

FLOOD HAZARD AREA REGULATIONS

Town of Pittsfield, VT

**Adopted
2.4.2014**

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I. Statutory Authorization

To effect the purposes of 10 V.S.A. Chapter 32, and in accordance with 24 V.S.A. § 4424, §4411 and §4414, there is hereby established an ordinance for areas of special flood hazard in the Town of Pittsfield, Vermont.

II. Statement of Purpose

It is the purpose of this ordinance to:

- A. Implement the goals, policies, and recommendations in the current municipal plan;
- B. Minimize and prevent the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public services that result from flooding and other flood related hazards; and
- C. Ensure that the design and construction of development in flood and other hazard areas are accomplished in a manner that minimizes or eliminates the potential for flood and loss or damage to life and property; and
- D. Manage all flood hazard areas designated pursuant to 10 V.S.A. § 753, 1422 and 1427; and
- E. Assist the state, municipalities, and individuals eligible for federal flood insurance and other federal disaster recovery and hazard mitigation funds as may be available.

III. Lands to Which These Regulations Apply

These regulations shall apply to all areas in the Town of Pittsfield, Vermont identified as areas of special flood hazard in and on the most current flood insurance studies and maps published by the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), National Flood Insurance Program (NFIP), as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. § 753 as well as lands designated as river corridor protection areas identified by the State of Vermont Agency of Natural Resources (pursuant to 10 V.S.A. §§ 1422 and 1427) as final or provisional and any revisions thereafter that are subject to erosional force or overland flooding, which are hereby adopted by reference and declared to be part of these regulations.

IV. Development Permit Required

A permit is required, to the extent authorized by State law, for all proposed construction or other development (including mining, dredging, filling, grading, paving, excavation or drilling operations, storage of equipment or materials or the placement of manufactured homes) in areas of special flood hazard.

- A. The following are exempt from regulation under this ordinance:
 - 1. Silvicultural activities not involving the use of buildings and conducted in accordance with Vermont Department of Forest and Parks' Acceptable Management Practices;

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2. Agricultural activities not involving the use of buildings and conducted in accordance with Vermont Department of Agriculture, Food and Markets' Acceptable Agricultural Practices;
 3. Recreational vehicles parked outside of the floodway and at least 35 feet from the top of bank, provided they are fully licensed and ready for highway use; and
 4. Structures or uses not specifically mentioned in this Ordinance that are incidental and/or customary to the use on the lot, are consistent with policies of the Town Plan, and so temporary or minimal in their impact on the public that regulation of them is not required to protect health, safety, welfare or environment. Such uses or structures include, but are not limited to: play equipment, parks, unpaved non-commercial trails and paths, and seasonal decorations. The ZA is empowered to make such determinations when needed, and appeals of these decisions shall be made to the ZBA.
- B. The following activities in the area of special flood hazard and the river corridor protection area but outside the floodway only require an administrative permit from the Administrative Officer:
1. At-grade parking areas and at grade patios that meet requirements in Article VII and are at least 50 feet from the top of bank;
 2. Non-enclosed accessory structures such as signs, open fences, or pole sheds without walls, foundations or utilities, that meet requirements in Article VII.
 3. Drilling
 4. Any improvement, renovation or repair renovation within the existing building footprint, including work below base flood elevation, other than as specifically exempted above, that does not constitute a "substantial improvement" as defined herein, including work below base flood elevation, and replacement of utilities;
 5. Decks attached to existing structures with the bottom of support members at least 2 feet above base flood elevation;
 6. Enclosed accessory structures that represent a minimal investment and are no greater than 300 square feet; and
 7. VT River Corridor Management Program Stream alteration permits
 8. Channel management for Stream Alteration Permit Project
 9. Demolition: please note that after a disaster, even with FEMA/town approval, removal of a destroyed or damaged structure may result in landowner ineligible for certain grants, specifically buyouts.
- C. The following activities within the floodway only require an administrative permit from the Administrative Officer once the state and federal permits (if needed) are presented to the ZA:
1. VT River Corridor Management Program Stream alteration permits,

