Administrative Officer shall maintain a record of:

- a. All permits issued for development in areas of special flood hazard;
- b. The elevation, in relation to mean sea level, of the lowest habitable floor, including basement, of all new or substantially improved structures, and whether or not such structures contain a basement, and
- c. The elevation, in relation to mean sea level, to which structures have been floodproofed.
- d. All floodproofing certifications required under this regulation.
- e. All variance actions, including justification for their issuance.

SECTION 12.0 VARIANCES

- 12.1 Variances shall be granted by the appropriate municipal panel only in accordance with 24 V.S.A. §4469 and in accordance with the criteria for granting variances found in 44 CFR, Section 60.6, of the National Flood Insurance Program regulations.
- 12.2 The Secretary of the Board of Adjustment shall notify the applicant that:
 - a. The issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and
 - b. Such construction below the base flood elevation increases risks of life and property.

SECTION 13.0 ENFORCEMENT AND PENALTIES

It shall be the duty of the Administrative Officer to enforce the provisions of this ordinance. Whenever any development occurs contrary to these flood hazard area regulations, the Administrative Officer, in his/her discretion, shall institute appropriate action in accordance with the provisions of 24 V.S.A. §1974a or pursuant to 24 V.S.A. § 4451 or 24 V.S.A. § 4452 to correct the violation. No action may be brought unless the alleged offender has had at least a seven-day warning notice by certified mail. An action may be brought without the seven-day notice and opportunity to cure if the alleged offender repeats the violation after the seven-day notice period and within the next succeeding twelve months. The seven-day warning notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the seven days, and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days.

If the structure is still noncompliant after the opportunity to cure has passed, the Administrator Officer shall submit a declaration to the Administrator of the NFIP requesting a denial of flood insurance. Section 1316 of the National Flood Insurance Act of 1968, as amended, authorizes FEMA to deny flood insurance to a property declared by a community to be in violation of their flood hazard area regulations. The declaration shall consist of: (a) the name of the property owner and address or legal description of the property sufficient to confirm its identity or location, (b) a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance, (c) a clear statement that the public body making the declaration has authority to do so and a citation to that authority, (d) evidence that the property owner has been provided notice of the violation and the prospective denial of insurance, and (e) a

clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

SECTION 14.0 PRECEDENCE OF REGULATIONS

The provisions of this Bylaw shall not in any way impair or remove the necessity of compliance with any other applicable ordinances. The provisions of this Bylaw shall take precedence over any conflicting or less restrictive local laws.

SECTION 15.0 SEVERABILITY

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

SECTION 16.0 WARNING OF DISCLAIMER OR LIABILITY

This Bylaw does not imply that areas outside the flood hazard area or land uses permitted within such districts will be free from flooding or flood damages. This Bylaw shall not create liability on the part of any Town official or employee thereof for any flood damages that result from reliance on this Bylaw or any administrative decision lawfully made thereunder.

SECTION 17 .0 EFFECTIVE DATE

These regulations shall take effect immediately after adoption at a regular or special town meeting or, if adopted by a majority of the members of the Guilford Select Board, it shall take effect twenty-one (21) days from the date of adoption at a meeting which is held after the final public hearing, in accordance with the procedures set forth in Section 4442 of the Act.

SECTION 18.0 DEFINITIONS

“Act” is the Vermont Municipal and Regional Planning and Development Act (Chapter 117, Title 24 V.S.A.).

“Areas of special flood hazard” is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FFBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/AI-30, AR/AE, AR/AO, AR/AH, AR/A, VO or V1-30, VE, or V. For purposes of these regulations, the term “area of special flood hazard” is synonymous in meaning with the phrase “special flood hazard area”.

“Base flood” means the flood having a one percent chance of being equaled or exceeded in any given year.

“Base Flood Elevation” (BFE) is the height of the base flood, 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 average depth of the base flood, usually in feet, above the ground surface.

“Basement” means any area of the building having its floor subgrade (below ground level) on all sides.

“Building” means a walled and roofed structure, and shall include a gas or liquid storage tank that is situated principally above ground.

“Development” means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

“Existing manufactured home park or subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

“Expansion to an existing manufactured home park or subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

“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 zone applicable to the community.

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

“Flood proofing” 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.

“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 CFR 60.3.

“Manufactured 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 connected to required utilities. The term “manufactured home” does not include a “recreational vehicle”.

“Mean sea level” means, for purpose of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base elevation shown on a community’s Flood Insurance Rate Map are referenced.

“Manufactured home park or subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

“New construction” means, for the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, *new construction* means structures for which the *start of construction* commenced on or after the effective date of the floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

“New manufactured home park or subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by a community.

“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.

“Special Flood Hazard Area” is the land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated a Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the Flood Insurance Rate Map (FIRM), Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/AI-30, AR/AE, AR/AO, AR/AH, AR/A, VO or VI-30, VE, or V. For purposes of these regulations, the term “special flood hazard area” is synonymous in meaning with the phrase “area of special flood hazard”.

“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, regardless whether that alteration affects the external dimensions of the building.

“Structure” means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. *Structure*, for insurance purposes, means: (a) A building with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site; (b) A manufactured home (“a manufactured home,” also known as a mobile home, is a structure: built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or (c) A travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under the community’s floodplain management and building ordinances or laws. For the latter purpose, “structure” does not mean a recreational vehicle or a park trailer or other similar vehicle, except as described in (c) of this definition, or a gas or liquid storage tank.

“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 reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which 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 specification which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (b) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

"Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR 60.3 is presumed to be in violation until such time as that documentation is provided.

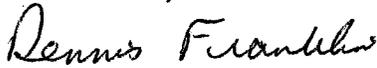
Adopted by the Guilford Selectboard on August 13, 2007.

This By Law takes effect September 3, 2007

Board of Selectboard



Richard J. Clark, Chair



Dennis Franklin



Anne Rider