

**VILLAGE OF MANCHESTER**  
**Manchester, Vermont**  
**Revised Ordinances of 1984, as Amended**  
**Effective, July 01, 2016**

The purpose of these Ordinances is to provide safety, security, convenience and order in all public places in the Village of Manchester, and, as far as possible, to secure for Village residents and property owners, the quiet enjoyment of their homes and property. These ordinances are adopted a civil ordinances pursuant to authority granted to the Trustees under the Village Charter, 23 V.S.A. §§ 1007 & 1008 and 24 V.S.A. §§ 1310 & 2291.

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**SECTION I**  
**TRAFFIC ORDINANCES**

No. 1

A motor vehicle shall not be operated on a public road within the limits of the Village of Manchester, at a speed in excess of thirty (30 miles per hour, unless traffic signs conspicuously posted indicate otherwise.

No. 2

On divided streets or other roads, and also in passing around a circular drive or road of highway island, all vehicles shall enter, keep and leave to the right unless traffic signs conspicuously posted indicate otherwise.

No. 3

The following roads within the Village of Manchester are designated as “throughways”:

- (a) U.S. Route #7A, from the South limit of the Village of Manchester to the North limit of the Village of Manchester.
- (b) The “West Road,” from the point of intersection with Route #7A and “Seminary Avenue,” to the north limit of the Village of Manchester.

Every vehicle entering the limits of a “throughway” hereinbefore designated, except from another “throughway” shall be brought to a full stop, except when the operator thereof is otherwise advised by a police officer to by a traffic regulating sign, device or signal maintained by lawful authority.

No. 4

A motor vehicle shall not overtake or pass, or attempt to overtake or pass another vehicle traveling in the same direction, within the following designated “NO PASSING ZONE”:

U.S. Route #7A, from the South limit of the Village of Manchester to the North limit of the Village of Manchester.

No. 5

A motor vehicle transporting garbage, rubbish, sand, and/or gravel, over a public road within the Village of Manchester shall be covered with a tarpaulin or other device at all times, to prevent the contents therein from falling upon the roads over which they travel.

No. 6

A person operating a motor vehicle in violation of any other preceding ordinances shall be fined not more than One Hundred Dollars s(\$100.00), nor less than Ten Dollars (\$10.00) for each offense.

**SECTION II**  
**PARKING ORDINANCES**

No. 7

No motor vehicle shall stand or be parked between the hours of 12:00 o'clock midnight and 7:00 o'clock a.m. local time, on the following designated public roads within the Village of Manchester:

- (a) U.S. Route #7A, from the south limit of the Village of Manchester, to the north limit of the Village of Manchester.
- (b) Union Street, from the entrance to the Equinox Golf Club, westerly to U.S. Route #7A.

No motor vehicle shall stand or be parked between the hours of 12:00 o'clock midnight and 7:00 o'clock a.m. local time, on any public road within the Village of Manchester, during the period from November 1st through May 1st in any year. Any vehicle so parked or so standing shall be towed away at the sole risk and expense of the owner thereof.

No. 8

No motor vehicle shall stand or be parked within ten (10) feet of a roadway intersection, or within five (5) feet of a private driveway entrance.

No. 9

No motor vehicle shall stand or be parked within ten (10) feet of a fire hydrant.

No. 10

No motor vehicle shall stand or be parked in any one of the following designated "NO PARKING ZONES" and any vehicle so parked or so standing shall be towed away at the sole risk and expense of the owner thereof:

- (a) On Route #7A, except between the hours of 7:00 a.m. and 12:00 midnight, local time, within designated areas on the east side of such road in front of the Bennington County Courthouse and the Equinox Junior Building, so called; and on the west side of Route #7A. No vehicle shall stand or be parked in said excepted zone for longer than one (1) hour during the months of May, June, July, August, September and October in any year.
- (b) On the east side of the West Road from its beginning on U.S. Route #7A to the first residential property Tax map Parcel #35-40-44; and on the west side of the West Road between Dillingham Avenue and U.S. Route #7A, except where parking spaces are designated and painted.
- (c) On the north side of Seminary Avenue, except in designated parking spaces across from the Post Office.
- (d) On either side of Shepard's Lane.
- (e) On either side of Prospect Street from its intersection with Seminary Avenue to its intersection with West Union Street, except in designated parking spaces on the east side of Prospect Street.

