

Adopted: April 21 2009

Town of Hancock
INUNDATION HAZARD AREA REGULATIONS

1
2
3
4
5 I. Statutory Authorization and Effect 1
6 II. Statement of Purpose 1
7 III. Other Provisions 1
8 IV. Lands to Which these Regulations Apply 2
9 V. Summary Table: Development Review in Hazard Areas 3
10 VI. Development Review in Hazard Areas 3
11 VII. Development Standards 5
12 VIII. Administration 9
13 IX Certificate of Occupancy 14
14 X. Enforcement and Penalties 14
15 XI. Definitions 15
16

17 **I. Statutory Authorization and Effect**

18
19 In accordance with 10 V.S.A. Chapter 32, and V.S.A. Chapter 117 §4424, §4411 and §4414,
20 there is hereby established a bylaw for areas at risk of flood damage in the Town of Hancock,
21 Vermont.
22

23 **II. Statement of Purpose**

24
25 It is the purpose of this bylaw to:

- 26
27 A. Implement the goals, policies, and recommendations in the current municipal plan;
28 B. Avoid and minimize the loss of life and property, the disruption of commerce, the
29 impairment of the tax base, and the extraordinary public expenditures and demands on
30 public services that result from flooding;
31 C. Ensure that the selection, design, creation, and use of development is reasonably safe and
32 accomplished in a manner that is consistent with public wellbeing, does not impair flood
33 plain services or the stream corridor,
34 D. Manage the flood hazard area designated pursuant to 10 V.S.A. Chapter 32 § 753, the
35 municipal hazard mitigation plan; and make the its citizens, and businesses eligible for
36 federal flood insurance, federal Town of Hancock, disaster recovery funds, and hazard
37 mitigation funds as may be available.
38

39 **III. Other Provisions**

40
41 A. Precedence of Bylaw

42
43 The provisions of these flood hazard bylaws shall not in any way impair or remove the
44 necessity of compliance with any other local, state, or federal laws or regulations. Where this
45 flood hazard regulation imposes a greater restriction the provisions here shall take precedence.

V. Summary Table: Development Review in Hazard Areas

The hazard areas are not appropriate sites for new structures nor for development that increases the elevation of the base flood.

#	Activity	Hazard Zone	
		Special Flood Hazard Area	Floodway
	P Permitted C Conditional Use Review X Prohibited A Exempted		
1	New Structures	X	X
2	Storage	X	X
3	Improvements to Existing Structures	P, C	C
4	Small Accessory Structures	P	X
5	At Grade Parking	P	C
6	Replacement water supply or septic systems	C	C
8	Fill as needed to elevate existing structures	C	C
9	Fill	X	X
12	Grading	C	C
13	Road maintenance	A	A
14	Road improvements	C	C
15	Bridges and culverts	C	C
16	Channel management	C	C
17	Recreational vehicles	P	P
18	Open space, recreation	A	A
19	Forestry	A	A
20	Agriculture	A	A

VI. Development Review in Hazard Areas

A. Permit

A permit is required from the Administrative Officer for all development in all areas defined in Section IV. Development that requires conditional use approval, non-conforming use approval, or a variance from the Appropriate Municipal Panel (AMP) under these flood hazard regulations, must have such approvals prior to the issuance of a permit by the AO. Any development subject to municipal jurisdiction in the designated hazard areas shall meet the criteria in Section VI and VII. Any permit issued will require that all other necessary permits from State or Federal Agencies have been received before work may begin.²

- 1 4. Agricultural activities conducted in accordance with the Vermont Department of
2 Agriculture's Accepted Agricultural Practices (AAP). Prior to the construction of
3 farm structures the farmer must notify the AO in writing of the proposed activity. The
4 notice must contain a sketch of the proposed structure including setbacks.

5
6 F. Variances

7
8 Variances may be granted in writing by the AMP only in accordance with all the criteria in 24
9 V.S.A. § 4469, § 4424 (E), and 44 CFR Section 60.6³, after a public hearing noticed as
10 described in Section VIII.

11
12 Any variance issued in the Special Flood Hazard Area will not increase flood heights, and
13 will inform the applicant in writing over the signature of a community official that the
14 issuance of a variance to construct a structure below the base flood elevation increases risk to
15 life and property and will result in increased flood insurance premiums up to amounts as high
16 as \$25 for \$100 of coverage. Such notification shall be maintained with a record of all
17 variance actions.⁴ A copy of such a variance shall be affixed to the deed of the property on
18 file in the municipal clerk's office.

