

**PROPOSED
FLOOD & FLUVIAL EROSION HAZARD
AREA BYLAW AMENDMENTS**

**Waitsfield Planning Commission
Public Hearing Draft**

February 16, 2010

**PROPOSED AMENDMENTS TO THE
TOWN OF WAITSFIELD
ZONING BYLAW**

Note: This document includes only those sections and subsections of the Waitsfield Zoning Bylaw proposed for amendment which, if adopted, will be incorporated in the full text of the bylaw.

ARTICLE I. AUTHORITY & PURPOSE

Section 1.03 Application & Interpretation

- A. The application of this bylaw is subject to all provisions of the Act as most recently amended.
- B. In accordance with the Act [§4446], no land development shall commence within the jurisdiction of the Town of Waitsfield except in conformance with the requirements of this bylaw. Any land development which is not specifically authorized under this bylaw, nor is otherwise exempted from these regulations under Section 6.02, is prohibited.
- C. All uses or structures lawfully in existence as of the effective date of this bylaw are allowed to continue indefinitely. Changes, alterations or expansions to pre-existing structures or uses shall be subject to all applicable requirements of this bylaw, including provisions applying to nonconforming uses and/or nonconforming structures under Section 3.08.
- D. The subdivision of land, including the division of a parcel into two or more parcels, does not require a zoning permit, but does require subdivision approval in accordance with the Waitsfield Subdivision Regulations. Where applicable, subdivision approval shall be obtained prior to the issuance of a zoning permit for subsequent land development. The subdivision of land also may be subject to planned residential or planned unit development (PRD/ PUD) review by the Development Review Board under Section 5.04 of this bylaw.
- E. In its interpretation, the provisions of this bylaw shall be the minimum required. It is not the intent of this bylaw to repeal, annul, or in any way impair other regulations in effect, or any permits previously issued; however, where this bylaw imposes more stringent restrictions upon land development, the provisions of this bylaw shall apply.

Land Development: The construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, or of any mining, excavation or landfill, and any change in the use of any building or other structure, or land, or extension of use [§4303(10)].

Note that the definition of "development" for purposes of flood hazard area regulation within the Flood Hazard Area Overlay District may include additional uses, structures and activities that are otherwise exempt from regulation under the Act or Section 6.02 of this bylaw.

Section 1.05 Amendments

- C. Proposed amendments to Flood Hazard Area Overlay or Fluvial Erosion Hazard Area Overlay District regulations under this bylaw shall be sent to the Vermont Agency of Natural Resources, River Management Program at least fifteen days prior to the first public hearing to be reviewed for conformance with federal and state program requirements.

ARTICLE II. ZONING DISTRICTS

Section 2.01 Establishment of Zoning Districts & Maps

A. For the purposes of this bylaw, the Town of Waitsfield is divided into the following zoning districts as described in the accompanying tables (Tables 2.01 - 2.11) and the official zoning map:

Table 2.01.	Village Business District	(VB)
Table 2.02.	Village Residential District	(VR)
Table 2.03.	Irasville Village District	(IV)
Table 2.04.	Commercial Lodging District	(CL)
Table 2.05.	Limited Business District	(LB)
Table 2.06.	Industrial District	(IN)
Table 2.07.	Agricultural-Residential District	(AR)
Table 2.08.	Forest Reserve District	(FR)
Table 2.09.	Historic Waitsfield Village Overlay District	(HWVO)
Table 2.10.	Flood Hazard Area Overlay District	(FHO)
Table 2.11.	Fluvial Erosion Hazard Area Overlay District	(FEHO)

B. The location and boundaries of each zoning district are established as shown on the official "Town of Waitsfield Zoning Map." In addition:

1. Flood Hazard Area Overlay District boundaries that depict Special Flood Hazard Areas (SFHAs) are shown in and on the most current Flood Insurance Studies and National Flood Insurance Program maps for the Town of Waitsfield, published by the Department of Homeland Security, Federal Emergency Management Agency, National Flood Insurance Program, as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. Chapter 32 §753.
2. Fluvial Erosion Hazard Overlay Area District boundaries are shown on the most current Fluvial Erosion Hazard Area (FEHA) maps prepared for the town in accordance with state geomorphic assessment and mapping protocols.

C. The official zoning map and accompanying overlay maps are hereby adopted by reference and declared to be part of this bylaw. The official zoning map may only be altered by adoption or amendment in accordance with the Act [§§4441, 4442] and this bylaw (Section 1.05).

D. The official zoning map, flood hazard area and fluvial erosion hazard area overlay maps shall be located in the Waitsfield Town Office. The official zoning map shall be identified by the signatures of the Selectboard, as attested to by the Town Clerk. These maps shall be the final authority as to the zoning status of any lands or waters in the town.

Section 2.02 Zoning District Boundary Interpretation

A. Narrative descriptions of zoning district boundaries are included in Appendix A of these regulations.

B. Where uncertainty exists as to the location of district boundaries as shown on the official zoning map, the following rules shall apply:

1. Boundaries indicated as following roads, transportation or utility rights-of-way shall be interpreted to follow the centerlines of such features.
 2. Boundaries indicated as following rivers or streams shall be interpreted to follow the channel centerline and shall move with the centerline of such features.
 3. Boundaries indicated as following lot lines shall be interpreted to follow the delineated property boundary.
 4. Boundaries indicated as following contour lines shall be interpreted to follow a constant, specified elevation as measured from mean sea level or other accepted reference datum.
 5. Boundaries indicated as following compass headings shall be interpreted to follow such headings.
 6. Boundaries indicated as parallel or perpendicular to, or extensions of the above features (1-4), shall be so interpreted on the ground.
 7. Distances not specifically indicated shall be determined by the scale on the official zoning map.
- C. The abandonment or relocation of a right-of-way or roadway, or the change in a line or feature which references a district boundary line, after the effective date of this bylaw, shall not affect the location of the district boundary line except as specified above for streams and rivers.
- D. Within the Flood Hazard Area Overlay District, where available (i.e., in Zones 1- A30, AE and AH) the base flood elevations and floodway limits provided by the National Flood Insurance Program (NFIP) in the Flood Insurance Study and accompanying maps shall be used to administer and enforce the flood hazard area overlay district provisions of this bylaw. In Special Flood Hazard Areas where base flood elevations and floodway limits have not been provided by the NFIP in the Flood Insurance Study and accompanying maps (i.e., Zone A), it is the applicant's responsibility to develop the necessary base flood elevations and floodway information. Where available, the applicant shall use data provided by FEMA, state or federal agencies or other sources.
- E. When the Administrative Officer cannot definitely determine the location of a district boundary, the Development Review Board and/or appropriate state or federal official may be consulted prior to issuing a determination. A determination by the Administrative Officer regarding the location of a district boundary may be appealed to the Development Review Board under Section 6.4. Where there is a dispute as to where a property is located in relation to a district boundary, the property owner may be required to verify the location of the boundary line by a survey prepared by a registered surveyor.
1. If uncertainty exists with respect to a boundary within the Flood Hazard Area Overlay District, including the location of a Special Flood Hazard Area (SFHA) or floodway, the boundary location shall be determined by the Administrative Officer in consultation with the National Flood Insurance Program Coordinator at the Vermont Agency of Natural Resources. If the applicant disagrees with the determination made by the Administrative Officer, an elevation certificate and Letter of Map Amendment from FEMA shall constitute proof.

1 2. If uncertainty exists with regard to the boundary of a mapped Fluvial Erosion Hazard
2 Area (FEHA) within the Fluvial Erosion Hazard Area Overlay District, the
3 Administrative Officer shall determine the location in consultation with the Vermont
4 River Management Program, pursuant to Section 6.01(B)4. A letter of boundary
5 determination from the River Management Program shall constitute proof of a boundary
6 location, and whether a proposed development is located, is not located, or should not be
7 located within the mapped FEHA Overlay District due to an error in delineating the FEH
8 boundary.
9

10 F. Where a district boundary divides a lot in single ownership as of the effective date of this bylaw,
11 or any amendment thereto, the Development Review Board may permit, subject to conditional
12 use review under Section 5.03, the extension of district standards for either portion of the lot up to
13 50 feet beyond the district line into the remaining portion of the lot.
14

15 G. Where a lot is divided by a town boundary, the standards of this bylaw shall be applied to that
16 portion of the lot located in the Town of Waitsfield in the same manner as if the entire lot were
17 located in this town.
18

19 Section 2.03 Application of District Standards

20

21 A. Tables 2.01-2.11 set forth the stated purpose, allowable uses and specific standards for each
22 zoning district. Additional district standards pertaining to conditional uses may be found under
23 Section 5.03, and to planned residential and planned unit development under Section 5.04.
24

25 B. As of the effective date of this bylaw, all uses and structures, unless specifically exempted under
26 Section 6.02, must comply with all prescribed standards for the district in which they are located,
27 as set forth in Tables 2.01-2.11, unless otherwise specified in these regulations. The standards for
28 each district shall apply uniformly to each class of use and/or structure, unless otherwise
29 specified. Nonconforming uses and nonconforming structures in lawful existence as of the
30 effective date of this bylaw shall be regulated in accordance with Section 3.08.
31

32 C. Overlay district standards as set forth in Tables 2.09-2.11 shall be applied concurrently with the
33 standards for underlining zoning districts. Where overlay districts impose more restrictive
34 standards on the use of land or a structure, the standards of the overlay district shall apply.
35

36 D. Prescribed uses for each district are classified as “**permitted uses**” (“use by right”), subject to
37 review by the Administrative Officer in accordance with Section 6.01; or as “**conditional uses**”
38 subject to review by the Development Review Board in accordance with Section 5.03. Both
39 permitted and conditional uses are also subject to applicable general standards set forth in Article
40 III. All uses not specifically allowed under, or exempted from, the provisions of this bylaw are
41 prohibited.
42

43
44 ...

Table 2.10
Flood Hazard Area Overlay District (FHO)

A. Purpose. The Flood Hazard Area Overlay District includes designated Special Flood Hazard Areas (SFHAs) subject to a one percent or greater chance of flooding in any given year (i.e., 100-year floodplains) as depicted on the most recent National Flood Insurance Program maps issued by the National Flood Insurance Program for the Town of Waitsfield. The purposes of this overlay district are to: (1) promote public health safety and welfare; to (2) prevent increases in flooding caused by the uncontrolled development in special flood hazard areas; to (3) minimize losses due to floods; to (4) manage all special flood hazard areas in conformance with adopted municipal and hazard mitigation plans; and to (5) ensure that the Town of Waitsfield, its residents and businesses can obtain available federal flood insurance, disaster recovery and hazard mitigation funds through community participation in the National Flood Insurance Program.