No. 11

No motor vehicle shall stand or be parked on Union Street for longer than one (1) hour at any time, unless otherwise designated by a sign maintained by lawful authority.

No. 12

No motor vehicle shall stand or be parked in such manner as to be more than six (6) inches away from the curb, or to occupy more than one marked or designated parking space; nor shall any such vehicle stand or be parked in such manner as to obstruct or block any other marked or designated parking space.

No. 13

No motor vehicle shall stand or be parked in such a manner as to block or obstruct a designated cross-walk within the Village of Manchester.

No. 14

No motor vehicle shall stand or be parked in such a manner as to block or obstruct a sidewalk within the Village of Manchester.

At no time shall a motor vehicle stand or be parked in, or on, the right of way of any Village road so as to obstruct any traffic, except in the event of an emergency.

No. 15

No motor vehicle shall stand or be parked:

- (a) On the left side of a road in such manner that the parked vehicle will be facing oncoming traffic.
- (b) At any street corner so posted by means of signs or yellow curb markings.
- (c) On any section of a street so posted by means of signs or yellow curb markings.

No. 16

A person violating any of the nine (9) preceding Ordinances shall be fined not more than Fifty Dollars (\$50.00) for each offense. If voluntarily paid by any person within ten (10) days, the maximum fine for violating any of the preceding Ordinances pertaining to time, place or manner of parking shall be Twenty Dollars (\$20.00) for each violation. The Town of Manchester police Department, the Vermont State Police, the Bennington County Sheriff's Department, and such other enforcement Officers as the Village Trustees may appoint from time to time, are authorized to enforce these nine preceding Ordinances.

**SECTION III**  
**GENERAL ORDINANCES**

No. 17

No person shall throw, dump, deposit or cause to be thrown, dumped or deposited, bottles, glass, crockery, cans, scrap metal, junk, paper, garbage, old automobiles, or parts thereof, refuse of whatever nature, or any noxious thing, on lands of others, or within 300 feet of the lands of others, public or private, or into the waters of this state, or on the shores or banks thereof, or on or within view of a public road.

No. 18

- (a) Permit: No person shall dig, or in any way disturb, a public road or sidewalk within the Village of Manchester, without first obtaining a written permit.
- (b) Procedure: A permit application shall be on a form furnished by the Village Trustees, and the application shall furnish truthful and complete information as requested on such form, including, but not limited to the purpose of the proposed disturbance or digging; the date such disturbance or digging is proposed to start and end, and the written consent and authorization of the owner of the adjoining properties for the performance of such work.
- (c) Conditions: The Village trustees shall be entitled to require, as a condition of issuing any permit, that the applicant furnish a bond with adequate security to guarantee the performance of the work, as set forth in the permit application, and the compliance with all terms and requirements of this ordinance, and of the permit issued. The Village Trustees are also hereby authorized to require, in appropriate cases, an indemnification agreement from the applicant, and a certificate of insurance, to protect the Village, and save then Village harmless, from any liability or claim arising from, or created in, the course of construction, or subsequent to, as a result of the disturbance or digging, subject to the permit application.
- (d) Performance: Any person who digs in, or disturbs a public road or sidewalk within the Village of Manchester shall do so in accordance with the permit application and permit issued, as well as this Ordinance, and any other rules or regulations promulgated in connection with the opening of streets and sidewalks. It shall always be the responsibility of the person digging or disturbing within the limit of a sidewalk or public road to fully restore said road and sidewalk to the same condition as existed prior to the digging or disturbance, and to do any and all other acts and work specified and provided for in the permit applied for, or issued hereunder, or any other permit, contract or agreement with the Village of Manchester.

No. 19

No person shall cause water to be discharged from eaves or cellar drains, nor from storm sewers or ditches, into the right-of-way of any Village road in the Village of Manchester, without the written permission of the Board of Trustees of the Village of Manchester.

No. 20

No person shall discharge any firearm within the limits of the Village of Manchester, at any time, except in self-defense, or by a law enforcement officer in the line of duty. For the purpose of this Ordinance, the West line of the Village of Manchester is defined as within five hundred (500) feet of the westernmost buildings within the Village limits.

