

## Chapter 28

### Special Flood Hazard Areas

This chapter establishes standards for development in Special Flood Hazard Areas (SFHAs). It should be understood that these standards have very limited applicability. Because the watershed protection buffers required by Chapter 29 of this bylaw essentially prohibit new structures in SFHAs, these standards will apply primarily to existing nonconforming uses.

#### 28.1 Authority – Purpose - Boundaries

**28.1.1 What is the legal authority for regulation of Special Flood Hazard Areas?** These standards are adopted to affect the purposes of 10 V.S.A. Chapter 32, and as specifically authorized by 24 V.S.A. § 4424.

**28.1.2 What is the purpose of these regulations for Special Flood Hazard Areas?** These standards for SFHA's are adopted to:

- 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 flood-related hazards;
- ensure that the design and construction of development in SFHA's are accomplished in a manner that minimizes or eliminates the potential for flood loss or damage to life and property; and
- ensure that the state, municipalities, and individuals are eligible for federal flood insurance and other federal disaster recovery and hazard mitigation funds.

**28.1.3 What are the boundaries of the Special Flood Hazard Areas?** The SFHA's include all lands within the Town of Williston identified as SFHA's on the most current flood insurance maps and studies published by the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), National Flood Insurance Program (NFIP), or its successor, and as provided by the Secretary of the Vermont Agency of Natural Resources pursuant to 10 V.S.A. Chapter 32 § 753. These maps are adopted by reference as part of this bylaw.

**28.1.4 Who determines if a property is located within a Special Flood Hazard Area?** The location of the boundary shall be determined by the Administrator based upon the most current information provided by the NFIP listed in WDB 28.1.3.

**28.1.4 What if I believe my property has been incorrectly shown in a Special Flood Hazard Area?** A property owner who believes that their property has been incorrectly shown in a SFHA may submit a request for a Letter of Map Amendment to FEMA in order to request a change in the SFHA classification for their property.

**Where I can see a map of the SFHAs?** The most current National Flood Insurance Program maps are available for review at Williston Planning, in the Town Hall Annex at 7900 Williston Road.

## 28.2 Definitions Specific to this Chapter

**28.2.1 What is a Special Flood Hazard Area?** Special Flood Hazard Areas include the area of floodplain that is subject to a one percent (1%) or greater chance of flooding in any given year. In some cases, the NFIP has determined base flood elevations for watercourses and further classified the SFHA into areas of Regulatory Floodway and Floodway Fringe, as described in WDB 28.2.2 and 28.2.3. In other cases, the NFIP has not yet classified the SFHA.

**28.2.2 What is the Regulatory Floodway?** The Regulatory Floodway includes the channel of a river or stream and the adjacent land areas that must be reserved in order to discharge the base flood - the flood having a one percent (1%) chance of being equaled or exceeded in a given year - without cumulatively increasing the water surface elevation more than one foot at any point.

**28.2.3 What is the Floodway Fringe?** The Floodway Fringe is the area of SFHA outside of the Regulatory Floodway, in areas where the Regulatory Floodway has been designated.

**28.3 Permits.** Permit requirements are explained in Chapters 4-6 of this bylaw. All development within SFHA's with the exception of accessory structures, decks, patios, pools, and improvements that do not constitute a substantial improvement of existing dwellings will require a discretionary permit before an administrative permit can be approved.

**What is a Substantial Improvement?** A 'substantial improvement' of an existing residential structure means any reconstruction, rehabilitation, addition, or other improvement, the cost of which over three years or improvements by way of a common plan of development, equals or exceeds 50% of the market value of the original structure before the start of construction.

**28.3.1 Can an administrative permit be issued immediately once a discretionary permit has been approved or if no discretionary permit is necessary?** No.

28.3.1.1 Referral to State. The town must submit a copy of the application for an administrative permit for development within an SFHA to the Regional Floodplain Manager at the Vermont Agency of Natural Resources in accordance with 24 V.S.A. § 4424. A permit may be issued only following the receipt of comments from the Agency or the passage of 30 days from the date the application was mailed to the Agency, whichever comes first.

28.3.1.2 Other Permits. The Administrator will not approve an administrative permit for development within an SFHA before determining that any state and/or federal permits which may be required have been issued.

28.3.1.3 Alteration or Relocation of a Watercourse. Applications for the alteration or relocation of watercourses must be referred to the State National Floodplain Insurance Program Coordinator at the Vermont Agency of Natural Resources, as provided in WDB 28.3.1.1, and to the River Management Section of that same agency, and to the Army Corps of Engineers. Applicants must also notify any adjacent communities. These referrals must be made at least 30 days before an administrative permit is approved. See also WDB 28.5.