19
20
21 **VII. Development Standards** – The criteria below are the minimum standards for
22 development in the flood hazard areas. Where more than one zone or area is involved, the
23 most restrictive standard shall take precedence.

24
25 A. Special Flood Hazard Area

26
27 1. *All development* shall be:

- 28
29 a. Reasonably safe from flooding;
30 b. Designed, operated, maintained, modified, and adequately anchored to prevent
31 flotation, collapse, release, or lateral movement of the structure;
32 c. Constructed with materials resistant to flood damage;
33 d. Constructed by methods and practices that minimize flood damage;
34 e. Constructed with electrical, heating, ventilation, plumbing and air conditioning
35 equipment and other service facilities that are designed and/or located so as to
36 prevent water from entering or accumulating within the components during
37 conditions of flooding;
38 f. Adequately drained to reduce exposure to flood hazards;
39 g. Located so as to minimize conflict with changes in channel location over time and
40 the need to intervene with such changes; and,
41 h. Required to locate any fuel storage tanks (as needed to serve an existing building
42 in the Special Flood Hazard Zone) a minimum of one foot above the base flood
43 elevation and be securely anchored to prevent flotation; or storage tanks may be
44 placed underground, if securely anchored as certified by a qualified professional.

1 shall not be issued until a registered professional engineer or architect has
2 reviewed the structural design, specifications and plans, and has certified that the
3 design and proposed methods of construction are in accordance with accepted
4 standards of practice for meeting the provisions of this subsection.
5

6 7. *Fully enclosed areas below the lowest floor*, in buildings being substantially improved,
7 shall:

- 8 a. Be solely used for parking of vehicles, storage, or building access, and such a
9 condition shall clearly be stated on any permits; and,
- 10 b. Be designed to automatically equalize hydrostatic flood forces on exterior walls by
11 allowing for the entry and exit of floodwaters. Such designs must be certified by a
12 registered professional engineer or architect, or meet or exceed the following
13 minimum criteria: A minimum of two openings on two walls having a total net
14 area of not less than one square inch for every square foot of enclosed area subject
15 to flooding shall be provided. The bottom of all openings shall be no higher than
16 one foot above grade. Openings may be equipped with screens, louvers, valves, or
17 other coverings or devices provided that they permit the automatic entry and exit
18 of floodwaters.
19

20 8. *Recreational vehicles* on sites within special flood hazard areas shall be:

- 21 a. On the site for fewer than 180 consecutive days and be fully licensed and ready for
22 highway use;¹¹ or
- 23 b. Permitted in accordance with the elevation and anchoring requirements for
24 "manufactured homes" in Section VII A 5.
25

26
27 9 A *small accessory* structure of 500 square feet or less¹² that represents a minimal
28 investment need not be elevated to the base flood elevation in this area, provided the
29 structure:
30

- 31 a. Shall be used only for parking or storage of non-hazardous material;
- 32 b. Shall be designed to have low flood damage potential;
- 33 c. Shall be constructed and placed on the building site so as to offer the minimum
34 resistance to the flow of floodwaters;
- 35 d. Shall provide a minimum of two openings having a total net area of not less than
36 one square inch for every square foot of enclosed area subject to flooding shall be
37 provided. The bottom of all openings shall be no higher than one foot above
38 grade. Openings may be equipped with screens, louvers, valves, or other
39 coverings or devices provided that they permit the automatic entry and exit of
40 floodwaters;
- 41 e. Shall be firmly anchored to prevent flotation; and,
- 42 f. Shall have service facilities such as electrical and heating equipment, elevated or
43 flood proofed to at least one foot above base flood elevation.
44

1 **VIII. Administration**

2
3 A. Administrative Officer and Board of Adjustment

4
5 There is hereby established and Administrative Officer (AO) and a Board of Adjustment to be
6 appointed by the Selectboard as specified under 24 VSA §4448 and §4460.