B. Permitted Uses – requiring only administrative review:

1. Accessory Use (to a permitted use)
2. Agriculture (See Section 6.02)
3. Forestry (See Section 6.02)
4. Home Child Care*
5. Home Occupation*

* within an existing single family dwelling

Permitted Uses – subject to state review and approval – documentation of state permits required

6. Channel management activities
7. Flood and stormwater management activities
8. Public Utilities (regulated by the state)
9. Stream crossings (bridges, culverts)
10. Water supply and wastewater systems

C. Conditional Uses – The following development is allowed in association with uses identified in the underlying zoning district and subject to state and conditional use review under Section 5.03(E) as well as other applicable conditional use standards:

1. Accessory Structure (to existing or allowed use)
2. Additions, improvements to existing structures.
3. Fill (only as necessary to elevate structures)
4. Grading and excavation (only incidental to allowed uses and activities)
5. Infrastructure and utilities (to serve allowed uses).
6. Parking (at grade only, to serve allowed uses)
7. Ponds
8. Principal structure*
9. Public Facility (limited to facilities that are functionally dependent on river or water access)
10. Public Utility (regulated by the town; see Section 5.03 D.10)
11. Recreational Vehicle (on-site storage)
12. Road improvements (existing only)
13. Storage tanks (new, replacement) for existing structures and uses

* only within the underlying Village Business District

D. Dimensional Standards:

All applicable standards of the underlying district shall apply.

1
2 E. **Additional District Standards – also see Section 5.03(E):**
3

4 1. Development within the Flood Hazard Area Overlay District, as defined for purposes of flood
5 hazard area regulation under Section 7.03 (Definitions), shall be subject to the provisions of
6 Section 5.03(E), as well as any applicable requirements of the underlying zoning district.
7 Where this overlay district imposes more restrictive standards on the construction or use of
8 structures or land, the standards under this overlay district shall apply. See also state
9 notification requirements under Section 6.01.

10
11 2. **Definitions.** For purposes of flood hazard area regulation, federal program definitions
12 under Section 7.03 shall apply.
13

14 3. **Allowed Uses & Activities.** Uses allowed within the Flood Hazard Area Overlay District
15 which are not subject to overlay district standards include agriculture and forestry
16 activities conducted in accordance with the requirements of Section 6.02, unimproved
17 open space, the regular maintenance of existing roads, driveways, infrastructure, utilities
18 and stormwater systems and those uses allowed by statute within existing single-family
19 dwellings (i.e., child care and group homes as defined, and home occupations). All other
20 allowed uses, structures, and activities except for those permitted by the state, shall be
21 subject to conditional use review under the provisions of Section 5.03, as well as all other
22 applicable municipal and state regulations.
23

24 4. **Prohibited Uses & Activities.** The following uses and activities are specifically
25 prohibited within this overlay district (Special Flood Hazard Areas):
26

- 27 a. All new structures as defined for purposes of flood hazard area management under
28 Section 7.03, except as allowed under Subsections (B) and (C) above.
29 b. Accessory structures are prohibited only within floodway areas.
30 c. Salvage yards and facilities for the storage of chemicals, fertilizers, pesticides,
31 explosives, and flammable, toxic, hazardous and floatable materials.
32 d. Fill, except as necessary to elevate structures above the base flood elevation.
33 e. Enclosed areas that are below grade on all sides (including below grade crawlspaces
34 and basements).
35 f. Critical public facilities. Such facilities also are prohibited within mapped 500-year
36 floodplains (those areas with a 0.2% or more annual chance of flooding).
37

38 5. No development under Subsection (C) shall be allowed within this district if it can be
39 located outside of the district on the parcel to be developed, or can be reasonably located
40 on an adjoining parcel in common ownership.
41

42 F. **Warning and Disclaimer:**
43

44 District designation does not imply that lands outside of designated flood hazard areas, or land
45 uses permitted within designated flood hazard areas, will be free from flooding or flood damages.
46 District designation and the administration of associated standards shall not create liability on the
47 part of the municipality, or any official or employee thereof, for any damages that result from the
48 application of this bylaw or any decision lawfully made hereunder.

Table 2.11

Fluvial Erosion Hazard Area Overlay District (FEHA)

A. **Purpose.** The purposes of the Fluvial Erosion Hazard Area Overlay District are to: (1) implement adopted municipal and hazard mitigation plans; to (2) protect mapped fluvial erosion hazard areas that are highly sensitive to erosion due to naturally occurring stream channel migration and adjustment; to (3) limit new development within these areas to protect public health, safety welfare, and to minimize property losses and damage and extraordinary public expenditures resulting from fluvial erosion; and to (4) allow rivers and streams to re-establish and maintain their natural equilibrium, and thereby avoid the need for costly and environmentally degrading stream channelization and bank stabilization measures.

B. **Permitted Uses** (requiring only administrative review):

1. Agriculture (see Section 6.02)
2. Forestry (see Section 6.02)
3. Home Child Care*
4. Home Occupation*

* within an existing single family dwelling

Permitted Uses – subject to state review and approval – documentation of state permits required

5. Channel management activities
6. Flood and stormwater management activities
7. Public Utility (regulated by the state)

(C) **Conditional Uses** – The following development is allowed in association with uses identified in the underlying zoning district and subject to state and conditional use review under Section 5.03(F) as well as other applicable conditional use standards:

1. Accessory Structure (to an existing or allowed use)
2. Additions, improvements to existing structures
3. Commercial Water Extraction
4. Driveways (new or relocated)
5. Fill (only as necessary to elevate structures)
6. Grading and excavation (only incidental to allowed uses and activities)
7. Infrastructure and utility improvements necessary to serve existing structures
8. Parking (at grade only, to serve allowed uses)
9. Public Facility (limited to facilities that are functionally dependent on river or water access)
10. Public Utility (regulated by the town; see Section 50.3D.10.)
11. Recreation/Outdoor facilities (no structures)
12. Roads (new or relocated)
13. Stream crossings (bridges, culverts)

D. **Dimensional Standards:**

1. As required for the underlying zoning district; however:

- a. No new accessory structure or addition to an existing principal structure in this district shall further reduce the minimum setback distance from the stream established by existing structures on the lot, as measured horizontally from the top of the bank (or slope) to the nearest point of the structure nearest to the stream;
- b. An accessory structure in the FEHO shall be located no more than 50 feet from the principal structure, unless it can be located farther away from the stream than the principal structure.
- c. The total combined, cumulative footprint of all accessory structures within the FEHO constructed on a property after (*insert effective date of these regulations*) shall not exceed 500 square feet.
- d. The total combined, cumulative footprint of all structural additions or improvements within the FEHO constructed on a property after (*insert the effective date of these regulations*) shall not exceed 500 square feet.

1 **E. Additional Standards – see also Section 5.03(F)**

- 2
- 3 1. **Applicability.** District standards shall apply to all mapped Fluvial Erosion Hazard Areas
- 4 (FEHAs) in the Town of Waitsfield, as depicted on the most current Fluvial Erosion
- 5 Hazard (FEH) maps accepted by the Vermont Agency of Natural Resources River
- 6 Management Program and on file at the town office.
- 7
- 8 a. Development within the Fluvial Erosion Hazard Area Overlay District shall be
- 9 subject to the provisions of Section 5.03(F), as well as any applicable
- 10 requirements of the underlying zoning district. Where the standards of this
- 11 overlay district differ from those of the underlying district, or from other
- 12 applicable sections of these regulations – including flood hazard area regulations
- 13 under Section 5.03 and stream setback and buffer requirements under Section
- 14 3.12 – the more restrictive shall apply.
- 15
- 16 2. **Allowed Uses & Activities.** Uses and activities allowed within the Fluvial Erosion
- 17 Hazard Area Overlay District which are not subject to review under district standards
- 18 include agricultural and forestry activities conducted in accordance the requirements of
- 19 Section 6.02, unimproved open space, the regular maintenance of existing roads,
- 20 driveways, infrastructure, utilities and stormwater systems, and those uses allowed by
- 21 statute within existing single-family dwellings (e.g., child care and home occupations).
- 22 All other uses, structures and activities, including but not limited to expanded single-
- 23 family dwellings, shall be subject to conditional use review under the provisions of
- 24 Section 5.03(F), as well as other applicable municipal and state regulations.
- 25
- 26 3. **Prohibited Uses & Activities.** The following activities are specifically prohibited within
- 27 this district: all new development, including new structures, buildings, dwellings, septic
- 28 systems, roads, utilities and other infrastructure, except as allowed under Subsections (B)
- 29 and (C) above; junk or salvage yards; the storage of chemicals, fertilizers, pesticides,
- 30 explosives, and flammable, toxic, hazardous and floatable materials; and fill, except as
- 31 specified under (C) to elevate existing structures within the Flood Hazard Overlay
- 32 District above the base flood elevation.
- 33
- 34 4. No development under Subsection (C) shall be allowed within this district if it can be
- 35 located outside of the district on the parcel to be developed, or can be reasonably located
- 36 on an adjoining parcel in common ownership.

ARTICLE III. GENERAL REGULATIONS

Section 3.01 Abandoned and Damaged Structures

...

D. The repair or replacement of a substantially damaged structure within the Flood Hazard Area Overlay District is subject to conditional use review and must comply with all applicable requirements under Section 5.03(E). A structure in this overlay district that has been destroyed may be reconstructed only if it cannot be relocated to a less hazardous site on the parcel.

...

