

**TOWN OF ROCKINGHAM
FLOOD HAZARD AREA ZONING BYLAW**

Adopted January 27, 1984

Latest Amendment: Adopted October 18, 2011
Effective November 9, 2011

Town of Rockingham

FLOOD HAZARD AREA ZONING BYLAW

1.0 STATUTORY AUTHORIZATION

- 1.1 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 4411 and 4424, there are hereby established zoning regulations for areas of special flood hazard in the Town of Rockingham and the Village of Bellows Falls.

[Amended section references July 17, 2007; Effective August 7, 2007]

2.0 STATEMENT OF PURPOSE

- 2.1 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:
- a. 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;
 - b. 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;
 - c. protecting individuals from buying lands that are unsuited for their intended purposes because of flood hazard.

3.0 LANDS TO WHICH THESE REGULATIONS APPLY

- 3.1 These regulations shall apply to all lands in the Town of Rockingham and the Village of Bellows Falls identified as areas of special flood hazard in and on the most current flood insurance studies and maps for the Town of Rockingham and the Village of Bellows Falls published by the Department of Homeland Security (DHA), 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 a part of these regulations.

[Amended map references July 17, 2007; Effective August 7, 2007]

4.0 [Deleted July 17, 2007; Effective August 7, 2007]

5.0 **INTERPRETATION OF DISTRICT BOUNDARIES**

5.1 The administrative officer shall determine the boundaries of any designated area of special flood hazard by scaling distances on the Official Flood Hazard Area Map.

[Amended July 17, 2007; Effective August 7, 2007]

6.0 **CONDITIONAL USES**

6.1 All new construction, substantial improvement, and development uses prescribed by the Town of Rockingham zoning bylaw that fall within the designated area of special flood hazard are permitted only upon the granting of a conditional use permit by the Board of Adjustment in accordance with the procedures and requirements of section 9.0, 10.0 and 11.0 of these regulations.

7.0 **PERMIT REQUIREMENTS AND APPLICATION PROCEDURES**

7.1 Permits are required for all proposed new construction, substantial improvements and other developments, including the placement or replacement of manufactured homes within all lands to which these regulations apply.

[Amended February 18, 1987. Effective March 11, 1987.]

7.2 All zoning permit applications shall be submitted to the administrative officer, on forms furnished by the officer, 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 5.0 of these regulations.

[Amended to "officer" July 17, 2007; Effective August 7, 2007]

7.3 Substantial improvements to a designated historic structure shall be reviewed by a consultant qualified to prepare nominations to the National Register of Historic (36 CFR 61 certified) to determine whether the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure. The consultant shall be retained by the applicant or owner, and the consultant's written report shall be submitted at the time the application is submitted.

[Amended adding section July 17, 2007; Effective August 7, 2007]

7.4 [left blank]

7.5 Independent Technical Review.

In accordance with Section 4440 of the Act, the Zoning Board of Adjustment may impose reasonable fees, in addition to application fees, to cover independent technical review(s) of an application, including but not limited to engineering review, legal review of any associated legal documentation, design review and/or to conduct inspections to ensure compliance with approved plans.

- a. In the event the Zoning Board of Adjustment believes they require independent technical review for the diligent, application specific pursuit of their work, they shall so determine by majority vote of the Board. That vote shall occur during the public review or hearing for that application.
- b. In the event that the Zoning Board of Adjustment directs a technical review to take place, the Town shall obtain an estimate of the review costs. The applicant and/or owner shall be responsible for paying the estimated costs of the review to the Town. The technical review will not take place until the Town receives the funds. In the event that the review ends up costing less than the estimate, the Town shall reimburse the applicant and/or owner. Should the review be more than the estimated cost, the applicant and/or owner shall be required to pay the additional costs.
- c. The Board may table review of the application pending receipt of an independent technical review. An application for a zoning permit or approval by the Zoning Board of Adjustment will not be considered complete and therefore approvals will not be issued until such time as all costs for the technical review are paid in full. No decision by the Board or Administrative Officer may be issued until the review costs are paid in full.
- d. In the event of failure to pay a balance due the Zoning Board of Adjustment may deem the application incomplete and deny the application. The application may be re-submitted without changes within 6 months of the denial upon receipt of the balance due. If resubmitted, time frames for review and approval will start anew from the date of receipt of the balance and all application fees shall be paid.
- e. In the event that an applicant and/or owner disagrees with the determination of the Board that a technical review is warranted, the Board may render the application incomplete and deny the application.