7
8 B. Application Submission Requirements

9
10 1. Applications for development shall include:

- 11
12 a. The name and contact information for the owner of the property, including any
13 agents authorized to act on their behalf;
- 14 b. A thorough description of the proposed development;
- 15 c. General location map including the address of the property, tax parcel ID, relative
16 locations of the existing development and the nearest public road;
- 17 d. Where applicable, a site plan that depicts the proposed development, all water
18 bodies, Special Flood Hazard Areas, floodways, any existing and proposed
19 drainage, any proposed fill, and pre and post development grades, and the
20 elevation of the proposed lowest floor, as referenced to the same vertical datum as
21 the elevation on the current Flood Insurance Rate Maps;
- 22 e. A Vermont Agency of Natural Resources Project Review Sheet for the proposal.
23 The Project Review Sheet shall identify all State and Federal agencies from which
24 permit approval is required for the proposal, and shall be filed as a required
25 attachment to the municipal permit application. The identified permits, or letters
26 indicating that such permits are not required, shall be submitted to the AO and
27 attached to the permit before work can begin;¹⁷
- 28 f. If this is an appeal for a variance, then the appeal application must include
29 responses to the criteria set forth in 24 VSA §4469, §4424 (E), and CFR 60.6
- 30 g. 4 copies¹⁸ of the application, including one to be forwarded to the State National
31 Flood Insurance Program Coordinator at the Vermont Agency of Natural
32 Resources, Department of Environmental Conservation, River Management
33 Program; and,
- 34 h. The appropriate fee as determined by the Selectboard.

35
36 2. For applicants seeking conditional use approval, approval under nonconforming structures
37 and uses, or a variance, the following also need to be provided:

- 38
39 a. A list of abutters names and mailing addresses;
- 40 b. A statement of purpose and need for the proposed development;
- 41 c. A description of the alternatives considered to the proposed development,
42 including alternate locations on site, especially outside of the hazard area;
- 43 d. Such pertinent information as identified in the regulations or deemed necessary by
44 the Board for determining the suitability of the proposed development for the site;

1 d. For hearings on subdivision plats located within 500 feet of a municipal boundary,
2 written notification to the clerk of the adjoining municipality.
3

4 2. Public notice of all other types of development review hearings, including site plan
5 review shall be given not less than seven (7) days prior to the date of the public
6 hearing, and shall at minimum include the following:
7

8 a. Posting of the date, place and purpose of the hearing in three (3) or more public
9 places within the municipality; and
10

11 b. Written notification to the applicant and to owners of all properties adjoining the
12 property subject to development, without regard to public rights-of-way, which
13 includes a description of the proposed project, information that clearly informs the
14 recipient where additional information may be obtained, and that participation in
15 the local proceeding, is a prerequisite to the right to take any subsequent appeal.
16

17 3. The applicant shall bear the cost of the public warning and notification of adjoining
18 landowners.²¹
19

20 4. No defect in the form or substance of any required public notice under this section
21 shall invalidate the action of the Board where reasonable efforts have been made to
22 provide adequate posting and notice. However, the action shall be invalid when the
23 defective posting or notice was materially misleading in content. If an action is ruled
24 to be invalid by the Board of Adjustment/Development Review Board or the
25 Environmental Court, the action shall be remanded to the Board to provide new
26 posting and notice, hold a new hearing, and take a new action.
27

28 E. Decisions
29

30 1. The Administrative Officer shall act within 30 days to approve or deny the
31 application, or refer the application to the Board. Applications that cannot be
32 approved in compliance with this bylaw shall be denied. The decision shall be issued
33 in writing and include a statement of the factual bases on which the conclusions were
34 made. Decisions of the administrative officer can be appealed as below. If the AO
35 fails to act within the 30-day period, a permit shall be deemed issued on the 31st day.
36

37 2. The Board shall consider comments from the NFIP Coordinator at ANR. The Board
38 may recess the proceedings on any application pending submission of additional
39 information. The Board should close the hearing promptly after all parties have
40 submitted the requested information, adjourn the hearing, and may deliberate prior to
41 issuing its decision.
42

43 3. Decisions by the Board shall include a statement of the factual basis on which the
44 Board has made its conclusions regarding how the proposed development will meet
45 the development standards, and a statement of the conclusions. In rendering a

1 G. Permit Validity

2
3 Each permit issued shall:

- 4 1. Contain a statement of the period of time within which an appeal may be taken
5 2. Require posting of a notice of permit on a form prescribed by the municipality within
6 view from the public right-of-way most nearly adjacent to the subject property until
7 the time for appeal in has passed.
8 3. Not shall take effect until 15 days after issuance, or in the event that a notice of appeal
9 a decision by the Administrative Officer is properly filed, no such permit shall take
10 effect until adjudication of that appeal by the Board is complete and the time for
11 taking an appeal to the environmental court has passed without an appeal being taken.
12 If an appeal is taken to the environmental court, the permit shall not take effect until
13 adjudication by the environmental court; and,
14 4. Be valid for a period of two years.
15

16 H. Appeals

17
18 An interested person as defined in Section XI may appeal any decision or act taken by the
19 Administrative Officer by filing a notice of appeal with the secretary of the Board, or with the
20 municipal clerk if no such secretary has been elected. This notice of appeal must be filed
21 within 15 days of the date of that decision or act, and a copy of the notice of appeal shall also
22 be filed with the Administrative Officer.
23

24 A notice of appeal shall be in writing and shall include the name and address of the appellant,
25 a brief description of the property with respect to which the appeal is taken, a reference to the
26 regulatory provisions applicable to that appeal, the relief requested by the appellant, and the
27 alleged grounds why the requested relief is believed proper under the circumstances.
28

29 The Board shall set a date and place for a public hearing of an appeal under this chapter that
30 shall be within 60 days of the filing of the notice of appeal. The Board shall give public
31 notice of the hearing as specified for conditional approval. Any person or body empowered to
32 take an appeal with respect to the property at issue may appear and be heard in person or be
33 represented by an agent or attorney at the hearing. Any hearing held under this section may
34 be adjourned by the Board from time to time; provided, however, that the date and place of
35 the adjourned hearing shall be announced at the hearing. All hearings under this section shall
36 be open to the public and the rules of evidence applicable at these hearings shall be the same
37 as the rules of evidence applicable in contested cases in hearings before administrative
38 agencies as set forth in 3 V.S.A. § 810.
39

40 Decisions of the Board may be appealed under §4469 in request for a Variance. Within 30
41 days of a decision by the Board, under §4471 an Interested Person who has participated in the
42 municipal regulatory proceeding may appeal to the Vermont Environmental Court.
43
44

1
2 D. If any appeals have been resolved, but the violation remains, the AO shall submit a
3 declaration to the Administrator of the National Flood Insurance Program requesting a denial
4 of flood insurance to the violator. The declaration shall consist of: (a) the name of the
5 property owner and address or legal description of the property sufficient to confirm its
6 identity or location, (b) a clear and unequivocal declaration that the property is in violation of
7 a cited State or local law, regulation, or ordinance, (c) a clear statement that the
8 Administrative Officer making the declaration has authority to do so and a citation to that
9 authority, (d) evidence that the property owner has been provided notice of the violation and
10 the prospective denial of insurance, and (e) a clear statement that the declaration is being
11 submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.
12

13 E. Violations of the Accepted Agricultural Practices shall be enforced under this Section as
14 violations of this bylaw. Such violations shall also be immediately reported to the Secretary of
15 Agriculture for enforcement under 6 V.S.A. Section 4812.
16
17