**28.3.2 What records must be maintained when development is permitted in an SFHA?** The Administrator must maintain a separate record of all permits issued for development in SFHAs, including the elevation (consistent with the datum of the elevation on the NFIP maps for Williston) of the lowest floor, including basements, of all replacement or substantially improved buildings; the

elevation (consistent with the datum of the elevation on the NFIP maps for Williston) to which buildings have been floodproofed; all floodproofing certifications required by these standards; and a record of all variances approved.

## 28.4 Standards

**28.4.1 Do the general standards of this bylaw apply to development in the SFHAs?** Yes. Development in SFHA's must, unless specifically exempted, comply with all standards established in Chapters 13-29. In addition, development in the SFHA must comply with all standards specific to the underlying zoning district. Where the standards adopted in this chapter and other standards established by this bylaw differ, the most restrictive standard applies.

**28.4.2 Are there additional standards specific to SFHAs?** Yes. They are presented in WDB 28.5 through 28.8.

**28.5 Alteration of Streams.** The alteration of watercourses is regulated by 10 V.S.A. § 1021, et seq. No administrative permit will be approved for development that involves the alteration of a stream until the applicant submits a copy of the approved permit from the Vermont Agency of Natural Resources for that alteration. The flood carrying and sediment transport capacity within the altered or relocated portion of any watercourse shall be maintained, and any alteration or relocation shall not result in any decrease of stream stability.

**Where can I learn more about state regulation of stream alterations?** The River Management Section of the Agency of Natural Resource's web page maybe found at: [http://www.vtwaterquality.org/permits/html/pm\\_streamalt.htm](http://www.vtwaterquality.org/permits/html/pm_streamalt.htm).

## 28.6 Regulatory Floodway

**28.6.1 What are the additional restrictions on development within a Regulatory Floodway?** Most new development is prohibited in areas that have been designated as a Regulatory Floodway. Only utility and road crossings, trails and trail crossings, with minor related facilities like signs and benches, and runoff and erosion control measures are permitted. Even these developments are permitted only after hydrologic and hydraulic analyses conducted in accord with standard engineering practice by a registered professional engineer demonstrate that the proposed development will result in no increase in flood levels during the occurrence of the base flood.

**28.6.2 What about changes in nonconforming uses that are located within a Regulatory Floodway?** First, any such changes must comply with Chapter 2 of this bylaw. Changes that would be permitted by Chapter 2 are further limited to those for which hydrologic and hydraulic analyses conducted in accordance with standard engineering practice by a registered professional engineer demonstrate that the proposed development will result in no increase in flood levels during the occurrence of the base flood.

**28.6.3 Is outdoor storage, including the parking or storage of recreational vehicles, permitted within a Regulatory Floodway?** No.

## 28.7 Floodway Fringe

**28.7.1 What are the additional restrictions on development within the Floodway Fringe?**

28.7.1.1 Most Development is Prohibited. All new development in areas that have been designated Floodway Fringe Areas by the NFIP is prohibited with the exception of utility and road crossings, trails and trail crossings, with minor related facilities like signs and benches, and runoff and erosion control measures.

28.7.1.2 Construction Standards. All development, including subdivision developments, planned unit developments, manufactured home or manufactured home parks, that is permitted must be reasonably safe from flooding and designed and adequately anchored to prevent floatation, collapse or lateral movement during the occurrence of the base flood. Any development proposed to be located in a SFHA must include base flood elevation data. Development must be adequately drained to reduce exposure to flood hazards, constructed with materials that are resistant to flood damage and using construction methods and practices that minimize flood damage. Utility and service facilities must be located, designed, and constructed to prevent water entry and accumulation and to minimize or eliminate flood damage. Subdivisions and Planned Unit Developments located in part in the SFHA must be accessible by dry land access outside the special flood hazard area.

***28.7.2 What about changes or additions to nonconforming uses and structures currently located within the Floodway Fringe?*** First, any such changes must comply with Chapter 2 of this bylaw. Changes that would be permitted by Chapter 2 are further limited to those which comply with the standards established by WDB 28.7.2.1 through 28.7.2.9.

28.7.2.1 Prevent Movement. All development must be reasonably safe from flooding, and designed and adequately anchored to prevent floatation, collapse, or lateral movement during the occurrence of the base flood.

28.7.2.2 Minimize Damage. All development must be constructed with materials that are resistant to flood damage and using construction methods and practices that minimize flood damage.