[Amended adding section October 18, 2011; Effective November 9, 2011.]

8.0 **RECORDS**

- 8.1 The administrative officer shall maintain a record of;
- a. the elevation, consistent with the datum of the elevation on the NFIP maps, of the lowest floor, including basement, of all new construction or substantial improvement of structures, and whether or not such structures contain a basement; and
[Amended February 18, 1987. Effective March 11, 1987. Amended July 17, 2007 referring to NFIP maps; Effective August 7, 2007]
 - b. the elevation, consistent with the datum of the elevation on the NFIP maps, to which such structures have been floodproofed.
[Amended July 17, 2007 referring to NFIP maps; Effective August 7, 2007]
 - c. All permits issued for development in areas of special flood hazard;
[Amended July 17, 2007 adding (c); Effective August 7, 2007]
 - d. All floodproofing certifications required under this regulation; and
[Amended July 17, 2007 adding (d); Effective August 7, 2007]
 - e. All variance actions, including justification for their issuance.
[Amended July 17, 2007 adding (e); Effective August 7, 2007]

9.0 **CONDITIONAL USE REVIEW PROCEDURES**

- 9.1 Upon receiving an application for a conditional use permit under these regulations, the Board of Adjustment shall, prior to holding a hearing and rendering a decision thereon, obtain from the applicant;
- a. base flood elevation data for all subdivisions and other proposed new development greater than 50 lots or 5 acres, whichever is the smaller in area.
 - b. the elevation, consistent with the datum of the elevation on the NFIP maps, of the lowest floor, including basement, of all new construction or substantial improvement of structures;
[Amended February 18, 1987. Effective March 11, 1987. Amended July 17, 2007 referring to NFIP maps; Effective August 7, 2007]
 - c. where floodproofing is used in lieu of elevation, the elevation, consistent with the datum of the elevation on the NFIP maps, to which any structure or substantial improvement has been floodproofed;

[Amended July 17, 2007 referring to NFIP maps; Effective August 7, 2007]

- d. certification from a registered professional engineer that the development meets the applicable criteria of section 11.1 (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (n), (q), or (s); certification as to elevation requirements may be done by a licensed surveyor as provided for under (e);
[Amended subsection d. adding licensed surveyor, Adopted July 7, 1998, Effective July 28, 1998. Amended adding (k) and (s), and eliminating (m) and (q) July 17, 2007; Effective August 7, 2007]
- e. certification from a licensed surveyor that the development meets the applicable elevation criteria of section 11.1 (a), (b), (k);
[Amended subsection e. adding licensed surveyor, Adopted July 7, 1998, Effective July 28, 1998.]
- f. a description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.

9.2 In addition, the Board of Adjustment shall require such of the following information as it deems necessary for determining the suitability of the particular site for the proposed use;

- a. Plans in triplicate, drawn to scale, showing the location, dimensions, contours, and elevation 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.
- b. 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.
- c. A profile showing the slope of the bottom of the channel or flow line of the stream.
- d. Specifications for building construction and materials, floodproofing, mining, dredging, filling, grading, paving, excavation, or drilling, channel improvement, storage of materials, water supply, and sanitary facilities.

9.3 (A) Where available, including zones A1-A30, AE, and AH, the

Board of Adjustment shall use the base flood elevation and floodway limits provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps to administer the provisions of this Bylaw.