No. 21

No person shall burn garbage, or other offensive matter, within the limits of the Village of Manchester, at any time. No person shall burn, or cause to be burned, within the limits of the Village of Manchester, leaves, brush, or trash, without first obtaining the written consent of the Chief Engineer of the Town of Manchester, the Manchester Town Fire Department, or other duly appointed Town Fire Warden.

No. 22

A person violating any of the five (5) preceding Ordinances shall be fined not more than One Hundred Dollars (\$100.00), nor less than Twenty Five Dollars (\$25.00) for each offense. Each day that the violation continues shall constitute a separate offense. The Town of Manchester Police Department, the Vermont State Police, the Bennington County Sheriff's Department, and such other enforcement officers as the Village Trustees may appoint from time to time, are authorized to enforce these five (5) preceding Ordinances.

**SECTION IV**  
**SPECIAL EVENTS, ITINERANT VENDORS AND TEMPORARY SALES**

Effective July 01, 2016

No. 23

The purpose of this Section is to promote safety, convenience and order in all public places, prevent congestion and unsafe traffic conditions on the roads, along the sidewalks, and in all public areas, parks and recreational facilities and, as far as possible to secure for Village residents the quiet enjoyment of their homes and property.

**1. Definitions:**

- a. Hospitality Business: A hotel, motel, or inn, a bona-fide club, including golf club, retail businesses, public and private schools engaged in; weddings, sport events, outdoor sales events, conferences and workshops.
- b. Itinerant Vendor: A person who goes from place to place selling goods by traveling on the streets or conducts sales at locations upon the streets, or parking lots, or sidewalks, or other non-permanent locations within the Village.
- c. Merchandise: Wares, food, fruit, vegetables, farm products, and all kinds of personal property.
- d. Resident: The owner or occupant of a residential property that is not a hospitality business.
- e. Special Event:
  - i. Any event utilizing a public or private reception tent. A public tent greater than 1,200 square feet requires an additional permit from the local fire department,
  - ii. Any amplified music or public address system used outdoors,
  - iii. Any outdoor activity which results in unsafe or congested traffic conditions on the Village roads, sidewalks, parks, recreational facilities and in all public areas,
  - iv. Any activity after the hour of 11:00 P.M. or before the hour of 8:00 A.M. which disturbs the quiet enjoyment of any person in the Village of Manchester.
- f. Temporary Sales: Any temporary sale of merchandise or services, including, but not limited to; tag sales, estate sales, garage sales, rummage sales, household contents sales, sidewalk sales, auctions, tent sales, outdoor sales or displays accessory to another use.

**2. Permit Required:**

- a. For a Hospitality Business to conduct or allow a Special Event or Temporary Sales on a property,
- b. For a Resident to conduct or allow a Special Event on a property,
- c. For a Resident to conduct a Temporary Sales, the resident must contact the Village to determine if a permit is required under the terms of this ordinance,
- d. For an Itinerant Vendor to sell or offer to sell or dispose of any goods, services, wares, merchandise, food products or food services,



