

Flood Hazard Area Regulation

Town of Coventry, Vermont

Adopted March 1, 1994

**FLOOD HAZARD AREA REGULATIONS
TOWN OF COVENTRY**

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§101: Statutory Authorization

To effect the purposes of 10 VSA chapter 32, and in accord with the Vermont Planning and Development Act, 24 VSA chapter 117, §4407(9) and §4412, there are hereby established development regulations for areas of special flood hazard in the Town of Coventry.

§102: 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:

- 102.01 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;
- 102.02 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.

§103: Lands to Which These Regulations Apply

These regulations shall apply for development in all areas in the Town of Coventry identified as areas of special flood hazard on the National Flood Insurance Program maps which are hereby adopted by reference and declared to be part of these regulations.

§104: Permit Requirements & Application Procedures

- 104.01 Permits are required for all proposed new construction, substantial improvements, and other developments, including the placement of mobile homes, within all lands to which these regulations apply.
- 104.02 All permit applications shall be submitted to the administrative officer, 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 §105 of these regulations.
- 104.03 If the proposed use will be located in the areas of special flood hazard and meets the requirements of §106 of these regulations, the administrative officer shall issue a permit. If the proposed use does not meet the requirements of §106, the administrative officer shall refer all applicants to the secretary of the board of adjustment.

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§105: Interpretation of District Boundaries

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. Appeals with respect to a boundary interpretation shall be made by filing a notice with the Secretary of the board of adjustment within fifteen days of the decision or act.

§106: Permitted Uses

Upon issuance of a permit by the administrative officer, 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, or increase offsite flood damage potential.

- 106.01 Agricultural uses, such as general farming, pasture, orchard, grazing, outdoor plant nurseries, truck farming, and forestry.
- 106.02 Recreation uses, such as parks, camps, 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.
- 106.03 Residential uses, such as lawns, gardens, parking areas, and play areas.

§107: Conditional Use Permit Required

- 107.01 All development including fill, excavation, grading, erection or placement of structures, substantial improvement of existing structures and storage of equipment and material are permitted within an area of special flood hazard only upon the granting of a conditional use permit by the Board of Adjustment.
- 107.02 Prior to issuing a permit for the construction of new buildings, the substantial improvement of existing buildings, or for development in the floodway, a copy of the application shall be submitted to the Vermont Department of Environmental Conservation in accordance with 24VSA 4409. A permit may be issued only following receipt of comments from the Department or the expiration of 30 days from the date the application was mailed to the Department, whichever is sooner.

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107.03 Adjacent communities and the Vermont Department of Environmental Conservation shall be notified at least 15 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 Federal Insurance Administration.

§108: Base Flood Elevations & Floodway Limits

108.01 Where available, i.e.; Zones A1-A30, AE, and AH, the base flood elevations and floodway limits provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps shall be used to administer the provisions of these regulations.

108.02 In areas where base flood elevations and floodway limits have not been provided by the National Flood Insurance Program, i.e.; Zone A, base flood elevation and floodway information available from State or Federal agencies or other sources, shall be obtained and reasonably utilized to administer the provisions of these regulations.

§109: Conditional Use Review Procedures

109.01 Upon receiving an application for a conditional use permit under these regulations, the Board of Adjustment shall, prior to rendering a decision thereon:

A. obtain from the applicant;

1. The elevation (in relation to mean sea level) of the lowest floor, including basement, of new buildings or buildings to be substantially improved;
2. Where flood proofing is proposed, the elevation (in relation to mean sea level) to which the building will be floodproofed;
3. Plans drawn to scale showing the existing and proposed land contours, buildings, structures, streams, roads and other pertinent physical features;
4. Base flood elevation data for subdivisions and other proposed development which contain at least 50 lots or 5 acres (whichever is the smaller).
5. Such other information deemed necessary by the Board of Adjustment for determining the suitability of the site for the proposed development.

B. Obtain from the Vermont Department of Water Resources or other state or federal agencies any available base flood elevation data.

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109.02 In reviewing each application, the Board of Adjustment shall consider:

- A. The evaluation of the Vermont Department of Water Resources.
- B. The availability of alternative locations not subject to flooding for the proposed use.
- C. The susceptibility of the proposed improvement to flood damages.
- D. The safety of access to the property in times of flood of ordinary and emergency vehicles.
- E. The potential for damage to the property caused by erosion.
- F. The danger that materials may be swept onto other lands and cause damage to others.
- G. Such other factors as are relevant to the purposes of this regulation.

109.03 The Board of Adjustment may grant a conditional use permit for development provided

- A. All necessary permits are obtained from those governmental agencies from which approval is required by Federal or State law.
- B. The development standards of §110 are met or exceeded.

§110: Development Standards

110.01 Floodway Areas:

- A. 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.
- B. Junkyards and storage areas or facilities for floatable materials, chemicals, explosives, flammable liquids, or other hazardous or toxic materials, are prohibited within the floodway.

110.02 Fringe Areas:

- A. All development shall be designed:
 - 1. To minimize flood damage to the proposed development and to public facilities and utilities, and;
 - 2. To provide adequate drainage to reduce exposure to flood hazards;

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B. Structures shall be:

1. Designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure during the occurrence of the base flood;
2. Be constructed with materials resistant to flood damage;
3. Be constructed by methods and practices that minimize flood damage, and;
4. Be 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.