[Amended February 18, 1987. Effective March 11, 1987.]

- (B) In areas, including Zone A, where base flood elevations and floodway limits have not been provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps, the Board of Adjustment shall obtain, review, and reasonably utilize any base flood elevation data and floodway information from a federal, state, or other source, as criteria for approval of all new construction and substantial improvements under 11.1 (a), (b), and (c), and (e) below.

[Amended February 18, 1987, Effective March 11, 1987; Amended September 8, 1987, Effective September 29, 1987, adds (e). Amended July 17, 2007 adding Zone A , floodway limits, and National Flood Insurance Program; Effective August 7, 2007]

- (c) 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.

[Amended adding (c) July 17, 2007; Effective August 7, 2007]

- 9.4 The Board of Adjustment shall notify adjacent communities and the Stream Alteration Engineer at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section at least 30 days prior to issuing any permit for the alteration or relocation of a watercourse and shall submit copies of such notifications to the FIA Administrator.

[Amended February 18, 1987. Effective March 11, 1987. Amended specifying engineer and 30 days July 17, 2007; Effective August 7, 2007]

- 9.5 The secretary of the Board of Adjustment shall transmit one copy of the information required by subsection 9.1 and 9.2 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., Section 4424 (2)(D).

[Amended specifying coordinator and §4424 July 17, 2007; Effective August 7, 2007]

- 9.6 In reviewing each application, the Board of Adjustment shall consider the evaluation of the Vermont Agency of Natural

Resources, Department of Environmental Conservation, River Management Section and shall determine that the proposed use will conform to the development standards of section 11.0 of these regulations.

[Amended specifying River Mang. Section July 17, 2007; Effective August 7, 2007]

- 9.7 In accordance with 24 V.S.A., Section 4424(2)(D), no permit may be granted for new construction, substantial improvement of existing structures, or the development of land in any area designated as a special flood hazard area prior to the expiration of a period of 30 days following the submission of a copy of the application and supporting information to the State National Floodplain Insurance Program Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section under section 9.5 above.

[Amended February 18, 1987. Effective March 11, 1987. Amended generally July 17, 2007; Effective August 7, 2007]

10.0 **CONSIDERATIONS BY THE BOARD OF ADJUSTMENT**

- 10.1 In reviewing each application, the Board of Adjustment shall consider
- a. the danger to life and property due to increased flood heights or velocities caused by encroachments;
 - b. the potential danger that materials may be swept onto other lands or downstream creating risk to public health and safety;
[Amended generally July 7, 1998; Effective July 28, 1998.]
 - c. the proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions under conditions of flooding;
 - d. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;
 - e. The importance of the services provided by the proposed facility to the community;
 - f. the necessity to the facility of a waterfront location;
 - g. the availability of alternative locations not subject to flooding for the proposed use;

- h. the compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
- i. [Deleted. Adopted July 7, 1998; Effective July 28, 1998.]
- j. the safety of access to the property in times of flood of ordinary and emergency vehicles;
- k. the expected heights, velocity, duration, rate of rise, and sediment transport of the flood water expected at the site;
- l. the costs of providing governmental and public facilities and services during and after flooding;
- m. such other factors as are relevant to the purposes of this ordinance.

11.0 **CONDITIONS ATTACHED TO CONDITIONAL USE APPROVAL**

11.1 As a condition of approval, the Board of Adjustment shall specifically require that;

- a. all new construction or substantial improvement of any residential structure have the lowest floor, including basement elevated twelve inches (12") above the base flood elevation.
[Amended February 18, 1987. Effective March 11, 1987. Amended July 7, 1998; Effective July 28, 1998 requiring elevation to 12 inches above. Amended deleting reference exception for basements floodproofed below base level July 17, 2007; Effective August 7, 2007]
- b. All new construction or substantial improvement of nonresidential structures have the lowest floor, including basement, elevated twelve inches (12") above the base flood elevation, or be floodproofed below the base flood elevation in accordance with subsection (c) of this section;
[Amended February 18, 1987. Effective March 11, 1987. Amended July 7, 1998; Effective July 28, 1998 requiring elevation to 12 inches above. Amended clarifying reference to base flood elevation July 17, 2007; Effective August 7, 2007]
- c. the lowest floor, including basement, and attendant utility and sanitary facilities of all new construction or substantial improvement below the base flood elevation shall be floodproofed to an elevation at least one foot above the base flood elevation 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 effect of buoyancy;

no permit for a building proposed to be floodproofed shall 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 Bylaw;