- e. For any blasting whether in a demolition or construction project, or otherwise. Any application must be accompanied by proof of an valid State of Vermont Explosive License,
  - f. For any public fireworks display permitted by the Manchester Fire Department's Fire Chief. All fireworks (except sparklers and novelty devices), are illegal in Vermont unless permitted by the local fire department.
3. **Application:** Any person desiring a permit under this Ordinance shall make application on a form provided by the Trustees or designee. An application shall contain such information as the Trustees or designee shall prescribe and payment of a fee unless otherwise exempted, as determined by the Trustees.
  4. **Fees:** For each permit application, an application fee determined by the Trustees shall be paid. A tax-exempt applicant may be issued a permit without payment of the fee, provided that the proposed sale or services, and the proceeds thereof, are devoted exclusively to the purpose of the philanthropic, charitable or religious organization, on behalf of which the applicant acts as an agent. Residents conducting Temporary Sales where the Village has determined a permit is not required are exempt from fees.
  5. **Investigation:** Before approving a permit, the Trustees or designee may cause an investigation to be made and impose such conditions as deemed necessary to insure that the approval of the permit will:
    - a. Promote safety, convenience and order in all public places in the Village of Manchester.
    - b. Prevent congestion and unsafe traffic conditions on the roads, along the sidewalks, and in all public areas, parks and recreational facilities of the Village.
    - c. Not result in a disturbance of the quiet enjoyment of any person in the Village of Manchester between the hours of 11:00 P.M. and 8:00 A.M.
  6. **Approval of Permit:** The Board of Trustees or designee shall approve a permit application. It shall be the sole discretion of the designee whether to seek the approval of the Board of Trustees. Criteria determining whether or not the Board of Trustees approve an application includes, but not limited to the size, duration, and traffic congestion of the event.
  7. **Issuance of Permit:** Upon the approval of the Trustees or the Trustee's designee, the Trustee's designee shall issue all required permits, and keep all necessary records pertaining thereto.  
A permit issued pursuant to this Ordinance shall not be transferable or assigned to any other person or entity.
  8. **Certification of Insurance:** A Certificate of Insurance naming the Village of Manchester as an additional insured may be required as a condition of the approval. Minimum accepted coverage shall be \$1,000,000 of public liability insurance from an insurance carrier licensed to do business in the State of Vermont, or such other amount as determined by the Village Trustees.
  9. **Possession of Permit:** Every permittee shall be in possession of the permit while engaged in the use permitted. The permittee shall produce the permit at the request of any person.
  10. **Term of Permit:**

- a. **Hospitality Business:** Permits shall be valid for one year. If there have been no violations by the permittee, a new application may be made by the permittee for an additional term.
- b. **Resident Special Event:** Permits shall be valid for specific event day(s) as noted on the permit. Within the Equinox Historic District, or Business 1 or Business 2 Districts, as defined in the Village of Manchester Zoning Bylaw, there may be no more than seven days in one calendar year on any one residential property. In all other Zoning Districts of the Village, there may be no more than three days each in one calendar year, on any one residential property.
- c. **Temporary Sales:** Within the Equinox Historic District, or Business 1 or Business 2 Districts, as defined in the Village of Manchester Zoning Bylaw, there may be no more than 12 days each in one calendar year, on any one property. In all other Zoning Districts of the Village, there may be no more than two days each in one calendar year, on any one property.
- d. **Itinerant Vendor:** No permit shall be issued for an itinerant vendor for a period of more than six months. If there have been no violations by the permittee, a new application may be made by the permittee for an additional term.

11. **Enforcement and Violations:**

- a. The Trustees or designee is empowered to enforce this Ordinance and when necessary, the Trustees or designee shall secure the assistance of the Town of Manchester Police Department.
- b. A person violating the preceding Ordinance shall be fined not more than Five Hundred Dollars (\$500.00), nor less than One Hundred Dollars (\$100.00) for each offense. Each day that the violation continues shall constitute a separate offense. The Town of Manchester Police Department, The Vermont State Police, The Bennington County Sheriff's Department, and such other enforcement officers as the Village Trustees may appoint from time to time, are authorized to enforce this Ordinance.

**SECTION V**  
**DANGEROUS & UNSAFE BUILDINGS ORDINANCE**

Dwellings and other buildings that are unfit for human habitation, or that present a danger due to dilapidation, defects increasing the hazards of fire, accidents or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such buildings unsafe or unsanitary, or dangerous or detrimental to the health or safety, or otherwise inimical to the welfare of the residents of, or visitors to, this Village, are to be prevented and prohibited within the Village.

Buildings found to be in such condition, and liable to collapse, or presenting other hazardous conditions dangerous to the public health or safety, or that might result in serious accident or loss of life, shall, after certification of such dangerous or hazardous condition by a health officer, safety officer or engineer, qualified to make such determination, be demolished by the owner thereof, and the debris removed, within six weeks after the issuance of an order by the Code Administrator for such demolition.

Alternatively, within the six week period after the issuance of a demolition order, application, together with the posting of appropriate financial security, in an amount to be determined by the Code Administrator, may be made, by the owner thereof, for the subject building or buildings to be repaired or rebuilt in accordance with the Zoning Bylaws of the Village of Manchester.

In the event the owner of the premises affected by such demolition order shall fail to comply therewith within the time prescribed, the Board of Trustees may direct, and arrange for, the demolition of the building or buildings, and assess the owner of the property, the cost thereof, which cost may be entered in the records of the Town of Manchester as a lien against the property involved.