Section 3.08 Nonconforming Structures & Nonconforming Uses

A. **Nonconforming Structures.** Any pre-existing structure or part thereof which is not in compliance with the provisions of these regulations concerning density, set backs, height, lot size or other dimensions, or which does not meet other applicable requirements of these regulations, shall be deemed a nonconforming structure. In accordance with the Act [§4412(7)], nonconforming structures existing on the effective date of these regulations may be allowed to continue indefinitely, but shall be subject to the following provisions. A nonconforming structure:

1. may undergo normal repair and maintenance provided that such action does not increase the degree of noncompliance (see definition of degree of noncompliance in Article VII);
2. may be restored or reconstructed after damage from any cause provided that the reconstruction does not increase the degree of noncompliance which existed prior to the damage and provided the reconstruction is commenced within 12 months from the date that the structure was damaged.
3. may be structurally enlarged, expanded or moved, upon approval of the Administrative Officer, provided the enlargement, expansion or relocation does not increase the degree of noncompliance or, with approval of the Development Review Board as a conditional use under Section 5.03, a nonconforming structure may be enlarged or expanded in a manner which increases the degree of noncompliance provided the expansion or enlargement:
 - a. does not increase the total volume or area of the nonconforming portion of the structure in existence prior to March 5, 2002 by more than 50%;
 - b. does not, after (*the effective date of the FEHO*) increase the total footprint of a structure within the Fluvial Erosion Hazard Area Overlay District by more than 500 square feet (see Table 2.11 and Section 5.03(F));
 - c. does not extend the nonconforming feature/element of a structure beyond that point which constitutes the greatest pre-existing encroachment; and
 - d. complies with all conditional use standards;
4. may, subject to conditional use review under Section 5.03, undergo alteration or expansion which would increase the degree of noncompliance solely for the purpose of meeting mandated state or federal environmental, safety, health or energy regulations (e.g., handicap access ramp in accordance with ADA standards);
5. if located within the Flood Hazard Area Overlay District, may be improved, expanded, relocated, or reconstructed subject to conditional use under Section 5.03 review and applicable flood hazard area requirements under Section 5.03(E).

1 ...

2
3 **Section 3.12 Surface Water Protection Standards**

- 4
5 A. To prevent soil erosion, protect wildlife habitat and maintain water quality, an undisturbed,
6 naturally vegetated buffer strip shall be maintained from the banks of streams and rivers, and the
7 shores of ponds formed by in-stream impoundments in streams and rivers. The width of the
8 buffer strip shall be measured from the top of the streambank or stream slope, or, where no
9 streambank is discernable, from the regular highwater mark. The following table provides widths
10 of required buffer strips based on slope and waterbody type:
11

Average grade (slope) of riparian land (land adjacent to stream bank)	River & Stream Setback (in linear feet measured horizontally)
0-8%	50 feet
9-15%	75 feet
15-20%	90 feet
20-30%**	100 feet
Headwater Streams	150 feet
** Add 20 feet for each additional 10% of slope	

- 12
13 1. Where the standards of this section differ from other applicable standards under the Flood
14 or Fluvial Erosion Hazard Overlay Districts, the more restrictive shall apply.

- 15
16 B. No development, excavation, landfill or grading shall occur within the buffer strip, and vegetation
17 shall be left in an undisturbed state, with the exception of clearing and associated site
18 development necessary to accommodate the following:

- 19
20 1. Road, driveway and utility crossings, provided such crossings comply with the standards
21 and specifications of the *Vermont Handbook for Soil Erosion and Sediment Control on*
22 *Construction Sites*.
23
24 2. Streambank stabilization and restoration projects, in accordance with all applicable State
25 and Federal regulations.
26
27 3. Unpaved bicycle and pedestrian paths and trails, provided all improvements comply with
28 the standards and specifications of the *Vermont Handbook for Soil Erosion and Sediment*
29 *Control on Construction Sites*.
30
31 4. Public recreation facilities and improved river/lake accesses.
32
33 5. Agriculture in accordance with Acceptable Agricultural Practices (AAPs) as defined by
34 the Commissioner of Agriculture, Food and Markets, and Forestry in accordance with
35 *Acceptable Management Practices (AMPs) For Maintaining Water Quality on Logging*
36 *Jobs in Vermont*, published by the Vermont Department of Forests, Parks and Recreation.
37

- 38 C. The Development Review Board may approve modification to the setback standards set forth in
39 subsection A as a conditional use subject to conditional use review in accordance with Section
40 5.03, and after a determination that the proposed modification meets the following standards:
41

- 1 1. the proposed development is located within the Village Business District and reflects the
- 2 historic settlement pattern and character of the Village; and
- 3 2. reasonable measures are undertaken to protect water quality, such as, but not limited to,
- 4 the planting of shade trees adjacent to streambanks, the establishment of vegetated buffer
- 5 areas along streambanks, and/or stormwater management provisions to collect and
- 6 disperse stormwater away from the stream or river; and
- 7
- 8 3. the development will not result in degradation of adjacent surface waters.
- 9

10 D. For development subject to subdivision, site plan, or conditional use review, the Development
11 Review Board may require increased setback distances, limited or shared access to surface waters
12 and wetlands, and/or a buffer area management plan to limit soil and bank erosion or to protect
13 water quality or riparian habitat, if it is determined that such mitigation measures are needed
14 based on site, slope, and soil conditions and the nature of the proposed use.

15
16 E. The expansion or enlargement of any structure in existence prior to the effective date of this
17 ordinance and not in compliance with subsection A, above, is permitted with the approval of the
18 Development Review Board in accordance with Section 3.08 and applicable overlay district
19 requirements.

20
21 F. No alteration of the natural course of any stream shall be allowed unless a stream alteration
22 permit has been issued by the Vermont Department of Environmental Conservation in accordance
23 with 10 VSA Chapter 41. Such alterations within the Flood Hazard Area Overlay District are
24 subject to state agency and municipal referral requirements under Section 6.01.

25
26 G. A naturally vegetated buffer strip at least 50 feet in uniform width shall be maintained for Class
27 Two wetlands, and 100 feet in uniform width for Class One wetlands as defined under the Vermont
28 Wetlands Rules. No development, dredging, ditching or manipulation of vegetation will be permitted
29 within the buffer strip nor within the wetland, unless in conformance with the Vermont Wetlands Rules.
30 For conformance requirements, contact the Agency of Natural Resources, Department of Environmental
31 Conservation.

ARTICLE IV. SPECIFIC USE STANDARDS

Section 4.08 Mobile Home Parks

C. In accordance with the Act [24 V.S.A. §4412], if a mobile home park legally in existence as of July 1, 2004 is determined to be nonconforming under these regulations, its nonconforming status shall apply only to the park as a whole, and not to individual mobile home sites within the park. Accordingly, vacated sites within an existing mobile home park shall not be considered discontinued or abandoned, and the standards of these regulations shall not have the effect of prohibiting the replacement of a mobile home on an existing mobile home site.

D. No new mobile home parks or mobile home park expansions are allowed within the Flood and Fluvial Erosion Hazard Area Overlay Districts. Replacement mobile homes within existing parks in the Flood Hazard Area Overlay District must also meet district requirements under Section 5.03.E. for anchoring and elevation above base flood elevations.

Section 4.09 Pond Construction

A. The construction of ponds and other impoundments may be allowed as an accessory use in any district, except within the Fluvial Erosion Hazard Area Overlay District, upon receipt of a zoning permit in accordance with Section 6.01. In the issuance of a permit the Administrative Officer shall find that:

1. Any pond that will impound, or be capable of impounding in excess of 500,000 cubic feet of water has received a permit from the Vermont Department of Environmental Conservation in accordance with the requirements of 10 V.S.A. Chapter 43.
2. Any pond involving the alteration of a stream has received a stream alteration permit from the Vermont Department of Environmental Conservation in accordance with 10 V.S.A. Chapter 41.

B. In addition to the application materials set forth in Section 5.2, an application to construct any pond involving the impoundment of water through the creation of an embankment, berm, or other structure that exceeds the natural grade of the site and contains greater than 20,000 cubic feet of water shall include written certification that the pond has been designed by a state licensed professional engineer. Applications for the damming of streams to form an impoundment area of 5 acres or more are also subject to state agency referral requirements under Section 6.1, and shall also include the required report for submission to the Vermont Department of Environmental Conservation.

C. Ponds constructed or expanded within the Flood Hazard Area Overlay District are subject to conditional use review and applicable district requirements under Table 2.10 and Section 5.03(E).

Section 4.10 Public Facilities

A. In accordance with the Act [§4413(a)], the following uses are allowed within all zoning districts subject to conditional use review pursuant to Section 5.3 and the standards set forth in subsection C:

- 1 1. Public and private hospitals.
- 2 2. Regional solid waste management facilities certified by the State – excluding Transfer
- 3 Station [10 V.S.A., Chapter 159].
- 4 3 Hazardous waste management facilities for which a notice of intent to construct has been
- 5 received under state law [10 V.S.A., §6606a].
- 6

7 B. In accordance with the Act [§4413(a)], the following uses are allowed within designated zoning
8 districts subject to conditional use review pursuant to Section 5.0 and the standards set forth in
9 subsection C:

- 10
- 11 1. State or community owned and operated institutions and facilities (see Public Facility).
- 12 2. Public and private schools and other educational institutions certified by the Vermont
- 13 Department of Education (see School).
- 14 3. Churches, places of worship, convents and parish houses (see Places of Worship).
- 15 4. Regional solid waste management facilities certified by the State – Transfer Station only
- 16 (see Transfer Station).
- 17

18 C. In reviewing public facilities listed in subsections (A) and (B), the Development Review Board
19 shall ensure that the proposed use complies with all applicable district standards under Article II
20 and conditional use standards under Section 5.3, only to the extent that such standards relate to
21 location, size, height, bulk, yards, courts, setbacks, density of buildings, off-street parking and
22 loading facilities, traffic, noise, lighting, and landscaping or screening requirements associated
23 with the proposed public facility.

24

25 D. New critical public facilities, as defined under Section 7.03 for purposes of flood hazard area
26 management and regulation, are prohibited within the Flood Hazard Area Overlay District
27 (mapped 100-year flood hazard areas), and also within mapped 500-year (0.2% annual chance)
28 flood hazard areas.