[Amended February 18, 1987. Effective March 11, 1987. Amended adding one foot above base flood elevation and architect July 17, 2007; Effective August 7, 2007]

- d. development shall be reasonably safe from flooding and be designed or modified and adequately anchored to prevent flotation, collapse, or lateral movement of the structure during the occurrence of the base flood, be constructed with materials resistant to flood damage, and be constructed by methods and practices that minimize flood damage;

all development shall be designed to minimize flood damage to the proposed development and to public facilities and utilities, and to provide adequate drainage to reduce exposure to flood hazards;

[Amended February 18, 1987. Effective March 11, 1987. Amended adding reasonably safe from flooding July 17, 2007; Effective August 7, 2007]

- e. prohibit development within the floodway unless a registered professional engineer certifies through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed development will not result in any increase in flood levels during the occurrence of the base flood;

[Amended February 18, 1987, Effective March 11, 1987. Amended deleting paragraph and adding hydrologic and hydraulic analyses July 17, 2007; Effective August 7, 2007]

- f. the flood carrying capacity within any portion of an altered or relocated watercourse be maintained;

- g. all gas, electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities be designed, located and constructed so as to prevent water from entering or accumulating within the components during conditions of flooding;

[Amended February 18, 1987. Effective March 11, 1987.]

- h. all new and replacement water supply systems be designed so as to minimize or prevent the infiltration of flood waters into the systems;
- i. all new and replacement sanitary sewage systems be designed to minimize or prevent infiltration of flood waters into the systems and discharges from the systems into flood waters;
- j. on-site waste disposal systems be located to avoid impairment to them or contamination from them during flooding;
- k. all manufactured homes to be placed, replaced, or substantially improved or which have incurred "substantial damage" as the result of a flood, within Zones A, A1-A30, AH or AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is twelve inches (12") above the base flood elevation and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement;
[Amended February 18, 1987. Effective March 11, 1987. Amended section generally July 7, 1998; Effective July 28, 1998. Amended deleting methods of anchoring July 17, 2007; Effective August 7, 2007]
- l. [Amended February 18, 1987. Effective March 1, 1987. Amended July 7, 1998; Effective July 28, 1998. Amended deleting all of (l.) July 17, 2007; Effective August 7, 2007]
- m. [Deleted July 7, 1998; Effective July 28, 1998.]
- n. enclosed areas below the lowest floor which are subject to flooding be used solely for parking vehicles, building access, or storage. For all new construction and substantial improvements, 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 floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must 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, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

[Amended February 18, 1987. Effective March 11, 1987. Amended adding enclosed areas and architect July 17, 2007; Effective August 7, 2007]

- o. [Repealed February 18, 1987. Effective March 11, 1987.]
 - p. all necessary permits be obtained from those governmental agencies from which approval is required by federal or state law.
 - q. all subdivision proposals be reasonably safe from flooding and that
 - (1) proposals minimize flood damage within the flood-prone area, and
 - (2) 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
 - (3) adequate drainage be provided within subdivisions to reduce exposure to flood hazards.
- [Amended adding (1) July 17, 2007; Effective August 7, 2007]
- r. Upon completion of the proposed work described in the application, the applicant provide to the Board of Adjustment certification from a registered, professional engineer or architect that the work has been completed so as to meet the floodproofing, elevation or anchoring criteria of these regulations. This certificate shall be filed with the secretary of the Board of Adjustment within thirty (30) days of completion of the work.
- [Amended adding architect July 17, 2007; Effective August 7, 2007]
- s. Recreational Vehicles placed on sites with special flood hazard areas shall either:
 - (1) be on the site for fewer than 180 consecutive days,
 - (2) be fully licensed and ready for highway use, or
 - (3) be permitted in accordance with the elevation and anchoring requirements for “manufactured homes” in section 11.1(k).