C. The flood carrying capacity within any altered or relocated portion of a watercourse shall be maintained.

(D) New and replacement water supply and 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.

(E) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

F. 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.

G. The lowest floor, including basement, of all new buildings shall be at or above the base flood elevation.

H. Existing buildings to be substantially improved for residential purposes shall be modified or elevated to meet the requirements of subsection 110.02(G).

I. Existing buildings to be substantially improved for non-residential purposes shall either:

1. Meet the requirements of subsection 110.02(H), or;
2. Be designed to be watertight below 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.

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- J. All new construction and substantial improvements 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:
1. 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;
 2. The bottom of all openings shall be no higher than one foot above grade;
 3. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- K. Areas to be used for junkyards or for storage of floatable, hazardous or toxic materials shall be filled and graded to at least one foot above the base flood elevation.

§111: Duties/Responsibilities of Administrative officer

The Administrative officer shall maintain a record of:

- 111.01 All permits issued for development in areas of special flood hazard.
- 111.02 The elevation, in relation to mean sea level, of the lowest floor, including basement, of all new or substantially improved buildings.
- 111.03 The elevation, in relation to mean sea level, to which buildings have been floodproofed.
- 111.04 All floodproofing certifications required under this regulation.
- 111.05 All variance actions, including justification for their issuance.

§112: Variances to the Development Standards

Variances shall be granted by the Board of Adjustment only:

- 112.01 In accordance with the provisions of 24 VSA §4468 and §4412(h) and in accordance with the criteria for granting variances found in 44 CFR, §60.6, of the National Flood Insurance Program regulations;

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- 112.02 Upon a determination that during the base flood discharge the variance will not result in increased flood levels.
112.03 Upon a determination that the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

§113: 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 Coventry or any official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

§114: Time for Acting on Application

- 114.01 The board of adjustment shall hold a properly warned hearing within 30 days of receiving an application, and shall act on such application within 30 days of the final hearing.
114.02 A copy of the public notice shall be mailed to the applicant at least 15 days prior to the hearing date.

§115: Issuance & Transmission of Permits

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.

§116: Effective Date

- 116.01 A permitted use permit shall take effect 15 days from the date of issuance.
116.02 Conditional use permits shall take effect upon adjudication by the Board of Adjustment.

§117: Appeals

An interested person, as defined in 24 VSA §4464(b), may appeal a decision of the board of adjustment to the superior court in accordance with the provisions of 24 VSA §4471.

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§118: Nonconforming Structures

The board of adjustment may, after public notice and hearing, approve the repair, relocation, replacement, or enlargement of a nonconforming structure within a regulated flood hazard area, subject to compliance with the applicable considerations and requirements of these regulations and provided that the following criteria are met:

- 118.01 The board finds that the repair, relocation, or enlargement of such nonconforming structure is required for the continued economically feasible operation of a non-residential enterprise;
- 118.02 The board finds that the repair, relocation, or enlargement of a nonconforming residential or non-residential structure will not increase flood levels in the regulatory floodway, threaten the health, safety, and welfare of the public or other property owners;
- 118.03 The permit so granted shall state that the repaired, relocated, or enlarged nonconforming structure is located in a regulated flood hazard area, does not conform to the bylaws pertaining thereto, may not be eligible for any flood insurance which may pertain to regulated flood hazard areas, and will be maintained at the risk of the owner;
- 118.04 A copy of such permit shall be affixed to the copy of the deed of the concerned property on file in the municipal clerk's office.

§119: Fees

The board of selectmen 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.

§120: Severability

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

§121: Precedence of Regulations

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

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§122: Definitions

AREA OF SHALLOW FLOODING: Means 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.

AREA OF SPECIAL FLOOD HAZARD: Is 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 may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-A30, AE, or A99.

BASE FLOOD: Means the flood having a one percent chance of being equaled or exceeded in any given year.

BASEMENT: Means any area of the building having its floor subgraded (below ground level) on all sides.

BUILDING: Means a walled and roofed building including a gas or liquid storage tank that is principally above ground.

DEVELOPMENT: Means the division of a parcel into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure, or any mining, excavation or landfill, and any change in the use of any building or other structure, or land, or extension of use of land.

FLOOD HAZARD BOUNDARY MAP (FHBM): Means an official map of a community, issued by the Administrator, where the boundaries of the flood, mudslide (i.e., mudflow) related erosion areas having special hazards have been designated as Zones A, M, and/or E.

FLOOD INSURANCE RATE MAP (FIRM): Means an official map of a community, on which the Administrator has delineated both the special hazard areas and the risk premium applicable to the community.

FLOOD INSURANCE STUDY: Means an examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations.

FLOOD PROOFING: Means any combination of structural and nonstructural 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 a designated height.

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 §60.3 of the National Flood Insurance Program regulations.

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 the required utilities. For flood plain management purposes the term "manufactured home" also includes park trailers,

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travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

MEAN SEA LEVEL: Means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a communities Flood Insurance Rate Map are referenced.

STRUCTURE: Means an assembly of materials for occupancy or use, including, but not limited to, a building, mobile home or trailer, billboard, sign, wall or fence, except a wall or fence on an operating farm.

SUBSTANTIAL IMPROVEMENT: Means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the 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 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 structure listed on the National Register of Historic places or a State Inventory of Historic Sites.