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2. Federal watercourse permits: US Army Corps of Engineers, NRCS Emergency Watershed Program
 3. Demolition
- D. Prohibited Development in Special Flood Hazard Area and/or River Corridor Protection Area
1. New residential or non-residential structures (including manufactured homes) are prohibited in the River Corridor Protection Area and the SFHA.
 2. Accessory structures in the floodway portion of the SFHA; and Accessory Structures >1000 sf in the River corridor protection area and SFHA
 3. Storage or junk yards;
 4. New fill except as necessary to elevate structures above the base flood elevation and to complete permitted stream alteration and other ANR approved projects;
 5. Critical facilities such as fire stations and shelters are prohibited in all areas affected by mapped flood hazards; and,
 6. Modifying enclosures below the lowest floor that allow for the entry and exit of floodwaters
 7. All development not exempted, permitted, or conditionally permitted
- E. Conditional use approval by the Development Review Board, prior to the issuance of an administrative permit by the Administrative Officer, is required for a development not exempted or permitted, including:
1. Substantial improvement of existing buildings,
 2. Minor improvements to existing buildings outside of the building footprint
 3. Any fill or excavation,
 4. Storage of materials
 5. Grading resulting in changes in topography
 6. Minor improvement to existing structures within the building envelope in the floodway

All development and subdivisions shall be reviewed to assure that such proposals comply with the standards in VII; minimize potential flood damage; public facilities and utilities such as sewer, gas, electrical, and water systems are constructed so as to minimize flood damage; and adequate drainage is provided to reduce exposure to flood hazards.

V. Procedures

- A. Unless already established, there is hereby established an Administrative Officer and Development Review Board. If a Board of Adjustment or Development Review Board is already established then it shall also be the Flood Hazard Review Board.

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B. Referrals

Prior to acting on any permit, a copy of the application and supporting information shall be submitted by the Administrative Officer to the State National Flood Insurance Program Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section in accordance with 24 V.S.A. § 4424. A permit will only be considered complete and ready for action, including a conditional use hearing, following receipt of comments from the Agency or the expiration of 30 days from the date the application was mailed to the Agency, whichever is sooner.

For any permit involving the alteration or relocation of a watercourse, the Administrative Officer shall notify adjacent communities, the Administrator of the National Flood Insurance Program, and the Stream Alteration Engineer at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section at least 30 days prior to issuing any permit.

C. Effect

Each permit issued shall contain a statement of the period of time within which an appeal may be taken and shall require posting of a notice of permit on a form prescribed by the municipality within view from the public right-of-way most nearly adjacent to the subject property until the time for appeal in has passed. No permit issued pursuant to this section shall take effect until 15 days after issuance, or in the event that a notice of appeal a decision by the Administrative Officer or Flood Hazard Review Board is properly filed, no such permit shall take effect until adjudication of that is complete.

Each permit shall be valid for a period of two years, after which time if no substantial development has occurred it shall be deemed void.

D. Filing

Within three days following the issuance of a permit, the Administrative Officer shall:

1. Deliver a copy of the permit and any accompanying conditional approval to the listers of the municipality; and
2. Post a copy of the permit in at least one public place in the municipality until the expiration of 15 days from the date of issuance of the permit.
3. Within 30 days after a permit has been issued or within 30 days of the issuance of any notice of violation, the Administrative Officer shall:
 - a) deliver the original or a legible copy of the permit, or notice of permit, and any approvals to the town clerk for recording in the land records as provided in subsection 24 VSA, section 1154(a); and
 - b) file a copy of the permit and any approvals in the Town office in a location where all municipal land use permits shall be kept.

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4. The Administrative Officer shall properly file and maintain a record of:
 - a) All permits issued and denied for development in areas of special flood hazard;
 - b) An elevation certificate or LOMA (consistent with the datum of the elevation on the NFIP maps for the community) of the lowest floor, including basement, of all new or substantially improved buildings (not including accessory buildings) in the special flood hazard area;
 - c) All floodproofing certifications required under this regulation; and
 - d) All decision of the Board (including variance actions and violations), and all supporting findings, conclusions and conditions.
 - e) Other required permits

E. Conditional Use Hearing

Proposed developments needing conditional use approval prior to the issuance of a permit must have a warned public hearing. Any public notice for a warned public hearing shall be given not less than 15 days after the required submittal to federal and state agencies, and not less than 15 days prior to the date of the public hearing by all the following:

1. Publication of the date, place, and purpose of the hearing in The Rutland Herald.
2. Posting of the same information in three or more public places within the municipality in conformance with location requirements of 1 V.S.A. § 312(c)(2), including posting within view from the public right-of-way most nearly adjacent to the property for which an application is made.
3. Written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to any public right-of-way. The notification shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal.