[Amended adding (s) July 17, 2007; Effective August 7, 2007]

11.2 Accessory Structures - When an accessory structure represents a minimal investment (defined as new cost under \$2,000) and is no

greater than 150 sq. ft. in size, the elevation and floodproofing criteria of Section 11.1(b) & (c) need not be met. All other requirements applicable to structures shall apply.

Accessory structures shall:

- a. be use only for parking or storage,
- b. have the required openings to allow floodwaters in and out,
- c. be constructed using flood resistant materials below the base flood elevation,
- d. be adequately anchored to prevent flotation, collapse, and lateral movement,
- e. have all building utility equipment including electrical and heating equipment elevated or floodproofed.

[Amended section generally July 17, 2007; Effective August 7, 2007]

- 11.3 Upon consideration of those factors in Section 10.0, above, and the purposes of these regulations, the Board of Adjustment shall attach such additional conditions to the granting of a permit as are necessary to meeting the purposes and flood hazard area management requirements by these zoning regulations.

12.0 **TIME FOR ACTING ON APPLICATION**

- 12.1 The Board of Adjustment shall hold a properly warned hearing in accordance with Section 4464 of the Act, and shall act on such application in a manner described in sections 10.0 and 11.0 above, within 45 days of the final hearing, subject to the limitation of sections 9.6 and 9.7.

[Amended section reference and change to 45 days July 17, 2007; Effective August 7, 2007]

- 12.2 In accordance with 24 V.S.A. Section 4464 a written notification shall be mailed to the applicant and owners of properties adjoining the property subject to development, without regard to public rights-of-way, at least 15 days prior to the hearing date.

[Amended section adding owners and 15 days July 17, 2007; Effective August 7, 2007]

13.0 **ISSUANCE & TRANSMISSION OF PERMITS**

- 13.1 Upon granting a permit, the Board of Adjustment shall send to the applicant, by certified mail, a copy of the decision. Copies of the decision also shall be mailed to every person appearing and having been heard at the hearing, with the administrative officer, who shall forthwith issue a permit, and with the town clerk as a part of the public records.

14.0 **EFFECTIVE DATE**

- 14.1 Conditional use permits shall not take effect until the time for taking an appeal to the Vermont Environmental Court has passed without an appeal being taken. If an appeal is taken to the Environmental Court, the permit shall not take effect until the Environmental Court rules in accordance with 10 V.S.A. 8504 on whether to issue a stay, or until the expiration of 15 days, whichever comes first (24 V.S.A. 4449(3)).

[Amended section generally July 17, 2007; Effective August 7, 2007]

15.0 **APPEALS**

- 15.1 An interested person, as defined in 24 V.S.A., Section 4465(b), may appeal a decision of the Board of Adjustment to the Environmental Court in accordance with the provisions of 24 V.S.A., Section 4471.

[Amended section reference and adding environmental July 17, 2007; Effective August 7, 2007]

16.0 **VARIANCES**

- 16.1 Variances shall be granted by the Board of Adjustment only in accordance with the provisions of 24 V.S.A., Section 4469 and in accordance with the criteria for granting variances found in 44 CFR, Section 60.6, of the National Flood Insurance Program regulations;

[Amended section reference and deleting (b) and (c) July 17, 2007; Effective August 7, 2007]

- 16.2 The secretary of the Board of Adjustment 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, and
 - b. increase risks to life and property.
- 16.3 The secretary of the Board of Adjustment 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.