28.7.2.3 Protect Utilities. All development must be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding.

28.7.2.4 Below the Lowest Floor. Enclosed areas below the lowest floor which are subject to flooding shall be used solely for the parking of vehicles, building access, or storage, and shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum standards.

- Fully enclosed areas below grade on all sides (including below grade crawl spaces and basements) are prohibited.
- There shall be a minimum of two openings having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding.
- 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.

28.7.2.5 Lowest Floor: Residential. Residential development that is located in SFHA Zones A1-A29 shall have the lowest floor, including the basement if there is one, elevated to one foot or above the base flood elevation.

28.7.2.6 Nonresidential Development. Nonresidential development located in SFHA Zones A1-A29 shall have the lowest floor, including basement, elevated to one foot or above the base flood elevation or together with attendant utility and sanitary facilities be designed so that the structure is watertight up to two feet above the base flood elevation 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. Nonresidential development must be reviewed by a registered professional engineer or architect who certifies that the design and proposed methods of construction.

28.7.2.7 Accessory Structures. Small accessory structures that are used for parking or storage (and not for human habitation) need not be elevated above the base flood elevation, but ALL structures, including accessory structures, must comply with elevation and development requirements listed in WDB 28.7.1.2, 28.7.2.1, 28.7.2.2, 28.7.2.3, and 28.7.2.4.

28.7.2.8 Water Supply and Sanitary Sewer Systems. Compliance with these standards must be certified by a registered professional engineer and, where applicable, approval by the Vermont Department of Environmental Conservation.

- New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems.
- New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.
- On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

**28.7.3 *Can recreational vehicles be placed within the Floodway Fringe?*** Parking or storing recreational vehicles within the Floodway Fringe is prohibited unless the vehicle(s) is/are fully licensed and ready for highway use.

**28.7.4 *Is outdoor storage permitted within the Floodway Fringe?*** No.

## **28.8 SFHA not yet classified as Regulatory Floodway or Floodway Fringe**

**28.8.1 *What if the SFHA on my property has not yet been classified by the NFIP as Regulatory Floodway or Floodway Fringe?*** In areas where base flood elevations and regulatory floodway limits have not been provided by the NFIP, base flood elevations and floodway data provided by FEMA, the Vermont Agency of Natural Resources, or other sources may be obtained and used by to designate areas of Regulatory Floodway and Floodway Fringe. This research and mapping must be undertaken at the expense of the applicant.

**28.8.2 What if there is no base flood elevation data available?** Until a regulatory floodway has been designated, no new construction, substantial improvements, encroachment, or other development shall be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point. Any requests for new construction, substantial improvements, encroachment, or other development under this section must be supported by technical data that conforms to standard hydraulic engineering principles and certified by a registered professional engineer.

## **28.9 Variances - Enforcement**

**28.9.1 Is it possible to obtain a variance from the requirements of this chapter?** Yes, though it is very unlikely. In addition to meeting the requirements for variances detailed in WDB 8.1, variances may only be granted for development within an SFHA if they meet the criteria found in 44 CFR, Section 60.6. Any variance(s) issued in the SFHA shall not increase flood heights. Applicants should also be aware that the issuance of a variance to construct a structure below the base flood elevation increases the risk to life and property and will result in increased flood insurance premiums to amounts as high as \$25 for \$100 of coverage. A copy of any variance obtained under this provision shall be affixed to the deed of the property on file in the town's land records.

**28.9.2 What will happen if I do not comply with this bylaw?** Whenever development occurs contrary to the provisions of this bylaw, enforcement shall proceed as provided by WDB 7.4-6. If development in an SFHA is still not in compliance after the opportunity to correct the violation has passed, the Administrator shall, in addition to taking any enforcement action authorized in Chapter 7, submit a declaration to the Administrator of the NFIP requesting a denial of flood insurance. Section 1316 of the National Flood Insurance Act of 1968, as amended, authorizes FEMA to deny flood insurance to a property declared by a community to be in violation of their flood hazard area regulations. The declaration shall consist of: the name of the property owner and address or legal description of the property sufficient to confirm its identity or location; a clear and unequivocal declaration that the property is in violation of this bylaw; a clear statement that the public body making the declaration has authority to do so and a citation to that authority; evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and a clear statement that the declaration is being submitted pursuant to Section 1296 of the National Flood Insurance Act of 1968, as amended.

**28.10 Disclaimer of Liability.** This bylaw does not imply that land outside the mapped SFHAs or any development permitted within an SFHA will be free from flooding or flood damages nor does it create a liability on the part of the town or any town official or employee for any flood damages that result from reliance on this bylaw or a decision lawfully made as this bylaw provides.