Violations of this ordinance shall be punishable as a civil violation. Alternatively, and in addition to any other enforcement provision or provisions contained herein, the Code Administrator may enforce violations of this ordinance by commencing an enforcement action in the name of the Village of Manchester in the Vermont Judicial Bureau. A civil penalty of not more than \$500.00 may be imposed for violation of this ordinance. Each day the violation continues shall constitute a separate violation. The Code Administrator may request an order from the Judicial Bureau or the Superior Court directing that the violation cease, or to provide other relief.

**SECTION VI**  
**LIGHTING ORDINANCE**

STATEMENT OF NEED: Proper outdoor lighting at night benefits everyone. It increases safety, enhances the Village's night-time character, and helps provide security. New lighting technologies have produced lights that are extremely powerful, and these types of lights may be improperly installed so that they create problems of excessive glare, light trespass, and higher energy use. Excessive glare can be annoying, and may cause safety problems. Light trespass reduces everyone's privacy, and higher energy use results increased costs for everyone. There is a need for a lighting ordinance that recognizes the benefits of outdoor lighting, and provides clear guidelines for its installation so as to help maintain and complement the Village's character. Appropriately regulated, and properly installed, outdoor lighting will contribute to the safety and welfare of the residents of the Village.

PURPOSE: To require and set minimum standards for outdoor lighting to:

- (a) Provide lighting in outdoor public places where public health, safety and welfare are potential concerns.
- (b) Protect drivers and pedestrians from the glare of non-vehicular light sources that shine into their eyes and thereby impair safe traverse.
- (c) Protect neighbors and the night sky from nuisance glare and stray light from poorly aimed, placed, applied, maintained or shielded light sources.
- (d) Promote energy conservation and efficient lighting design and operation.
- (e) Protect and retain the unique historic charter of the Village.

ARTICLE 1

1.1 DEFINITIONS: For the purpose of this Ordinance, terms used shall be defined as follows:

*Code Administrator:* The Village Administrative Officer shall be the Code Administrator, charged with responsibility for enforcing the provisions of this ordinance.

*Direct Light:* Light emitted directly from the lamp, off the reflector or reflector diffuser or through the refractor of diffuser lens, of a luminaire.

*Fixture:* The assembly that houses the lamp or lamps, and can include all or some of the following parts: a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor or lens.

*Flood or Spot Light:* Any light fixture or lamp that incorporates a reflector or a refractor to concentrate the light output into a directed beam in a particular direction.

*Fully Shielded Lights:* Outdoor light fixtures shielded or constructed so that no light rays are emitted by the installed fixture at angles above the horizontal plane as certified by a manufacturer's or independent laboratory photometric test report.

*Glare:* Light emitting from a luminaire with an intensity great enough to reduce a viewer's ability to see, and in extreme cases, causing momentary blindness.

*Non-conforming Luminaires:* Luminaires not conforming to this code that were in place when this ordinance was voted into effect. Such already existing outdoor lighting does not need to be changed, except as provided in Section 7.1 herein.

*Height of Luminaire:* The height of a luminaire shall be the vertical distance from the ground directly below the centerline of the luminaire to the lowest direct-light-emitting part of the luminaire.

*Indirect Light:* Direct light that has been reflected or has scattered off other surfaces.

*Lamp:* The component of a luminaire that produces the actual light.

*Light Trespass:* The shining of light produced by a luminaire beyond the boundaries of the property on which it is located.

*Lumen:* The light-output rating of a lamp (light bulb) as used in the context of the Ordinance. (e.g., a 60-watt incandescent lamp = 1,000 lumens)

*Luminaire:* This is a complete lighting system, and includes a lamp or lamps and a fixture.

*Outdoor Lighting:* The night-time illumination of an outside area or object by any man-made device located outdoors that produces light by any means.

*Plat:* Engineering or architectural drawings showing existing or proposed construction elements on a specific development site.

*Temporary Outdoor Lighting:* The specific illumination of an outdoor area or object by any man-made device located outdoors that produces light by any means for a period of less than 45 days, with at least 180 days passing before being used again.

## ARTICLE 2

2.1 REGULATIONS: All public and private outdoor lighting installed in the Village of Manchester shall be in conformance with the requirements established by this Ordinance.