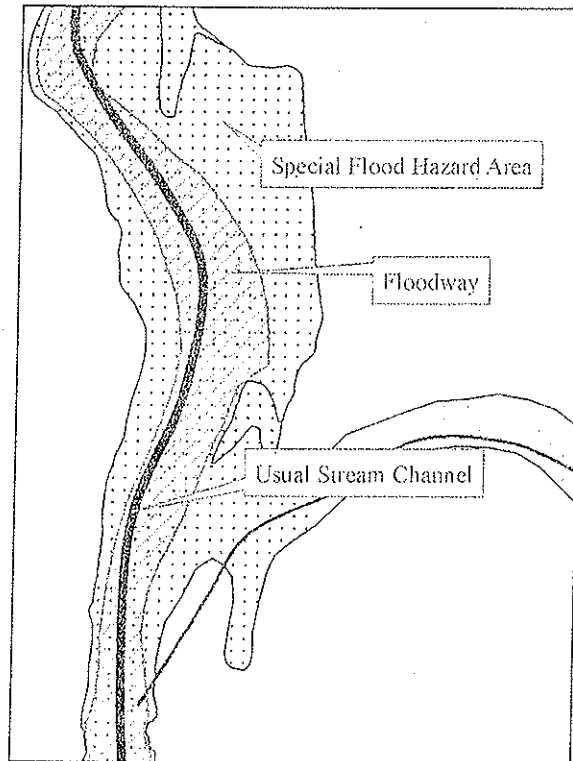
18 XI. Definitions

19
20 **“Accessory Structure”** means a structure which is: 1) detached from and clearly incidental
21 and subordinate to the principal use of or structure on a lot, 2) located on the same lot as the
22 principal structure or use, and 3) clearly and
23 customarily related to the principal structure or
24 use. For residential uses these include, but may
25 not be limited to garages, garden and tool sheds,
26 and playhouses.
27
28
29
30
31
32
33

34 **“Appropriate Municipal Panel” (AMP)** means
35 a planning commission performing
36 development review, a board of adjustment, a
37 development review board, or a legislative body
38 performing development review.
39
40
41
42
43
44
45

46 **“Area of Special Flood Hazard”** is
47 synonymous in meaning with the phrase
48 “special flood hazard area” for the purposes of
49 these regulations.
50
51
52
53
54
55

56 **“Base Flood”** means the flood having a one
57 percent chance of being equaled or exceeded in
58 any given year (commonly referred to as the
59 “100-year flood”).
60
61
62
63
64
65



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

12
13 **“Flood Insurance Rate Map” (FIRM)** means an official map of a community, on which the
14 Federal Insurance Administrator has delineated both the special flood hazard areas and the
15 risk premium zones applicable to the community. In some communities the hazard
16 boundaries are available in paper, pdf, or Geographic Information System formats as a Digital
17 Flood Insurance Rate Map (DFIRM).

18
19 **“Flood Insurance Study”** means an examination, evaluation and determination of flood
20 hazards and, if appropriate, the corresponding water surface elevations or an examination,
21 evaluation and determination of mudslide (i.e., mudflow) and /or flood related erosion
22 hazards.

23
24 **“Floodplain or flood-prone area”** means any land area susceptible to being inundated by
25 water from any source (see definition of “flood”).

26
27 **“Flood proofing”** means any combination of structural and non-structural additions, changes,
28 or adjustments to structures which reduce or eliminate flood damage to real estate or
29 improved real property, water and sanitary facilities, structures and their contents.

30
31 **“Floodway”** means the channel of a river or other watercourse and the adjacent land areas
32 that must be reserved in order to discharge the base flood without cumulatively increasing the
33 water surface elevation more than one foot at any point. Please note that Special Flood
34 Hazard Areas and floodways may be shown on a separate map panels.

35
36 **“Floodway, Regulatory in Town/City/Village of _____”** means the channel of a river or
37 other watercourse and the adjacent land areas that must be reserved in order to discharge the
38 base flood without cumulatively increasing the water surface elevation more than one foot at
39 any point.²⁴

40
41 **“Functionally dependent use”** means a use which cannot perform its intended purpose
42 unless it is located or carried out in close proximity to water.

1 **“Non-residential”** includes, but is not limited to: small business concerns, churches, schools,
2 nursing homes, farm buildings (including grain bins and silos), pool houses, clubhouses,
3 recreational buildings, government buildings, mercantile structures, agricultural and industrial
4 structures, and warehouses.

5
6 **“Recreational vehicle”** means a vehicle which is: (a) Built on a single chassis; (b) 400 square
7 feet or less when measured at the largest horizontal projection; (c) Designed to be self-
8 propelled or permanently towable by a light duty truck; and (d) Designed primarily not for use
9 as a permanent dwelling but as a temporary living quarters for recreational, camping, travel,
10 or seasonal use.

11
12 **“Special Flood Hazard Area”** is the floodplain within a community subject to a 1 percent or
13 greater chance of flooding in any given year. For purposes of these regulations, the term
14 “area of special flood hazard” is synonymous in meaning with the phrase “special flood
15 hazard area”. This area is usually labeled Zone A, AO, AH, AE, or A1-30 in the most current
16 flood insurance studies and on the maps published by the Federal Emergency Management
17 Agency. Maps of this area are available for viewing in the municipal office or online from the
18 FEMA Map Service Center: msc.fema.gov Base flood elevations have not been determined
19 in Zone A where the flood risk has been mapped by approximate methods. Base flood
20 elevations are shown at selected intervals on maps of Special Flood Hazard Areas that are
21 determined by detailed methods. Please note, where floodways have been determined they
22 may be shown on separate map panels from the Flood Insurance Rate Maps.