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ARTICLE V. DEVELOPMENT REVIEW

Section 5.01 Applicability of Development Review Standards

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- 5 A. **Conditional Use Review** standards shall apply to those uses designated as conditional uses in
6 Article II, or as otherwise specified under Articles III (General Regulations) and IV (Specific Use
7 Standards). Such uses are subject to conditional use review by the Development Review Board
8 under Section 5.03.
- 9
- 10 B. **Flood and Fluvial Erosion Hazard Area Review** standards shall apply to all development, as
11 defined for these purposes in Section 7.03, within the Flood or Fluvial Erosion Hazard Area
12 Overlay Districts, and listed on Table 2.10C, and Table 2.11C. Such development is subject to
13 conditional use review under Section 5.03, including all applicable standards under subsections
14 (E) and (F).
- 15
- 16 C. **Planned Residential and Planned Unit Development (PRD, PUD)** standards shall apply to all
17 major subdivisions, as defined under Article VII, which are located in the Agricultural-
18 Residential and Commercial Lodging Districts, and all subdivisions located in the Industrial and
19 Forest Reserve District; and may be applied to other subdivisions of land at the request of the
20 applicant. Such subdivisions are subject to review by the Development Review Board under
21 Section 5.04 and the *Waitsfield Subdivision Regulations* currently in effect.
- 22
- 23 D. All **Subdivisions** are subject to review by the Development Review Board in accordance with the
24 *Waitsfield Subdivision Regulations*.
- 25

Section 5.02 Application Requirements

- 26
27
- 28 A. **Conditional Use Review.** An applicant for conditional use, flood or fluvial erosion hazard area
29 review shall submit, in addition to zoning permit application requirements under Section 6.01,
30 one original and three complete copies of a site development plan to include the following
31 information, unless otherwise specifically waived by the Development Review Board:
32 ...
33
- 34 8. For development in the Flood Hazard Area Overlay (FHO) District, the application shall
35 also include on the site plan, or in associated attachments:
36
- 37 a. base flood elevation data;
38 b. the elevation, in relation to mean sea level, of the lowest floor, including
39 basement, of all new or substantially improved buildings;
40 c. the elevations, in relation to mean sea level, of streets, water supply and sanitary
41 facilities;
42 d. the elevation, in relation to mean sea level, to which buildings will be
43 floodproofed;
44 e. a description of proposed floodproofing measures, and certification from a
45 registered professional engineer or architect that the floodproofed structure meets
46 all applicable floodproofing criteria under subsection F;
47 f. a typical cross-section showing the stream channel, elevation of adjoining lands,
48 and areas to be occupied by the proposed development;
49 g. a profile showing the slope of the bottom of the channel or flow line of the
50 stream;
51 h. a description of the extent to which any watercourse will be altered; and

- i. a report prepared for submission to the Vermont Department of Environmental Conservation in accordance with state agency referral requirements under Section 6.01.
- j. An ANR project review sheet or equivalent that identifies required state permits and approvals, as described in Section 6.07.A.1.

9. For development in the Fluvial Erosion Hazard Area Overlay (FEHO) District, the application shall also include on the site plan, or in associated attachments:

- a. FEH Overlay District boundaries on the site or subdivision plan, drawn to scale, as measured horizontally from the top of the stream bank or, if no stream bank is apparent, the centerline of the stream channel, as well as the location of all existing and proposed structures, roads, driveways, infrastructure, utilities, rights-of-way and other site improvements in relation to district boundaries;
- b. identification on the site or subdivision plan of the horizontal distances from the streambank or channel centerline to the nearest structure and road;
- c. written justification of need to develop within, rather than outside of, the FEHA Overlay District; and,
- d. as described in Section 6.07.A.1, a state project review sheet or equivalent that identifies required state permits and approvals.

10. **Application Referral Requirements.** Completed applications for development within the Flood Hazard or Fluvial Hazard Area Overlay District and supporting information shall be referred by the Administrative Officer to the state for review, as specified below. No municipal permit or approval shall be issued for the development until comments have been received from the state, or 30 days have elapsed from the date of referral, whichever is sooner. State recommendations shall be incorporated as applicable in municipal findings and decisions.

- a. Applications for development within the Flood Hazard Area Overlay District shall be submitted to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources.
- b. Applications for development within the Fluvial Erosion Hazard Area Overlay District shall be submitted to the River Management Program at the Vermont Agency of Natural Resources.
- c. If the application includes the proposed alteration or relocation of a watercourse, copies of the application shall also be submitted to adjacent municipalities, the Stream Alteration Engineer and the Vermont Agency of Natural Resources, and the Army Corps of Engineers, as well as the State NFIP Coordinator.

Section 5.03 Conditional Use Review

...

E. **Flood Hazard Area Development Standards.** The Flood Hazard Area Overlay (FHO) District (Table 2.10) includes all Special Flood Hazard Areas (SFHAs) identified on the most current Flood Insurance Rate Maps (FIRMs) and accompanying Flood Insurance Study (FIS) for the Town of Waitsfield published by the National Flood Insurance Program (NFIP), as provided by the state (under 10 V.S.A. §752).

1. **Definitions.** For purposes of municipal flood hazard area management and regulation, federal program terms and definitions under Section 7.03 shall apply to the review of

1 development within the Flood Hazard Area Overlay District. Where these terms differ
2 from general terms and definitions used in these regulations, federal program definitions
3 shall apply.
4

5 2. **Review Standards.** Conditional use review is required for all development and activities
6 listed as conditional uses within this overlay district (Table 2.10). Development within
7 this district which is identified as a permitted use in the underlying district in which it is
8 located shall be reviewed only under the standards of this subsection. For conditional
9 uses in the underlying district, in addition to applicable general and specific conditional
10 use standards under C. and D. above, applicable flood hazard area standards under this
11 subsection also shall apply.
12

13 3. **Prohibited Development.** The following development is specifically prohibited within
14 the Flood Hazard Area Overlay District (mapped SFHAs):
15

- 16 a. New principal residential and nonresidential structures, including new
17 manufactured (mobile) homes except as allowed in the Village Business District;
- 18 b. Salvage yards and storage areas or facilities for floatable materials, chemicals,
19 explosives, flammable liquids, or other hazardous or toxic materials.
- 20 c. Fill, except as necessary to elevate structures above the base flood elevation.
- 21 d. Critical public facilities, which are also prohibited within mapped 500-year flood
22 hazard areas.
- 23 e. Fully enclosed areas below grade on all sides, including crawlspaces and
24 basements (see E.14).
- 25 f. All other development not exempted or allowed under Table 2.10.
26

27 4. No development shall be allowed in this overlay district if it can be located outside of the
28 district on the parcel to be developed, or reasonably located on an adjoining parcel in
29 common ownership.
30

31 5. In Zones A, AE, AH, and A1-A30 where base flood elevations and/or floodway limits
32 have not been determined, development shall not be permitted unless it is demonstrated
33 that the cumulative effect of the proposed development, when combined with all other
34 existing and anticipated encroachment, will not increase the base flood elevation more
35 than 1.00 foot at any point within the community. The demonstration must be
36 supported by technical data that conforms to standard hydraulic engineering principles,
37 as certified by a registered professional engineer.
38

39 6. **Floodways.** Within floodway areas:
40

- 41 a. New structures are prohibited.
- 42 b. Development and encroachments, including fill, are prohibited unless a registered
43 professional engineer certifies, based on hydrologic and hydraulic analyses
44 conducted in accordance with standard engineering practices, that the proposed
45 development will (i) not result in any increase (0.00 feet) in flood levels during
46 the occurrence of the base flood, and (ii) will not increase the risk to surrounding
47 properties, facilities or structures from flooding or erosion.
- 48 c. Public utilities may be placed underground, and the analyses may be waived, if a
49 registered professional engineer certifies that there will be no change in grade and
50 the utilities will be adequately protected from scour.
51

- 1 7. **General Considerations.** In reviewing applications for development within the Flood
2 Hazard Area Overlay District, the Development Review Board shall consider the
3 following:
4
5 a. the danger to life and property due to increased flood heights or velocities caused
6 by encroachments;
7 b. the danger that materials may be swept onto other lands downstream or to the
8 injury of others;
9 c. the ability of proposed water supply and sanitization systems to prevent disease,
10 contamination and unsanitary conditions under conditions of flooding;
11 d. the susceptibility of the proposed facility and its contents to flood damage and
12 the effect of such damage on individual owners or residents;
13 e. the importance of the services provided by the proposed facility to the
14 community;
15 f. the necessity to the facility of a waterfront location;
16 g. the availability of alternative locations not subject to flooding for the proposed
17 use;
18 h. the safety of vehicular and emergency access to the property in times of flood;
19 i. the expected heights, velocity, duration, rate of rise, and sediment transport of
20 flood waters expected at the site;
21 j. the costs of providing governmental and public facilities and services during and
22 after a flood event;
23 k. other such factors as are relevant to the purpose of these regulations.
24
25 8. All development within Special Flood Hazard Areas shall be:
26 a. reasonably safe from flooding,
27 b. adequately drained to reduce exposure to flood hazards, and shall be
28 c. located to minimize conflict with changes in stream channel locations over time
29 and the need to intervene with such changes.
30
31 9. Structures within Special Flood Hazard Areas shall be:
32 a. designed, operated, maintained, or modified and adequately anchored to prevent
33 flotation, collapse, release or lateral movement of the structure during the
34 occurrence of the base flood,
35 b. constructed with materials resistant to flood damage,
36 c. constructed by methods and practices that minimize flood damage,
37 d. constructed with electrical, heating, ventilation, plumbing and air conditioning
38 equipment and other service facilities that are designed and/or located so as to
39 prevent water from entering or accumulating within the components during
40 conditions of flooding, and
41 e. accessible by dry land during a base flood occurrence.
42 10. The flood carrying and sediment transport capacity within any altered or relocated
43 portion of a watercourse shall be maintained.
44
45 11. A stream alteration permit from the Agency of Natural Resources shall be required,
46 where applicable, for the installation of bridges and culverts over or within stream
47 channels. Documentation that necessary state permits have been obtained shall be
48 required prior to the issuance of municipal certificates of occupancy or compliance.
49
50 12. All mobile home parks, subdivisions and planned unit developments must meet the
51 requirements of this overlay district and the following:
52

- 1 a. Subdivisions shall be designed to avoid siting structures, driveways and roads
2 within special flood hazard areas, and to minimize potential flood damage within
3 these areas.
4
- 5 b. All utilities and facilities, such as sewer, gas, electrical, and water systems serving
6 the subdivision shall be located and constructed to minimize or eliminate
7 flooding.
8
- 9 c. Adequate drainage shall be provided to reduce exposure to flood hazards.
10
- 11 d. The subdivision must be accessible by dry land during base flood occurrences.
12
- 13 13. New and replacement water supply and sanitary sewage systems as approved by the
14 state, must meet the following requirements:
15
- 16 a. Water supply systems shall be designed to minimize or eliminate the infiltration
17 of flood waters into the systems.
18
- 19 b. Sanitary sewer systems shall be designed and constructed to minimize or
20 eliminate the infiltration of flood waters into the systems and discharges from the
21 systems into flood waters.
22
- 23 c. On-site waste disposal systems shall be located to avoid impairment to them or
24 contamination from them during flooding.
25
- 26 Documentation that all water supply and wastewater permits have been received shall be
27 required prior to the issuance of municipal certificates of occupancy or compliance.
28
- 29 14. Fuel storage tanks to serve allowed uses must either:
30
- 31 a. be elevated [at least one foot] above the base elevation, and securely anchored to
32 prevent flotation, or
33
- 34 b. placed underground, if securely anchored as certified by a qualified professional.
35
- 36 15. The lowest floor, including basement, of all new structures shall be elevated [at least one
37 foot] above the base flood elevation, to be documented in as-built condition through the
38 submission of a FEMA Elevation Certificate.
39
- 40 16. Substantial improvements to existing structures for residential purposes, including
41 expanded or replacement manufactured (mobile) homes, shall be elevated such that the
42 lowest floor (including the basement) is [at least one foot] above the base flood elevation,
43 to be documented in as-built condition through submission of a FEMA Elevation
44 Certificate.
45
- 46 a. For the replacement of a manufactured (mobile) home in a pre-existing mobile
47 home park (created before the FIRM) where elevating the replacement home to
48 or above base flood elevation is not possible, the lowest floor shall be supported
49 by reinforced piers or other foundation elements of at least equivalent strength
50 that are no less than 48 inches in height above grade and be securely anchored to
51 resist flotation, collapse, and lateral movement.
52
- 53 b. Manufactured homes shall be adequately anchored to resist collapse, flotation
54 and lateral movement in accordance with federal requirements (44 CFR.60.3).