The applicant shall be required to bear the cost of the public warning and the cost and responsibility of notification of adjoining landowners. The applicant shall be required to provide a copy of the warning, and demonstrate proof of the posting and of delivery to adjoining landowners either by certified mail, return receipt requested, or by written notice hand delivered or mailed to the last known address supported by a sworn certificate of service.

The Flood Hazard Review Board may recess the proceedings on any application pending submission of additional information. The Board should close the evidence promptly after all parties have submitted the requested information, adjourn the hearing, and may deliberate prior to issuing its decision.

E. Decisions

Decisions by the Administrative Officer to approve or deny an application shall be issued in writing within 30 days of a complete application, and shall include a statement of the factual bases on which the conclusions were made. Applications that cannot be approved until a conditional approval has been given shall be deemed incomplete and referred to the Board. Applications that cannot be approved in compliance with this ordinance shall be denied. Decisions of the Administrative officer can be appealed as below.

Decisions of the Flood Hazard Review Board for variance or conditional use approval shall be issued in writing within 45 days after the adjournment of the final hearing. Failure to issue a decision within this period shall be deemed approval and shall be effective on the 46th day. Conditional use approvals shall include a statement of the factual bases on which the Board has made its conclusions regarding how the proposed development will meet the development standards, and a statement of the conclusions. In rendering a decision in favor of the applicant, the Board may attach additional reasonable conditions and safeguards as it deems necessary to implement the purposes of this ordinance and the municipal plan then in effect. The Board may provide for the conditioning of permit issuance on the submission of a bond, escrow account, or other surety in a form acceptable to the legislative body of the municipality to assure one or more of the following: the completion of the project, adequate stabilization, or protection of public facilities that may be affected by a project.

Any decision to grant conditional use approval shall be sent by certified mail within the 45 day period to the applicant, and the appellant in matters on appeal. Copies of the decision shall also be mailed to every person or body appearing and having been heard at the hearing and a copy of the decision shall be filed with the Administrative Officer and the clerk of the municipality as a part of the public records of the municipality.

F. Appeals

An interested person may appeal any decision or act taken by the Administrative Officer by filing a notice of appeal with the chairperson of the Development Review Board or with the Pittsfield Town Clerk. This notice of appeal must be filed within 15 days of the date of that decision or act, and a copy of the notice of appeal shall also be filed with the Administrative Officer. A notice of appeal shall be in writing and shall include the name and address of the appellant, a brief description of the property with respect to which the appeal is taken, a reference to the regulatory provisions applicable to that appeal, the relief requested by the appellant, and the alleged grounds why the requested relief is believed proper under the circumstances.

VI. Maps, Base Flood Elevations and Floodway Limits

- A. Where available, base flood elevations and floodway limits (or data from which a community can designate regulatory floodway limits) provided by the National Flood

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Insurance Program in the Flood Insurance Study and accompanying maps shall be used to administer and enforce these regulations.

- B. In areas where base flood elevations and floodway limits have not been provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps, base flood elevations and floodway data provided by FEMA or available from State or Federal agencies or other sources, shall be obtained and utilized to administer and enforce these regulations. If no data are available from existing sources it is the responsibility of the applicant to determine the base flood elevation.
- C. Until a regulatory floodway has been designated, no new construction, substantial improvements, or other development shall be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development will not increase the water surface elevation of the base flood more than 1.00 foot at any point within the community.
- D. The information presented on any maps, or contained in any studies, adopted by reference, is presumed accurate.

If uncertainty exists with respect to the boundaries of the Special Flood Hazard Area or the floodway, the location of the boundary shall be determined by the Zoning Administrator (ZA). If the applicant disagrees with the determination made by the ZA, a Letter of Map Amendment from FEMA shall constitute proof.