17.0 **PROHIBITED USES**

- 17.1 Junkyards, as defined in 24 V.S.A., Section 2068, and storage facilities for chemicals, explosives, flammable liquids, or other toxic materials shall be prohibited within the entire special flood hazard area.

[Amended adding special flood hazard area July 17, 2007; Effective August 7, 2007]

18.0 **FEES**

- 18.1 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 secretary of the Board of Adjustment upon application for a conditional use permit under these regulations.

[Amended to Selectboard July 17, 2007; Effective August 7, 2007]

19.0 **WARNING OF DISCLAIMER OF LIABILITY**

- 19.1 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 Rockingham or any town official or employee thereof for any flood damage that results from reliance on this ordinance or any administrative decision lawfully made thereunder.

20.0 **ENFORCEMENT**

- 20.1 These regulations shall be enforced in accordance with Section 1340 of the Town of Rockingham Zoning Bylaw.
- 20.2 If a structure is still noncompliant after the opportunity to cure a violation 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 Zoning Board of Adjustment or Administrative Officer 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.

[Amended adding 20.2 July 17, 2007; Effective August 7, 2007]

21.0 **SEVERABILITY**

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

22.0 **PRECEDENCE OF REGULATIONS**

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

[Amended adding first sentence July 17, 2007; Effective August 7, 2007]

23.0 **ANNUAL REPORT TO FEDERAL INSURANCE ADMINISTRATION**

23.1 The administrative officer shall, to the extent possible, submit to the Administrator the information required by the FIA annual report form with respect to the administration and enforcement of these flood hazard area bylaws.

23.2 A copy of the annual report shall be submitted to the state coordinating agency.

24.0 **DEFINITIONS**

The definitions of Article V, Town of Rockingham Zoning Bylaw, are incorporated by reference and made a part of this bylaw. In addition, the following definitions apply:

Adequately anchored – A system of ties, anchors and anchoring equipment that will withstand flood and wind forces. The system must work in saturated soil conditions. It may include over-the-top or frame tie-downs in addition to standard connections to the foundation. See FEMA publications for guidance on anchoring.

[Amended adding definition July 17, 2007; Effective August 7, 2007]

Administrator - The Federal Insurance Administrator

Administrative Officer - Town Zoning Administrator

Area of shallow flooding - A designated AO or AH zone on a community's

Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

[Amended February 18, 1987. Effective March 11, 1987.]

Area of special flood hazard - The land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. The area includes all A zone designations on the FIRM and on the Flood Hazard Boundary Map. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A may be refined into Zones A, AD, AH, A1-A30, AE, or A99, AR, AR/AI-30, AR/AE, AR/AO, AR/AH, AR/A, VO or V1-30, VE, or V. It does not include Zones B and C. For purposes of these regulations, the term "area of special flood hazard area" is synonymous in meaning with the phrase "special flood hazard".

[Amended February 18, 1987. Effective March 11, 1987. Amended July 17, 2007; Effective August 7, 2007]

Base Flood - The flood having a one percent chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE) - 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.

[Amended adding definition July 17, 2007; Effective August 7, 2007]

Basement - Any area of a building having its floor subgrade (below ground level) on all sides.

[Amended February 18, 1987. Effective March 11, 1987.]

Development - The division of a parcel of land into two or more parcels, any manmade change to improved or unimproved real estate, including but not limited to construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure, or mining, excavation, dredging, filling, grading, paving, drilling operations, or any change in the use of any building or other structure, or land, or extension of use of land, or storage of equipment or materials.

[Amended July 7, 1998; Effective July 28, 1998 adding storage of equipment or materials.]

Existing manufactured home park or manufactured home subdivision - 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.

[Amended generally July 17, 2007; Effective August 7, 2007]

Expansion to an existing manufactured home park or manufactured home subdivision - 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).