- 1 17. Substantial improvements of existing buildings for nonresidential purposes shall either:
2
3 a. meet the requirements of Subsection E.15, or
4 b. together with attendant utility and sanitary facilities be designed so that [two feet
5 above] the base flood elevation the structure is watertight with walls
6 substantially impermeable to the passage of water and with structural
7 components having the capability of resisting hydrostatic and hydrodynamic
8 loads and effects of buoyancy. A permit for a building proposed to be
9 floodproofed shall not be issued until a registered professional engineer or
10 architect has reviewed the structural design, specifications, and plans, and has
11 certified that the design and proposed methods of construction are in accordance
12 with accepted standards of practice for meeting the provisions of this subsection.
13
- 14 18. Fully enclosed areas below grade on all sides, including below grade crawl spaces and
15 basements, are prohibited. Fully enclosed areas that are above grade, below the lowest
16 floor and below the base flood elevation (subject to flooding) shall:
17
18 a. be used only for parking vehicles, storage, or building access, as specified
19 written permit conditions; and
20 b. be designed to automatically equalize hydrostatic flood forces on exterior walls
21 by allowing for the entry and exit of floodwaters. Designs for meeting this
22 requirement must either be certified by a registered professional engineer or
23 architect or meet or exceed the following minimum criteria: a minimum of two
24 openings having a total net area of not less than one square inch for every square
25 foot of enclosed area subject to flooding shall be provided. The bottom of all
26 openings shall be no higher than one foot above grade. Openings may be
27 equipped with screens, louvers, valves or other cover coverings or devices
28 provided that they permit the automatic entry and exit of floodwaters.
29
- 30 19. Recreational Vehicles placed on sites within Zones A1-A30, AH and AE shall either:
31
32 a. be fully licensed and ready for highway use, or
33 c. meet elevation and anchoring requirements for manufactured (mobile) homes
34 under E.16 and 44 CFR 60.3(c)(6).
35
- 36 20. Small accessory structures that are 500 square feet or less and represent a minimal
37 investment need not be elevated to the base flood elevation, provided the structure:
38
39 a. shall be used only for parking or the storage of non-hazardous materials, as
40 specified in the permit and conditions of approval;
41 b. shall be designed to have low flood damage potential;
42 c. shall be constructed and placed on the building site so as to offer the minimum
43 resistance to the flow of floodwaters;
44 d. shall be firmly anchored to prevent flotation which may result in damage to other
45 structures;
46 e. shall have a minimum of two openings having a total net area of not less than
47 one square inch for every square foot of enclosed area subject to flooding. The
48 bottom of all openings shall be no higher than one foot above grade. Openings
49 may be equipped with screens, louvers, valves, or other coverings or devices
50 provided that they permit the automatic entry and exit of floodwaters; and
51 f. shall have service facilities such as electrical and heating equipment elevated or
52 flood proofed to [at least one foot] above the base flood elevation.
53

1 **F. Fluvial Erosion Hazard Area Development Standards.** For development within the fluvial
2 erosion hazard area overlay district which is identified as a permitted use in the underlying
3 district in which it is located, only the following standards shall apply under conditional use
4 review. For conditional uses in the underlying district, in addition to applicable general and
5 specific standards above, the following standards also shall apply:
6

7 1. No development under Table 2.11(C) shall be allowed within this district if it can be
8 located outside of the district on the parcel to be developed, or can be reasonably located
9 on an adjoining parcel in common ownership.
10

11 2. No development shall be allowed within required surface water and wetland setback and
12 buffer areas under Section 3.12, except as specified under that section.
13

14 3. No increase in existing structural encroachments shall be allowed within this district, in
15 accordance with Table 2.11(D)(1).
16

17 4. The total combined, cumulative footprint of all structural additions or improvements
18 within the FEH Area Overlay District constructed on a property after (the effective date of
19 these regulations) shall not exceed 500 square feet.
20

21 5. Accessory structures to existing structures within the FEH Area Overlay District
22 constructed on a property after (the effective date of these regulations) shall not exceed
23 500 square feet and accessory structures in this district shall be located no more than 50
24 feet from the principal structure.
25

26 6. Fill is allowed within this district only as provided under Table 2.11(C) to elevate existing
27 structures within the Flood Hazard Overlay District above the base flood elevation, or as
28 incidental to other allowed uses and activities under Table 2.11(C).
29

30 7. New stream crossings by driveways, transportation or utility corridors shall be allowed
31 only if it is determined by the Development Review Board that there are no other viable
32 routes, access points or crossing locations outside of the FEHA, and the crossing is
33 necessary for routing, public or emergency vehicle access. Stream crossings shall be
34 designed by a professional engineer, in accordance with state guidelines, to minimize
35 flood and fluvial erosion hazards both up- and downstream from the proposed crossing
36 area.
37

38 8. Bridges and culverts in this district shall be sited, sized and designed in accordance with
39 state capacity guidelines to minimize fluvial erosion hazards, and shall be regularly
40 inspected and maintained. Regular monitoring reports to the town may be required as a
41 condition of approval.
42

43 9. All utility lines in this district shall be buried.
44

45 10. Recreational vehicles may be stored in this district only if they are fully licensed and
46 ready for highway use.
47

48 11. The Development Review Board, in consultation with the River Management Program,
49 must also find that conditional uses within this district shall not:
50

51 a. Have an undue adverse effect on community services and facilities, including
52 roads, bridges, culverts and emergency services, during and after fluvial erosion
events.

1 b. Increase the susceptibility of property or other properties to fluvial erosion
2 damage.

3 c. Increase the potential for materials to be swept into the stream channel or onto
4 other land and cause damage.
5

6 **Section 5.04 Planned Residential & Planned Unit Development (PRD/PUD) Review**

7 ...

8
9 C. **General Standards (for PRDs & PUDs).** The modification of zoning bylaw requirements by the
10 Planning Commission may be allowed simultaneously with the approval of a subdivision plat, in
11 accordance with the following standards:

12 ...

13
14 3. The PRD/PUD shall represent an effective and unified treatment of the development
15 possibilities of the project site, including provisions as appropriate for the preservation or
16 protection of surface and ground waters; wetland, stream bank, flood and fluvial erosion
17 hazard areas; significant topographic features including prominent hilltops and ridgelines
18 and areas of steep slope; soils unsuitable for development; open space and scenic views;
19 significant resource lands including agricultural and forest land; and unique natural or
20 manmade features, including critical wildlife habitat and lands and buildings of historical
21 significance.
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ARTICLE VI. ADMINISTRATION & ENFORCEMENT

Section 6.01 Zoning Permits

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- 5 A. **Applicability.** Unless specifically exempted from these regulations under Section 6.2, no land
6 development as defined herein may commence without a zoning permit issued by the
7 Administrative Officer. Except as applicable in the Flood Hazard Area Overlay District, nothing
8 in this bylaw shall be construed as limiting or interfering with an individual's right to repair,
9 improve or alter a structure, provided that such improvement or alteration does not increase the
10 exterior dimensions of the structure. Structural alterations associated with a change of use shall
11 require a zoning permit. Permits are required for all development, including structural
12 improvements, allowed in the Flood Hazard Area Overlay District (see Table 2.10).
13
- 14 B. **Application Requirements.** An application for a zoning permit shall be made by the property
15 owner, contract vendee with the written consent of the property owner, or their legal agent on a
16 form provided by the town and certified as correct by the applicant. The application form shall be
17 submitted to the Administrative Officer, along with required application fees. In addition, the
18 following are required as applicable:
19
- 20 1. **Permitted Uses.** An application for a permitted use shall include a statement of the
21 existing and proposed use of land and structures, and be accompanied by a sketch plan,
22 which shows information in sufficient detail to determine whether the proposal is in
23 conformance with these regulations.
24
 - 25 2. **Conditional Use, Planned Residential & Planned Unit Development, Flood Hazard
26 Area or Fluvial Erosion Hazard Area Review.** An application for development that
27 requires approval under conditional use, planned residential or planned unit development,
28 or flood hazard area or fluvial erosion hazard area review prior to the issuance of a
29 zoning permit shall include, in addition to the application information under Subsection
30 B1, a site development plan prepared in accordance with Section 5.02.
31
 - 32 3. **Access Approval.** An application for development that requires access (curb cut)
33 approval from the Waitsfield Selectboard shall include an application for access to a town
34 highway.
35
 - 36 4. **Development Subject to State Agency Referral.** All applications for development
37 within the Flood Hazard or Fluvial Erosion Hazard Area Overlay Districts shall be
38 referred to the state as required under Section 5.02. No zoning permit shall be issued
39 until a response has been received from the state, or the expiration of 30 days following
40 the submission of the application. State recommendations for compliance with applicable
41 requirements shall be incorporated as conditions of zoning permit approval.
42
- 43 C. **Issuance of Permits.** In accordance with the Act [§§ 4448, 4449], the Administrative Officer
44 shall act, within 30 days of the date of receipt of application materials and fees, to either issue a
45 zoning permit, refer the applicant to the appropriate body having jurisdiction, or deny a zoning
46 permit application. If the administrative officer fails to act with regard to an application for a
47 permit within 30 days, the permit shall be deemed issued on the 31st day. A zoning permit shall
48 be issued by the administrative officer only in accordance with the Act and these regulations:
49
- 50 1. No zoning permit shall be issued by the Administrative Officer until required approvals
51 from the Planning Commission, Development Review Board and/or Selectboard, and
52 associated fees, have been received. The application for a zoning permit shall not be
53 deemed complete by the Administrative Office until all Development Review Board

1 and/or Development Review Board approvals required by these regulations have been
2 obtained.