If uncertainty exists with respect to the boundaries of the River Corridor Protection Area, the location of the boundary shall be determined by the ZA. If the applicant disagrees with the determination made by the ZA, a letter of determination from the Vermont Agency of Natural Resources shall constitute proof.

VII. Development Standards

A. Floodway Areas

- 1. Development, or any encroachments, except for minor improvements to existing structures within the building footprint or relating to bridges, culverts, roads, stabilization projects, public utilities, or health and safety measures, within the regulatory floodway (as determined by Section VI.B) is prohibited. Such exceptions require conditional use approval prior to permitting and must comply with the standards in VII.B, demonstrating through hydrologic and hydraulic analyses performed and certified in accordance with standard engineering practice by a registered professional engineer that the proposed development will result in no increase in flood levels during the occurrence of the base flood and not increase any risk to surrounding properties, facilities, or structures from erosion or flooding.

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2. Public utilities may be placed underground, and the analyses may be waived, where a registered professional engineer certifies that there will be no change in grade and the utilities will be adequately protected from scour.
3. Junkyards and storage facilities for floatable materials, chemicals, explosives, flammable liquids, or other hazardous or toxic materials, are prohibited within the floodway.

B. Special Flood Hazard Areas Outside of the Floodway

1. All Development - All development shall be reasonably safe from flooding and shall not decrease the distance between any existing primary buildings' footprint and streams; and:
 - a) designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure during the occurrence of the base flood,
 - b) constructed with materials resistant to flood damage,
 - c) constructed by methods and practices that minimize flood damage, and
 - d) constructed to provide adequate drainage to reduce exposure to flood hazards;
 - e) constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding at least one foot above the base flood elevation. (see FEMA technical bulletins for information)
 - f) constructed to minimize damage to proposed development and to public facilities
 - g) constructed so as to minimize conflict with changes in channel location over time and;
 - h) Fuel tanks shall be at least one foot above BFE and be securely anchored or be placed underground.
2. Residential Development:
 - a) New principal structures and new net fill are prohibited. Replacement structures with no increase in footprint are allowed as under substantial improvements, however replacement structures must be relocated on the lot outside of the flood hazard zone, or as close to this as possible to better reduce flood risk. In such situations, the Zoning Board of Adjustment may waive other general district setbacks as needed in order to achieve the greatest public safety.
 - b) Existing buildings to be substantially improved that are located in Zones A, A1-30 and AE shall have the lowest floor, including basement, elevated to at least one foot above the base flood elevation.

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- c) Manufactured homes to be placed and existing manufactured homes to be substantially improved that are:
 - i. located in a new manufactured home park or subdivision, outside of a manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in a manufactured home park or subdivision which has incurred substantial damage from a flood shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to at least one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement during the occurrence of the base flood.
 - ii. located in an existing manufactured home park, where elevating a replacement home to at least base flood elevation is not possible, the lowest floor shall be supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 48 inches in height above grade and be securely anchored to an adequately anchored system to resist floatation, collapse, and lateral movement.
3. Non-Residential Development:
- a) New construction located in Zones A, A1-30, and AE shall have the lowest floor, including basement, elevated to at least one foot above the base flood elevation.
 - b) Existing buildings to be substantially improved located in Zones A, A1-30, AE shall have the lowest floor, including basement, elevated to at least one foot above the base flood elevation or together with attendant utility and sanitary facilities be designed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
 - c) A permit for a building proposed to be floodproofed shall not be issued until a registered professional engineer or architect has reviewed the structural design, specifications and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.
4. Subdivisions:
- a) New subdivision proposals and other proposed development (including proposals for manufactured home parks and subdivisions) that are greater than 50 lots or 5 acres, whichever is the lesser, shall include base flood elevation data.
 - b) Subdivisions and Planned Unit Developments must be accessible by dry land access outside the special flood hazard area.
 - c) Subdivisions (including manufactured home parks) shall be designed to assure:
 - i. such proposals minimize flood damage within the flood-prone area,