2.2 POLICY: Any other provisions of this ordinance notwithstanding, all proposed lighting plans shall contain information sufficient to demonstrate energy efficiency and conformity with the historic characteristics of the Village.

### 2.3 LIGHTING FIXTURE DESIGN:

- (A) Fixtures shall be of a type and design appropriate to the lighting application and aesthetically in conformance with the provisions of the Zoning Bylaws of the Village of Manchester.
- (B) When requested by the Village, luminaries shall be equipped with, or modified to incorporate, light directive and/or shielding devices such as shields, visors, skirts or hoods to redirect offending light distribution and/or reduce direct or reflected glare.
- (C) For the lighting of predominantly non-horizontal surfaces such as, but not limited to, facades, landscaping, signs, fountains, displays, flags and statuary, the use of lighting fixtures that are installed and aimed so as to project their output into the windows of neighboring residences, adjacent uses, past the object being illuminated, skyward, or onto a public roadway, walkway or bicycle way, shall not be permitted. Fixtures with an aggregated rated lamp lumen output

per fixture that does not exceed 1000 lumens (a 60 watt incandescent lamp) are exempt from the requirements of this paragraph.

### ARTICLE 3

#### 3.1 CONTROL OF GLARE:

- (A) All lighting shall be aimed, designed, fitted and maintained so as not to present a hazard to drivers or pedestrians by impairing their ability to safely traverse, and so as not to create a nuisance by projecting or reflecting objectionable light onto a neighboring use or property.
- (B) Flood and spot luminaries, where specifically approved by the Development Review Board or Code Administrator, shall be so installed that they do not project their output onto adjacent or neighboring property or uses, skyward, or onto a public road.
- (C) Any luminaire with a lamp or lamps rated at a total of MORE than 1800 lumens, and any flood or spot luminaire with a lamp or lamps rated at a total of MORE than 900 lumens, shall not emit any direct light above a horizontal plane through the lowest direct-light-emitting part of the luminaire, and shall be mounted at a height equal to, or less than, the value  $3' + (D/3)$ , where D is the distance in feet to the nearest property boundary. The maximum height of the luminaire may not exceed 15 feet.
- (D) Under-canopy lighting, for such applications as hotel/theater marquee, bank/drugstore drive thru, etc., shall be accomplished using flat-lens full cut-off fixtures, aimed straight down, and shielded in such a manner that the lowest opaque edge of the fixture shall be below the light source at all lateral angles.
- (E) Directional fixtures, for such applications as façade, fountain, feature and landscape illumination, shall be aimed so as not to project their output beyond the objects intended to be illuminated, shall be extinguished between the hours of 10:00 P.M. and dawn, and shall not be in conflict with the aim of the Village to retain its unique historic character. Exceptions to this requirement are the following landmarks: Burr and Burton Academy Tower, Congregational Church, Court House, Equinox Hotel and Mark Skinner Library.
- (F) The United States and the State flag may be illuminated from dusk until dawn. All other flags shall not be illuminated past 10:00 P.M. Flag lighting sources shall not exceed 5000 lumens per flagpole. The light source shall have a beam spread no greater than necessary to illuminate the flag.
- (G) Unless otherwise permitted by the Development Review Board, or the Code Administrator, e.g. for safety or security purposes, lighting for commercial, recreational or institutional applications shall be controlled by automatic switching devices, such as time clocks or combination motion detectors and photocells, to extinguish such light sources after 10:00 P.M. to mitigate nuisance glare and sky-lighting consequences.

#### 3.2 EXCEPTIONS TO CONTROL OF GLARE:

- (A) Any luminaire with a lamp or lamps rated at a total of 1800 lumens or LESS, and all flood or spot luminaries with a lamp or lamps rated at 900 lumens or LESS, may be used without restriction to light distribution or mounting height, except that if any flood or spot luminaire rated at a total of 900 lumens or LESS is aimed, directed or focused, so as to cause direct light from the luminaire to be directed toward a building or structure on adjacent or nearby land, or to create glare perceptible to persons operating motor vehicles on public ways, the

luminaire shall be redirected, or its light output controlled, as necessary, to eliminate such conditions.