- 3
- 4 2. For development subject to state agency referral requirements as identified in subsection
5 (B)(4), no zoning permit shall be issued until the expiration of 30 days following the
6 submission of the application to the state..
- 7
- 8 3. Development for which a prior permit or approval has been issued shall comply with all
9 such permits or approvals. Documentation of compliance may be required prior to the
10 issuance of a zoning permit. A zoning permit shall not be issued for development that is
11 in violation of a previously issued permit or approval.
- 12
- 13 4. If public notice has been issued by the Selectboard for their first public hearing on a
14 proposed amendment to these regulations, the Zoning Administrator shall issue a zoning
15 permit for development that is subject to the proposed amendment only in accordance
16 with the requirements of the Act [§4449(d)].
- 17
- 18 5. The Administrative Officer shall either issue or deny a permit in writing. In issuing a
19 permit the Administrative Officer shall certify that the applicant has met the provisions of
20 this bylaw. If the Administrative Officer determines that the proposal as set forth in the
21 application is not in conformance with the provisions of these regulations, he or she shall
22 deny the zoning permit and state specific grounds for denial. Pursuant to the Act, each
23 permit or denial issued shall include a statement of the time in which appeals may be
24 made under Section 6.4.
- 25
- 26 6. Within 3 days of issuance, the Administrative Officer shall deliver a copy of the permit to
27 the Listers, and post a copy of the permit in at least one public place until the expiration
28 of 15 days from the date of issuance. Permits also shall be recorded in accordance with
29 Section 6.07.
- 30

31 Section 6.02 Exemptions

- 32
- 33 A. No zoning permit shall be required for the following, except as otherwise required for all
34 development within the Flood Hazard Area Overlay District (see Table 2.10):
- 35
- 36 1. Modifications of building interiors if no change of use is proposed; repairs and minor
37 alterations (including chimneys, re-roofing or re-siding) to existing structures not
38 resulting in any change to the exterior dimensions or height of the structure.
- 39
- 40 2. Maintenance of existing roads, driveways and infrastructure within their existing and/or
41 approved configuration. This includes associated ditching, resurfacing, and/or relocation
42 within existing or approved right-of-way or easement areas, and the placement or
43 relocation of public utilities and infrastructure within such areas.
- 44
- 45 3. Site work incidental to permitted development including clearing, minor grading and
46 excavation associated with road and driveway maintenance (including culvert
47 replacement and re-surfacing); and yard improvements associated with accessory uses to
48 existing principal uses (contouring yards, establishing garden and landscape areas). Site
49 work exempted under this provision shall not involve the transport or displacement of
50 more than 100 cubic yards of fill or other materials (e.g., gravel, topsoil), and shall not
51 involve filling or grading of land within the Flood Hazard Overlay District.
- 52

- 1 4. Up to 4 structures accessory to a dwelling, such as a dog house, child's play house, shed
2 or similar structure, for each of which the floor area does not exceed 100 square feet and
3 the height does not exceed 10 feet, or in the case of tree-houses the floor area shall not
4 exceed 100 square feet, provided that such accessory structures comply with all setback
5 requirements for the district in which they are located.
6
- 7 5. The construction, repair and maintenance of residential stone walls and fences, provided
8 that they do not extend into or obstruct public rights-of-way, or interfere with corner
9 visibility or sight distances for vehicular traffic.
10
- 11 6. Garage sales, yard sales, auctions, or related activities not exceeding 3 consecutive days,
12 nor more than 6 days in any calendar year, provided that such sales comply with the
13 *Waitsfield Garage Sale Ordinance*.
14
- 15 7. Accepted Agricultural Practices (AAPs) and Best Management Practices (BMPs),
16 including farm structures, as defined by the Commissioner of Agriculture, Food and
17 Markets in accordance with the Act [§4413(d)]; however, pursuant to associated state
18 rules as most recently amended:
19
- 20 a. Prior to the construction of farm structures, the farmer must notify the
21 administrative officer in writing of the proposed construction activity. The
22 notification must contain a sketch of the proposed structure, including setbacks
23 from adjoining property lines, road rights-of-way, and surface waters.
24
- 25 b. The proposed structure shall comply with all setback requirements for the district
26 in which they are located unless, upon written petition, the Commissioner of
27 Agriculture, Food and Markets has approved other setbacks for the specific farm
28 structure being constructed or expanded. Such approval shall be attached to the
29 notification filed with the Administrative Officer.
30
- 31 c. Known violations of the AAPs or BMPs shall be immediately reported to the
32 Secretary of Agriculture, Food and Markets for enforcement action.
33
- 34 8. Forest management activities performed in accordance with *Acceptable Management*
35 *practices for Maintaining Water Quality on Logging Jobs in Vermont*.
36
- 37 9. Public facilities, including power generation and transmission facilities, which are
38 regulated by the Vermont Public Service Board. Such facilities, however, should
39 conform to policies and objectives specified for such development in the *Waitsfield Town*
40 *Plan*.
41
- 42 10. Clearing and associated site improvements for recreation trails, provided such trails are
43 not surfaced with impervious materials and are not used as part of a commercial facility.
44

45 Section 6.03 Certificate of Occupancy

- 46
47 A. In accordance with the Act [§4449], a certificate of occupancy issued by the Administrative
48 Officer shall be required prior to the use or occupancy of any permitted structure or part thereof
49 constructed after the effective date of this bylaw.
50
51

- 1 B. An application for a certificate of occupancy shall be provided with the zoning permit issued by
2 the Administrative Officer, or upon request. The applicant shall submit the application and
3 associated fee upon the completion of permitted improvements, but prior to the occupancy or use
4 of the structure.
5
- 6 1. The application for the certificate of occupancy for development within the Flood and
7 Fluvial Erosion Hazard Overlay Districts shall include a copy of the state project review
8 sheet and all state and federal permits.
9
- 10 C. Within 14 business days of the date of receipt of a complete application and associated fees for a
11 certificate of occupancy, the Administrative Officer will:
12
- 13 1. review the application and other available documentation, such as the state project review
14 sheet and copies of state permits, to ensure that all required municipal, state and federal
15 permits have been obtained, and
16
- 17 2. inspect the premises to ensure that all work has been completed in conformance with the
18 zoning permit and associated approvals, including all applicable permit conditions.
19
- 20 D. If the Administrative Officer fails to either grant or deny the certificate of occupancy within 14
21 days of the submission of a complete application, the certificate shall be deemed issued on the
22 15th day.
23
- 24 E. The Administrative Officer may issue a temporary Certificate of Occupancy for a structure that is
25 substantially complete (suitable for occupancy or its intended use), for a period not to exceed 6
26 months from the date of issuance. The temporary certificate shall specify the remaining
27 improvements to be completed in accordance with permit requirements prior to the issuance of a
28 permanent certificate of occupancy.
29
- 30 F. If a certificate of occupancy cannot be issued for a structure within the Flood Hazard Area
31 Overlay District, notice will be sent to the owner and the status of the certificate of occupancy
32 shall be released to the lender upon inquiry.
33

34 Section 6.04 Appeals

35 ...

- 36
- 37 D. **Notice of Appeal of the Development Review Board Decisions.** The notice of appeal of a
38 decision of the Development Review Board shall be filed by the appellant by certified mailing,
39 with fees, to the Vermont Environmental Court and by mailing a copy to the Administrative
40 Officer who shall supply a list of interested persons (including the applicant if not the appellant),
41 to the appellant within five (5) working days. Upon receipt of the list of interested persons, the
42 appellant shall, by certified mail, provide a copy of the notice of appeal to every interested
43 person. If any one or more of those persons are not then parties to the appeal, upon motion they
44 shall be granted leave by the court to intervene.
45

46 Section 6.05 Variances and Setback Waivers

47 ...

- 48
- 49
- 50 B. In addition to the requirements under subsection B, variances for development within the Flood
51 Hazard Overlay District shall be granted by the Development Review Board only in accordance
52 with all of the following, as required under the Act [§4424(E)]:

- 1
- 2 1. The criteria for granting variances found in 44 CFR, Section 60.6 of the National Flood
- 3 Insurance Program regulations.
- 4
- 5 2. The determination that during the base flood discharge, the variance will not result in
- 6 increased flood levels.
- 7
- 8 3. The determination that the structure or other development is protected by methods that
- 9 minimize flood damages during the base flood and will result in no additional threats to
- 10 public safety; extraordinary public expenses, or nuisances.
- 11
- 12 4. The determination that the variance is the minimum necessary, considering the flood
- 13 hazard, to afford relief.
- 14
- 15 5. Any variance issued within the Flood Hazard Area Overlay District shall include as part
- 16 of the written decision, over the signature of a municipal official, the statement that: "The
- 17 issuance of a variance to construct a structure below the base flood elevation increases
- 18 risk to life and property and will result in increased flood insurance premiums up to
- 19 amounts as high as \$25 for \$100 of coverage." Such notification shall be maintained
- 20 with a record of all variance actions.

21 ...

22 Section 6.06 Violations & Enforcement

23 ...

- 24
- 25
- 26 B. **Notice of Violation.** Pursuant to the Act [§4451], no action may be brought under this section
- 27 unless the alleged offender has had at least 7 days notice by certified mail that a violation exists.
- 28 The warning notice shall state that a violation exists, describe the violation, and explain that the
- 29 alleged offender has an opportunity to cure the violation within the 7-day period and will not be
- 30 entitled to an additional warning notice for a violation occurring after the 7-day period. Action
- 31 may be brought without notice and opportunity to cure if the alleged offender repeats the
- 32 violation of the bylaw after the 7-day notice period and within the next succeeding 12 months.