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- ii. public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage,
 - iii. adequate drainage is provided to reduce exposure to flood hazards, and
 - iv. any access roads to habitable structures or critical facilities shall be at or above base flood elevations and able to withstand a 100-year event without failure or overtopping.
- 5. Enclosed Areas Below the Lowest Floor:
 - a) Fully enclosed areas below grade on all sides (including below grade crawlspaces and basements) are prohibited.
 - b) Fully enclosed areas above grade shall be:
 - i. used solely for parking of vehicles, building access, or storage and such a condition shall clearly be stated in any permits.
 - ii. designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.
 - iii. certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- 6. Recreational Vehicles: Recreational Vehicles placed on sites with special flood hazard areas shall be fully licensed and ready for highway use
- 7. Accessory Structures: A small accessory building less than 250 square feet need not be elevated to the base flood elevation provided the building shall meet VII B 1 and B 5:
- 8. Water Supply Systems: New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- 9. Sanitary Sewage Systems: New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- 10. On-Site Waste Disposal Systems: On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- 11. Watercourse Carrying Capacity: The flood and sediment carrying capacity within any altered or relocated portion of a watercourse shall be maintained.
- 12. Bridges and culverts, which by their nature must be placed in or over the stream, must have a stream alteration permit from the Agency of Natural Resources.

C. River Corridor Protection Area

1. Improvements to existing structures, and any associated fill as needed to comply with elevation requirements in the Special Flood Hazard Area shall not decrease encroachment between the existing primary building and the top of bank;
2. Accessory structures must not encroach more than the existing primary building's distance to the top of bank and reasonable effort must be made to decrease the encroachment.
3. Development shall not increase the susceptibility of that or other buildings or properties or stream banks to fluvial erosion damage;
4. Development shall not increase the potential of materials being swept onto other lands or into the stream and causing damage to other properties from fluvial erosion;
5. Development shall not cause an undue burden on public services and facilities including roads, bridges, culverts, and emergency service providers during and after fluvial erosion events.
6. Bridge and culvert projects must have a Stream Alteration Permit; and
7. Channel management activities must be authorized by the Agency of Natural Resources.

D. Riparian Buffer

A riparian buffer is hereby established along all perennial streams in Pittsfield, as identified on the Vermont Hydrography Dataset, to protect water quality, reduce erosion and protect public safety from flood damage. This area shall include all lands between the tops of banks for such streams, plus 25 feet measured perpendicularly, from the top of the bank.

Notwithstanding any other provision of this bylaw, within such buffer no ground disturbance or placement of structures above or below ground is allowed for regulated uses, except this provision shall not apply to work involving the removal of non-native nuisance species defined as noxious plants by the Vermont Agency of Natural Resources and/or Vermont Department of Agriculture, or work covered as part of a project with: an approved emergency or regular stream alteration permit, a state stormwater permit, a Riparian Buffer Management Plan approved by and in compliance with the Vermont Agency of Natural Resources, or an approved Act 250 permit.

In addition, existing healthy trees 4 inches and over diameter at breast height (dbh) may only be removed in such a manner as to maintain a closed canopy and stumps shall be left in place. Mowed areas may not be established but may be maintained in this area outside of the top of bank.

VIII. Variances to the Development Standards

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- A. Variances shall be granted by the Development Review Board after a hearing noticed in the same manner as for a conditional use and only in accordance with 24 V.S.A. § 4469 and in accordance with the criteria for granting variances found in 44 CFR, Section 60.6, of the National Flood Insurance Program regulations. Any variance issued will inform the applicant in writing over the signature of a community official that the issuance of a variance to construct a structure below the base flood elevation increases risk to life and property and will result in increased flood insurance premiums up to amounts as high as \$25 for \$100 of coverage. Such notification shall be maintained with a record of all variance actions.
- B. Nonconforming Structures and Uses: The Board may, after public notice and hearing, approve the repair, relocation, replacement, or enlargement of a nonconforming structure within a flood hazard area provided that:
1. The proposed development is in compliance with all the Development Standards of this bylaw;
 2. A nonconforming structure that is substantially damaged or destroyed may be reconstructed only in circumstances when the structure cannot be relocated to a less hazardous location on the parcel. The lowest floor of the reconstructed structure must be rebuilt to one foot or more above the base flood elevation, and the structure must otherwise comply with all requirements of the National Flood Insurance Program;
 3. Nonconforming structures or uses shall be considered abandoned where such structures or uses are discontinued for more than 12 months; and
 4. An individual manufactured home lot in an existing manufactured home park that is vacated shall not be considered a discontinuance or abandonment of nonconformity. Replacement manufactured homes must be placed so as to meet the development standards in this bylaw.
- C. A decision in favor of the appellant shall be granted if all the following facts are found, and the supporting findings are specified in the decision:
1. There are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to these conditions, and not the circumstances or conditions generally created by the provisions of the bylaw in the neighborhood or district in which the property is located;
 2. Because of these physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the bylaw, and that the authorization of a variance is therefore necessary to enable the reasonable use of the property;
 3. Unnecessary hardship has not been created by the appellant;
 4. The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property,