23
24 **“Start of construction”** for purposes of floodplain management, determines the effective map
25 or bylaw that regulated development in the Special Flood Hazard Area. The “start of
26 construction” includes substantial improvement, and means the date the building permit was
27 issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition
28 placement, or other improvement was within 180 days of the permit date. The actual start
29 means either the first placement of permanent construction of a structure on a site, such as the
30 pouring of slab or footings, the installation of piles, the construction of columns, or any work
31 beyond the stage of excavation; or the placement of a manufactured home on a foundation.
32 Permanent construction does not include land preparation, such as clearing, grading and
33 filling; nor does it include the installation of streets and/or walkways; nor does it include
34 excavation for a basement, footing, piers, or foundations or the erection of temporary forms;
35 nor does it include the installation on the property of accessory buildings, such as garages or
36 sheds not occupied as dwelling units or not part of the main structure. For a substantial
37 improvement, the actual start of construction means the first alteration of any wall, ceiling,
38 floor, or other structural part of a building, regardless whether that alteration affects the
39 external dimensions of the building.

40
41 **“Structure”** means, for regulatory purposes under this bylaw, a walled and roofed building, as
42 well as a manufactured home, and any related built systems, including gas or liquid storage
43 tanks.

1
Endnotes

¹ Please search for and replace “Town/City/Village of _____” with the name of your municipality in all locations in this document.

² To participate in the National Flood Insurance Program (NFIP), the Code of Federal Regulations requires that communities assure that all other permits have been secured. 44 CFR 60.3 (a) (2)

³ Required for NFIP, 44 CFR Section 60.6

⁴ Required for NFIP, 44 CFR Section 60.6 (a) (5)

⁵ The “one foot” standard here should be the same as the standard that the community adopts in the definition of “Floodway, Regulatory in Town/City/Village of _____”.

⁶ Where base flood elevations are available, structures are required to be at or above the base flood elevation, 44 CFR 60.3 (c)(2)(3). Flood insurance rates are substantially reduced for structures one foot or more above base flood elevation. Over time the elevation of the base flood may increase as the stream changes position, as the floodplain is encroached upon, as development increases in the watershed, and as the climate changes. VT DEC strongly recommends that existing structures in all flood hazard areas be at least one foot above the base flood elevation.

⁷ Required for NFIP, 44 CFR 60.3 (a)(4)

⁸ See endnote 20 on elevation.

⁹ The NFIP requires 36 inches of elevation or more, 44 CFR 60.3 (c) 12 (ii). This standard addresses situations where improved or replaced manufactured homes on sites in existing (pre-FIRM) manufactured home parks in the hazard area can not be elevated above the base flood elevation. VT DEC recommends elevating such structures at least 48 inches. Such elevation would only protect the structure from floods smaller and more frequent than the base flood.

¹⁰ Flood proofing to two feet above BFE secures the same protection recognized by insurance ratings as elevating to one foot above BFE.

http://www.fema.gov/plan/prevent/floodplain/nfipkeywords/floodproofing_certificate.shtm

¹¹ The NFIP requires 180 days or less, 44 CFR 60.3 (c)(14)

¹² The community can define a low cost structure by setting a limit such as 500 ft² or less. The community can also choose to not allow such accessory structures. Flood insurance is not available for such structures.

¹³ The NFIP requires the standards in VII A 10, 11, and 12, 44 CFR 60.3 (a) (5)(6). Under Vermont state law, permits for such activity are handled by VT DEC and are not subject to local control unless the community has been delegated authority. The NFIP requirements are met through the state permit process. If there are additional requirements regarding development (in general) in the hazard zone then any application for development must meet those standards during local review.

¹⁴ The NFIP requires that any altered watercourse maintain its capacity to carry floodwaters, 44 CFR 60.3 (b) 7. VT DEC recommends that any altered watercourse also maintain its ability to transport its sediment load and not decrease stream geomorphic stability.

¹⁵ Communities that do not have AO Zones mapped on their FIRM do not need to adopt this regulation.