- 33
- 34 1. **Flood Hazard Area Violations.** For violations within the Flood Hazard Area Overlay
- 35 District (Special Flood Hazard Areas), a copy of the notice of violation shall be mailed to the
- 36 State NFIP Coordinator. If the violation remains after all appeals have been resolved, the
- 37 Administrative Officer shall submit a declaration to the Administrator of the National Flood
- 38 Insurance Program requesting a denial of flood insurance for the property pursuant to Section
- 39 1316 of the National Flood Insurance Act of 1968, as amended.

- 40
- 41 C. **AAP Violations.** Known violations of state Accepted Agricultural Practices shall be immediately
- 42 reported to the Secretary of Agriculture for enforcement under 6 V.S.A. §4812.

- 43
- 44 D. **Enforcement.** In accordance with the Act [§§ 4451, 4452], the Administrative Officer shall
- 45 institute in the name of the municipality any appropriate action, injunction or other proceeding to
- 46 enforce the provisions of these regulations. The town shall observe limitations on enforcement
- 47 relating to municipal permits and approvals, as set forth in the Act [§4454].

48 Section 6.07 Municipal Administrative Requirements

- 49
- 50
- 51 A. **Appointments.** The following appointments shall be made in association with the administration
- 52 and enforcement of this bylaw as provided for in the Act:

1 1. **Administrative Officer.** In accordance with the Act [§4448], an administrative officer
2 shall be appointed for a term of 3 years by the Selectboard, from nominations submitted
3 by the Planning Commission. The Selectboard may also appoint, an Acting
4 Administrative Officer who shall have the same duties and responsibilities as the
5 Administrative Officer in his or her absence. An Administrative Officer may be removed
6 for cause at any time by the Selectboard after consultation with the Planning
7 Commission. The Administrative Officer:

- 8
- 9 ▪ Shall administer these regulations literally, and shall not have the power to
- 10 permit any land development which is not in conformance with this bylaw.
- 11 ▪ Shall provide forms and maintain records as required.
- 12 ▪ Shall recommend to applicants for municipal permits that they contact the state
- 13 regional permit specialist in order to assure timely action on any related state
- 14 permits.
- 15 ▪ Shall, for development within the Flood Hazard Area Overlay District, review
- 16 available documentation including, where applicable, state project review sheets
- 17 and permits, to ensure that all necessary municipal, state and federal permits have
- 18 been obtained before work can begin, in accordance with federal floodplain
- 19 management regulations in 44 CFR 60.3(a)(2).

20 ...

21

22 E. **Recording Requirements.** The Administrative Officer shall keep on file and available to the
23 public during regular business hours, a full and accurate record of all applications received,
24 permits issued, plats approved, and notices of violation issued during his or her term of office.

25

26 1. Pursuant to the Act [§4449(c)], within 30 days after the issuance of a municipal land use
27 permit or notice of violation, the Administrative Officer shall deliver either the original, a
28 legible copy, or a notice of the permit or violation to the Town Clerk for recording in
29 municipal land records as provided in 24 V.S.A. §1154(a). The applicant may be charged
30 the cost of the recording fees as required by law.

31

32 2. For development within the Flood Hazard Area Overlay District (**Special Flood Hazard**
33 **Areas**), the Administrative Officer shall also maintain a record of:

- 34
- 35 a. All permits issued within this district.
- 36 b. Elevation Certificates with the as-built elevation (consistent with the datum of
37 the elevation on current Flood Insurance Rate Maps) of the lowest floor,
38 including basement, of all new or substantially improved buildings, excluding
39 minor accessory structures.
- 40 d. Floodproofing Certificates and other certifications required for development in
41 this district.
- 42 e. All decisions, including variance actions and violations, and supporting findings
43 of fact, including justification for their issuance.
- 44

45 3. For development within the Fluvial Erosion Area Overlay District, the Administrative
46 Officer shall also maintain a record of:

- 47
- 48 a. all permits issued for development in this district, and
- 49 b. all variance actions, including justification for their issuance.

50

51

ARTICLE VII. DEFINITIONS

Note: Only definitions to be added or amended are listed.

Section 7.01 Terms & Usage

...

- C. For the purposes of flood hazard area management and regulation within the Flood Hazard Area Overlay District, National Flood Insurance Program definitions contained in 44 CFR Section 59.1 are hereby adopted by reference and shall be used to interpret and enforce these regulations. Common federal and state program definitions are provided under Subsection 7.03.

Section 7.02 General Definitions

BASEMENT: Any area of the building having 3 sides or 60% of its walls subgraded (below ground level), whichever is less. See also **STORY**. See also **BASEMENT** as defined for purposes of flood hazard area regulation under Section 7.03.

DEVELOPMENT: See **LAND DEVELOPMENT**; also see **DEVELOPMENT** as defined for purposes of flood hazard area regulation under Section 7.03.

LAND DEVELOPMENT: The construction, reconstruction, expansion, conversion, structural alteration, relocation or enlargement of any building or other structure, or of 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. The subdivision of land, including the division of a parcel into two or more parcels, is regulated under the Town of Waitsfield Subdivision Regulations, as most recently amended. See also **DEVELOPMENT** as defined for purposes of flood hazard area regulation under Section 7.03.

MOBILE HOME: A manufactured dwelling unit which is designed for long term and continuous residential occupancy; is designed to be moved on wheels as a whole or in sections; on arrival at the site, is complete and ready for occupancy except for incidental unpacking, assembly, connections to utilities and placing on support or permanent foundation or installation as a unit in a prepared structure; and utilizes the same water supply and waste disposal as immovable housing. See also **MANUFACTURED HOME** as defined for purposes of flood hazard area regulation under Section 7.03.

MOBILE HOME LOT: A site or portion of a parcel of land within a mobile home park that is set aside for and designated for occupancy by one single-family mobile home.

MOBILE HOME PARK: A parcel of land under single or common ownership or control which contains or is designed, laid out or adopted to accommodate three or more mobile homes. See also **MANUFACTURED HOME PARK** as defined for purposes of flood hazard area regulation under Section 7.03.

SETBACK: The horizontal distance from the road centerline, other lot boundary, or other delineated feature (e.g., a stream bank or channel centerline or wetland boundary) to the nearest part of a building or structure on the premises.

STREAM: Any surface water course in the Town of Waitsfield as depicted on U.S. Geological Survey topographic maps, Vermont Base Map orthophotos, official zoning maps, Vermont Center for Geographic Information System (VCGI) Vermont Hydrography Dataset (VHD) for surface water resources, or as identified through site investigation; excluding artificially created irrigation and drainage channels.

1 STREAM BANK: Physiographic feature that contains a stream, within a stream channel under normal
2 flow conditions. Stream banks are distinct from the streambed, which is normally wetted and provides a
3 substrate that supports aquatic organisms. For purposes of measuring stream setback and buffer distances
4 under these regulations, measurements shall be taken horizontally from: (1) the “Top of Bank,” defined as
5 the vertical point along a stream bank where an abrupt change in slope is evident, and where the stream is
6 generally able to overflow the banks and enter the adjacent floodplain only during flows at or exceeding
7 the average annual high water stage; or (2) the “Top of Slope,” defined as a break in the slope adjacent to
8 steep-banked streams that have little or no floodplain; or (3) where no stream bank is discernable,
9 measurements shall be taken from the channel centerline. See also Stream, Stream Channel.

10
11 STREAM CHANNEL: The area that contains continuous or periodic (intermittent) flowing water that is
12 confined by banks and a streambed. This may included by not be limited to bedrock channels, gravel
13 beds, sand and silt beds, and swales. A stream bank may define the usual boundaries, but not the flood
14 boundaries, of a stream channel. Artificially created water courses such as agricultural irrigation and
15 drainage ditches are specifically excluded from this definition. For purposes of these regulations, the
16 “Channel (Bankfull) Width” is the width of the stream channel when flowing at a bankfull discharge – the
17 stage in which water first overtops natural stream banks. This flow occurs, on average, once over one to
18 two years. See also Stream, Stream Bank, Stream Slope.

19
20 STREAM SLOPE: a steep bank adjacent to a stream that has little or no floodplain; the stream channel
21 may be incised or deeply cut, creating a condition in which the floodplains have been abandoned or are
22 undergoing abandonment. In this scenario, the slope refers to the steep sides of the abandoned
23 floodplains or side terraces.

24
25 STRUCTURE: An assembly of materials for occupancy or use, including but not limited to a building, a
26 manufactured or mobile home or trailer, sign, storage shelter, wall or fence, except a wall or fence on an
27 operating farm. See also STRUCTURE as defined for purposes of flood hazard area regulation under
28 Section 7.03.

29
30 VIOLATION: The failure of a structure or other development to be fully compliant with this bylaw or
31 conditions of permit approval.

32 33 **Section 7.03 Flood Hazard and Fluvial Erosion Hazard Area Regulation Definitions**

34
35 ADMINISTRATOR: The Federal Insurance Administrator.

36
37 AREA OF SHALLOW FLOODING: A designated AO or AH zone on a community’s FIRM with a one
38 percent or greater annual chance of flooding to an average depth of one to three feet where a clearly
39 defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may
40 be evident. Such flooding is characterized by ponding or sheet flow.

41
42 BASE FLOOD: The flood having a one percent chance of being equaled or exceeded in any given year.

43
44 BASE FLOOD ELEVATION (BFE): The elevation of the water surface elevation resulting from a flood
45 that has a 1 percent chance of equaling or exceeding that level in any given year. On the Flood Insurance
46 Rate Map the elevation is usually in feet, in relation to the National Geodetic Vertical Datum of 1929, the
47 North American Vertical Datum of 1988, or other datum referenced in the Flood Insurance Study report,
48 or the average depth of the base flood, usually in feet, above the ground surface. Base flood elevations
49 are shown at selected intervals on maps of Special Flood Hazard Areas that are determined by detailed
50 methods. Base flood elevations have not been determined in Zone A where the flood risk has been
51 mapped by approximate methods.

52 CONSTRUCTION/NEW: (1) For purposes of determining insurance rates pertaining to flood hazard area

1 regulation, structures that commenced on or after September 10, 1976, the effective date of the initial
2 floodplain management regulations adopted by the town, and includes any subsequent improvements to
3 such structures. (2) For floodplain management purposes, new construction means structures for which
4 the start of construction commenced on or after the effective date of the floodplain management
5 regulation adopted by the town of Waitsfield and includes any subsequent improvements to such
6 structures.