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- reduce access to renewable energy resources, or be detrimental to the public welfare;
5. The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the bylaw and from the plan; and
 6. The variance will not result in increased flood heights, increased susceptibility to flooding or erosion, additional threats to public safety or infrastructure (including emergency services during flood events), or extraordinary public expense.

IX. Warning of Disclaimer of Liability

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

X. Validity and Severability

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

XI. Precedence of Ordinance

The provisions of this ordinance shall not in any way impair or remove the necessity of compliance with any other applicable ordinances. Where this ordinance imposes a greater restriction, the provisions of this ordinance shall take precedence over any other ordinance.

XII. Enforcement, Appeals and Penalties

It shall be the duty of the Administrative Officer to enforce the provisions of this ordinance. In accordance with 24 V.S.A., section 4451, any person who is found to have violated this ordinance shall be fined by the court not more than \$100.00 for each offense. No action may be brought under this section unless such notice as required in has been given as described below in this part. In default of payment of the fine, the violator shall pay double the amount of the fine. Each day that a violation is continued shall constitute a separate offense. All fines collected for the violation of bylaws shall be paid over to the Town of Pittsfield.

Whenever any development occurs contrary to these flood hazard area regulations, the Administrative Officer shall notify the alleged offender of the violation by certified mail to correct the violation. No action may be brought unless the alleged offender has had at least a seven-day warning notice by certified mail. An action may be brought without the seven-day notice and opportunity to cure if the alleged offender repeats the violation after the seven-day notice period and within the next succeeding twelve months. The seven-day warning notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the seven days, that failure to cure may result in loss of flood insurance, and that the

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alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days and within the next succeeding 12 months.

If the violation is not remedied within 7 days, or appealed, the Administrative Officer shall file a copy of the notice of alleged violation in the municipal land use permit files, with the Town Clerk for filing in the land records, and shall also mail a copy to the alleged violator, the state NFIP Coordinator and the Administrator of the National Flood Insurance Program. Section 1316 of the National Flood Insurance Act of 1968, as amended, authorizes FEMA to deny flood insurance to a property declared by a community to be in violation of their flood hazard area regulations. The notice shall consist of: (a) the name of the property owner and address or legal description of the property sufficient to confirm its identity or location, (b) a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance, (c) a clear statement that the public body making the declaration has authority to do so and a citation to that authority, (d) evidence that the property owner has been provided notice of the violation and the prospective denial of insurance, and (e) a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

Violations of the AAP are subject to enforcement under applicable Vermont law including, but not necessarily limited to, the provisions of 6 V.S.A. Section 4812. Such violations in the special flood hazard area and river corridor protection area shall be immediately reported to the Secretary of Agriculture for enforcement, and a copy of the report shall be sent to the VT DEC NFIP Coordinator. Structures that are built with loans or other federal investments will be required to obtain flood insurance. A structure built below the base flood elevation increases risk to life and property and will result in increased flood insurance premiums up to amounts as high as \$25 for \$100 of coverage. Failure to obtain a permit for development in the Special Flood Hazard Area may jeopardize the participation of the town in the National Flood Insurance Program.

XIII. Definitions

A Zones are areas subject to inundation by the 1-percent-annual-chance flood event generally determined using approximate methodologies. Because detailed hydraulic analyses have not been performed, no Base Flood Elevations (BFEs) or flood depths are shown. Mandatory flood insurance purchase requirements and floodplain management standards apply.