[Amended generally July 17, 2007; Effective August 7, 2007]

FIA - Federal Insurance Administration

Flood Insurance Rate Map (FIRM) - An official map of a community, on which the administrator has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

[Amended adding full name of FIRM July 17, 2007; Effective August 7, 2007]

Flood Hazard Boundary Map (FHBM) - An official map of a community issued by the Administrator, where the boundaries of the flood, mudslide related erosion areas having special hazards have been designated as Zones A, M, and/or E.

Flood Insurance Study - 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.

[Amended February 18, 1987. Effective March 11, 1987. Amended adding mudslide July 17, 2007; Effective August 7, 2007]

Floodproofed or floodproofing - Any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property water and sanitary facilities, structures and their contents.

Floodway - 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.

Functionally dependent use - a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking or port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

[Amended February 18, 1987. Effective March 11, 1987.]

Historic Structure - 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.

[Amended adding definition July 17, 2007; Effective August 7, 2007]

Lowest floor - 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 this Bylaw.

[Amended February 18, 1987. Effective March 11, 1987.]

Manufactured home - A structure, including a mobile home, 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 the required utilities. The term "manufactured home" does not include a "recreational vehicle."

[Amended February 18, 1987. Effective March 11, 1987. Amended generally July 17, 2007. Effective August 7, 2007]

Manufactured home park or subdivision - A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

[Amended February 18, 1987. Effective March 11, 1987.]

New construction - For flood plain management purposes, structures for which the "start of construction" commenced on or after the effective date of this ordinance, and includes any subsequent improvements to such structures. 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.

[Amended July 7, 1998; Effective July 28, 1998 adding improvements. Amended adding for purposes of determining insurance rates July 17, 2007; Effective August 7, 2007]

New manufactured home park or subdivision - 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.

[Amended adding definition July 17, 2007; Effective August 7, 2007]

Permanent foundation – Includes a below-grade footing capable of resisting overturning. The depth needs to account for frost depth and expected scour. The footing must be sized appropriately for the site's soil bearing capacity, and the design needs to account for seismic and other hazards. This includes, but is not limited to, the following types of foundations: reinforced piers, post-tensioned piers, posts, piles, poured concrete wall, reinforced block walls, or compacted fill.

[Amended adding definition July 17, 2007; Effective August 7, 2007]

Recreational vehicle - 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.

[Amended adding definition July 17, 2007; Effective August 7, 2007]

Regulatory floodway - The floodway as designated on the Rockingham and Bellows Falls Flood Boundary and Floodway Maps.

Start of construction - Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, placement of an addition, 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, footings, 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.

[Amended February 18, 1987. Effective March 11, 1987. Amended July 7, 1998; Effective July 28, 1998 adding rehabilitation and addition.]

Structure - For flood plain management purposes, an assembly of materials for occupancy or use, including but not limited to, a walled and roofed building, manufactured home (including a mobile home or trailer), gas or liquid storage tank. 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.

[Amended February 18, 1987. Effective March 11, 1987. Amended adding insurance purposes information July 17, 2007; Effective August 7, 2007]

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

[Amended July 7, 1998; Effective July 28, 1998 adding definition.]

Substantial improvement - Any repair, reconstruction, rehabilitation, addition to, or other improvement of a structure the cost of which equals or exceeds 50 percent of the market value of a structure either, (a) before the improvement or repair is started, or (b) if the structure has been damaged, and is being restored, before the damage occurred. The term includes structures which have incurred "substantial damage" regardless of the actual repair work performed. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure"..

[Amended July 7, 1998; Effective July 28, 1998 adding rehabilitation, addition, and substantial damage. Amended adding (2) July 17, 2007; Effective August 7, 2007]

Violation - 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.

[Amended adding definition July 17, 2007; Effective August 7, 2007]

25.0 EFFECTIVE DATE

In accordance with Chapter 117, Title 24 V.S.A., the Town of Rockingham Selectmen hereby adopt this Rockingham Flood Hazard Area Zoning Bylaw this 27th day of January, 1984. This Bylaw shall become effective the 17th day of February, 1984.