7
8 **BASEMENT:** Any area of building having its floor subgrade (below ground level) on all sides.

9
10 **COMMON PLAN OF DEVELOPMENT:** is where a structure will be refurbished over a period of time.
11 Such work might be planned unit by unit.

12
13 **CRITICAL PUBLIC FACILITY:** Facilities critical to the health and safety of the public and the
14 environment, such as hospitals and nursing homes, emergency operations centers (particularly police, fire,
15 and rescue), vital data storage centers, power generation and other utilities (including related
16 infrastructure such as principal points of utility systems) and any facilities that produce, use or store toxic
17 pollutants as defined under the Clean Water Act and other state and Federal statutes. New critical public
18 facilities are prohibited within floodplains that is subject either to a one percent (1%) or greater annual
19 chance of flooding (the "100-year" floodplain) or a two-tenths of one percent (0.2%) or greater annual
20 chance of flooding (the "500-year" floodplain).

21
22 **DEVELOPMENT:** Any man-made change to improved or unimproved real estate, including but not
23 limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling
24 operations or storage of equipment or materials within the Special Flood Hazard Area, identified on the
25 most current Federal Insurance Rate Map (FIRM).

26
27 **FLOOD:** (a) a general and temporary condition of partial or complete inundation of normally dry land
28 areas from: the overflow of inland or tidal waters; the unusual and rapid accumulation of runoff of surface
29 waters from any source; and mudslides which are proximately caused by flooding and are akin to a river
30 of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current
31 of water and deposited along the path of the current; (b) the collapse or subsidence of land along the shore
32 of a lake or other body of water as a result of erosion or undermining caused by waves or currents of
33 water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a
34 natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as
35 flash flood or abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in
36 flooding.

37
38 **FLOOD HAZARD BOUNDARY MAP (FHBM):** An official map of the town, issued by the Federal
39 Insurance Administrator, where the boundaries of the flood, mudslide (i.e., mudflow) and related erosion
40 areas having special hazards have been designated as Zones A, H, and/or E.

41
42 **FLOOD INSURANCE RATE MAP (FIRM):** An official map of the town, issued by the Federal
43 Insurance Administrator, on which both the areas of special flood hazard and the applicable risk premium
44 zones have been delineated. See also SPECIAL FLOOD HAZARD AREA.

45
46 **FLOOD INSURANCE STUDY (FIS):** An examination, evaluation, and determination of flood hazards
47 and, if appropriate, corresponding water surface elevations.

48
49 **FLOODPLAIN or FLOOD-PRONE AREA:** Any land area susceptible to being inundated by water from
50 any source (also see Flood).

51

1 FLOODWAY, REGULATORY, TOWN OF WAITSFIELD: The channel of a river or other watercourse
2 and the adjacent land areas that must be reserved in order to discharge the base flood without
3 cumulatively increasing the water surface elevation more than one foot at any point. Please note, where
4 floodways have been determined, they may be shown on separate map panels from the Flood Insurance
5 Rate Maps.

6
7 FLOODPROOFED/FLOODPROOFING: Any combination of structural and nonstructural additions,
8 changes or adjustments to structures that reduce or eliminate flood damage to real estate or improved real
9 property, water and sanitary facilities, structures and their contents.

10
11 FLUVIAL EROSION HAZARD AREA (FEHA): The area including and adjacent to stream or river
12 channels necessary to accommodate the slope requirements of a physically stable channel, and is subject
13 to fluvial erosion hazards from stream channel migration and adjustment, as delineated on current Fluvial
14 Erosion Hazard Area Map for the municipality and documented in related studies.

15
16 FUNCTIONALLY DEPENDENT USE: A use which cannot perform its intended purpose unless it is
17 located or carried out in close proximity to water.

18
19 HISTORIC STRUCTURE: Any structure that is: (a) listed individually in the National Register of
20 Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the
21 Secretary of the Interior as meeting the requirements for individual listing on the National Register;
22 (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical
23 significance of a registered historic district or a district preliminarily determined by the Secretary to
24 qualify as a registered historic district; (c) individually listed on a state inventory of historic places in
25 states with historic preservation programs which have been approved by the Secretary of the Interior; or
26 (d) individually listed on a local inventory of historic places in communities with historic preservation
27 programs that have been certified either: (i) by an approved state program as determined by the Secretary
28 of the Interior or (ii) directly by the Secretary of the Interior in states without approved programs.

29
30 LETTER OF MAP AMENDMENT (LOMA): A letter issued by the Federal Emergency
31 Management Agency officially removing a structure or lot from the flood hazard zone based
32 on information provided by a certified engineer or surveyor. This is used where structures or
33 lots are located above the base flood elevation and have been inadvertently included in the
34 mapped special flood hazard area.

35
36 LOWEST FLOOR: The lowest floor of the lowest enclosed area, including basement, except an
37 unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in
38 an area other than a basement area is not considered a building's lowest floor provided that such
39 enclosure is not built so as to render the structure in violation of the applicable non-elevation design
40 requirements of 44 CFR 60.3.

41
42 MANUFACTURED (MOBILE) HOME: A structure, transportable in one or more sections, which is built
43 on a permanent chassis and designed to be used as a dwelling unit with or without a permanent foundation
44 when connected to required utilities. For purposes of flood hazard area regulation the term
45 "manufactured home" also includes recreational vehicles that are not fully licensed and ready for highway
46 use. For flood insurance purposes, the term "manufactured home" does not include recreational vehicles,
47 park trailers, campers or other similar vehicles.

48
49 MANUFACTURED (MOBILE) HOME PARK OR SUBDIVISION: A parcel (or contiguous parcels) of
50 land divided into two or more manufactured home lots for rent or sale.

1 MANUFACTURED (MOBILE) HOME PARK OR SUBDIVISION/EXISTING: A manufactured home
2 park or subdivision for which the construction of facilities for servicing the lots on which the
3 manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the
4 construction of streets, and either final site grading or the pouring of concrete pads) is completed before
5 September 10, 1976, the effective date of the initial floodplain management regulations adopted by the
6 town.

7
8 MANUFACTURED (MOBILE) HOME PARK OR SUBDIVISION/EXISTING, EXPANSION OF: The
9 preparation of additional sites by the construction of facilities for servicing the lots on which the
10 manufacturing homes are to be affixed (including the installation of utilities, the construction of streets,
11 and either final site grading or the pouring of concrete pads).

12
13 MANUFACTURED (MOBILE) HOME PARK OR SUBDIVISION/NEW: A manufactured home park
14 or subdivision for which the construction of facilities for servicing the lots on which the manufactured
15 homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets,
16 and either final site grading or the pouring of concrete pads) is completed on or after September 10, 1976,
17 the effective date of the initial floodplain management regulations adopted by the town.

18
19 MEAN SEA LEVEL: The National Geodetic Vertical Datum (NGVD), or other datum to which base
20 flood and other surface elevations are referenced.

21
22 RECREATIONAL VEHICLE: For purposes of flood hazard area regulation, a vehicle which is: (a) built
23 on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection;
24 (c) designed to be self-propelled or permanently towable by a light duty truck; and (d) designed primarily
25 not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or
26 seasonal use. See also CAMPER, MOBILE HOME, TRAVEL TRAILER.

27
28 SPECIAL FLOOD HAZARD AREA (SFHA): The floodplain within a community subject to a one
29 percent (1.0 %) or greater chance of flooding in any given year. For purposes of these regulations, the
30 term "area of special flood hazard" is synonymous in meaning with the phrase "special flood hazard
31 area." This area is usually labeled Zone A, AO, AH, AE, A1-30, or A99 in the most current flood
32 insurance studies and on the maps published by the Federal Emergency Management Agency. See also
33 BASE FLOOD ELEVATION, FLOODWAY.

34
35 START OF CONSTRUCTION: For purposes of flood hazard area regulation, determines the effective
36 maps or bylaw that regulated development in the Special Flood Hazard Area. The "start of construction"
37 includes substantial improvement, and means the date the building permit was issued provided the actual
38 start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was
39 within 180 days of the permit date. The actual start means either the first placement of permanent
40 construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the
41 construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured
42 home on a foundation. Permanent construction does not include land preparation, such as clearing,
43 grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include
44 excavation for a basement, footing, piers, or foundation or the erection of temporary forms; nor does it
45 include the installation on the property of accessory buildings, such as garages or shed not occupied as
46 dwelling units or not part of the main structure. For a substantial improvement, the actual start of
47 construction means the first alteration of any wall, ceiling, floor, or other structural part of a building,
48 regardless whether that alteration affects the external dimensions of the building.

49
50 STRUCTURE: A walled and roofed building, including a manufactured (mobile) home, and gas or liquid
51 storage tanks that are principally above ground.
52

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

4
5 SUBSTANTIAL IMPROVEMENT: Any repair, reconstruction, or improvement of a structure, the cost
6 of which, over three years, or over a period of a common plan of development, cumulatively equals or
7 exceeds 50% of the market value of the structure either (1) before the improvement or repair is started or
8 (2) if the structure has been damaged, and is being restored, before the damage occurred. The term does
9 not, however, include either (1) any project for improvement of the structure to comply with existing state
10 or local health, sanitary, or safety code specifications which are necessary to assure safe living conditions;
11 or (2) any alteration of a structure listed on the National Register of Historic Places or a state inventory of
12 historic places.

13
14 VIOLATION: The failure of a structure or other development to be fully compliant with this bylaw or
15 conditions of permit approval. With respect to the flood hazard regulation, a structure or other
16 development without the elevation certificate, other certifications, or other evidence of compliance
17 required in 44 CFR 60.3 is presumed to be in violation until such time as that documentation is provided.

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Appendix A: Narrative Description of Zoning District Boundaries, 2010

...

J. Flood Hazard Area Overlay District (FHO): With respect to the Flood Hazard Area Overlay District, refer to the most recent Flood Insurance Rate Map (FIRM) for the Town of Waitsfield published by the National Flood Insurance Program to identify the boundary line of the regulated inundation floodplain (i.e., the flood event with a one percent annual chance of occurring or 100 year floodplain) as described on the FIRM.

K. Fluvial Erosion Hazard Area Overlay District (FEHAOD): With respect to the Fluvial Erosion Hazard Area Overlay District, refer to the most recent Fluvial Erosion Hazard Maps produced for and adopted by the Town of Waitsfield to identify the boundary line of the area of floodplain reserved as the fluvial erosion hazard area.