AE Zones are areas subject to inundation by the 1-percent-annual-chance flood event determined by detailed methods. Base Flood Elevations (BFEs) are shown. Mandatory flood insurance purchase requirements and floodplain management standards apply.

Accessory Building is a building or use customarily incidental and subordinate to the principal building or use located on the same lot.

Appropriate Municipal Panel means a planning commission performing development review, a board of adjustment, a development review board, or a legislative body performing development review.

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

Base Flood Elevation (BFE) the height of the base flood, usually in feet, in relation to the National Geodetic Vertical Datum of 1929, the North American Vertical Datum of 1988, or other datum referenced in the Flood Insurance Study report, or average depth of the base flood, usually in feet, above the ground surface.

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

Deck is a covered or uncovered addition to a building, attached to the building, and supported by such attachment and/or columns but lacking solid walls. Decks are counted in footprint and setback calculations.

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

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

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing

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homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

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

Flood Insurance Rate Map (FIRM) means an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

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

Floodplain or flood-prone area means any land area susceptible to being inundated by water from any source (see definition of “flood”).

Flood proofing means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway (Regulatory in the Town of Pittsfield) means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point.

Fluvial Erosion is erosion caused by streams and rivers. Fluvial erosion can be catastrophic when a flood event causes a rapid adjustment of the stream channel size and/or location.

Footprint that area covered by the building, regardless of whether that portion touches the ground.

Historic Structure means any structure that is: (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily

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determined by the Secretary to qualify as a registered historic district; (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (i) By an approved state program as determined by the Secretary of the Interior or (ii) Directly by the Secretary of the Interior in states without approved programs.

Legislative Body means the selectboard in the case of a town, the trustees in the case of an incorporated village, and the mayor, alderpersons, and city council members in the case of a city, and the supervisor in the case of an unorganized town or gore.

Letter of Map Amendment (LOMA) is a letter issued by the Federal Emergency Management Agency officially removing a structure or lot from the flood hazard zone based on information provided by a certified engineer or surveyor. This is used where structures or lots are located above the base flood elevation and have been inadvertently included in the mapped special flood hazard area.

Lowest Floor means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; *Provided*, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR 60.3.

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

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

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

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

Patio means an at-grade, level, surfaced area that is not elevated on fill.

Recreational vehicle means a vehicle which is: (a) Built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) Designed to be self-propelled or permanently towable by a light duty truck; and (d) Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

Riparian buffer is the width of land adjacent to lakes or streams between the top of the bank or top of slope or mean water level and the edge of other land uses. Riparian buffers are typically undisturbed areas, consisting of trees, shrubs, groundcover plants, duff layer, and a naturally vegetated uneven ground surface, that protect the waterbody and the adjacent riparian corridor ecosystem from the impact of developed land uses.

River corridor protection area means the land area adjacent to a river that is required to accommodate the dimensions, slope, planform, and buffer of the naturally stable channel and that is necessary for the natural maintenance or natural restoration of a dynamic equilibrium condition, and for minimization of fluvial erosion hazards, as delineated by the Agency of Natural Resources in accordance with river corridor protection procedures

Special Flood Hazard Area is the land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated a Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the Flood Insurance Rate Map (FIRM), Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/AI-30, AR/AE, AR/AO, AR/AH, AR/A, VO or V1-30, VE, or V. For purposes of these regulations, the term “special flood hazard area” is synonymous in meaning with the phrase “area of special flood hazard”.

Start of Construction includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, regardless whether that alteration affects the external dimensions of the building.

Structure means, for flood hazard management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. *Structure*, for insurance purposes, means: (a) A building with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site; (b) A manufactured home (“a manufactured home,” also known as a mobile home, is a structure: built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or (c) A

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travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under the community's flood hazard management and building ordinances or laws. For the latter purpose, "structure" does not mean a recreational vehicle or a park trailer or other similar vehicle, except as described in (c) of this definition, or a gas or liquid storage tank.

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

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either: (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specification which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (b) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

Top of bank means that vertical point along a stream bank where an abrupt change in slope is evident. For streams in wider valleys it is the point where the stream is generally able to overflow the banks and enter the floodplain. For steep and narrow valleys, it will generally be the same as the top of slope.

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