- (B) Luminaires used for public-roadway illumination may be installed at a maximum height of 15 feet, unless a greater height thereof is required by law, or, for a good reason, approved by the Code Administrator, and may be positioned up to the edger of any bordering property.
- (C) All temporary emergency lighting needs by the Police or Fire Departments or other emergency services, as well as all vehicular luminaries shall be exempt from the requirements of this Article.
- (D) All hazard warning luminaries required by Federal regulatory agencies are exempt from the requirements of this article, except that all luminaires used must be red and must be shown to be as close as possible to the Federally required minimum lumen output requirement for the specific task.
- (E) Law Governing Conflicts: Where any provision of federal, state, county or town statutes, codes, ordinances or laws conflicts with any provision of this Ordinance, the most restrictive shall govern, unless otherwise required by law.

#### ARTICLE 4

##### 4.1 OUTDOOR SIGN ILLUMINATION:

- (A) A sign may be illuminated. The lighting shall not exceed 1000 lumens per sign face, and the source of the illumination shall be shielded, and directed solely at the sign. All lighting shall be shielded from neighboring properties, and positioned in manner to eliminated glare to the traveling public. All sign lighting shall be turned off by 10 P.M., unless the premises are open for business after that time, or lighting is necessary for safety or security, and such extended periods of lighting have received prior approval from the Planning Commission, or the Code Administrator.

##### 4.2 RECREATIONAL FACILITIES:

- (A) Any light source permitted by this code may be used for lighting of outdoor recreational facilities (public or private), such as, but not limited to football, baseball, soccer, lacrosse and softball fields, tennis courts, pools or show areas, provided all of the following conditions are met:
  - (i) All fixtures used for event lighting shall be fully shielded as defined in section 3.1 of this Ordinance, or be designed or provided with sharp cut-off capability, so as to minimize up-light, spill-light and glare.
  - (ii) All such activities shall be scheduled to be completed before 10:00 P.M. No illumination of the playing field, court, pool (except underwater pool lighting) or other site shall be permitted.

##### 4.3 TEMPORARY AND SEASONAL OUTDOOR LIGHTING:

- (A) Temporary outdoor lighting that conforms to the requirements of this ordinance, and non-conforming temporary lighting, including, but not limited to lighting of business premises, and lighting for public or private functions or settings, may be permitted by the Development Review Board or the Code Administrator, for a specific time period, if it is determined that:
  - (i) Public and/or private benefits will result from the temporary lighting;

- (ii) No annoyance or safety problems will result from the use of temporary lighting.
- (B) The applicant shall submit a detailed description of the proposed temporary lighting to the Code Administrator, who shall consider the request in accordance with the criteria set forth in Section 4.3(A), and shall render a decision on the temporary lighting request within two weeks of the date full and complete application therefor is made. In the event the Code Administrator shall decide that it appropriate, or desirable, for a determination of the application to be made by the Development Review Board, the Code Administrator shall refer the application to the Development Review Board, which shall render its decision within 60 days of the filing of the full and complete application therefor. In case of denial, the Code Administrator, or the Development Review Board, shall notify the applicant, in writing, of the reason therefore. All actions taken in connection with an approval or denial shall be made a part of the permanent records of the Village of Manchester.

#### 4.4 TEMPORARY RESIDENTIAL HOLIDAY/SEASONAL LIGHTING:

- (A) Temporary residential lighting for a specific, limited, holiday or seasonal period shall be allowed, without permit application therefor, provided such lighting is consistent with the traditional Manchester Village setting.

### ARTICLE 5

#### 5.1 INSTALLATION AND MAINTENANCE:

- (A) Electrical feeds for lighting standards shall be run underground, not overhead.
- (B) Poles supporting lighting fixtures for the illumination of parking areas and located directly behind parking spaces, or where they could be hit by snow plows, shall be placed a minimum of 5 feet outside paved area or tire stops, or placed on, or surrounded by pressure treated wood or concrete pedestals at least 24 inches high above the pavement, or suitably protected by other Village-approved means.
- (C) Pole mounted fixtures for lighting horizontal tasks shall be aimed straight down.
- (D) Lighting fixtures and ancillary equipment shall be maintained so as to always meet the requirements of this Ordinance.
- (E) The Village reserves the right to conduct a post-installation nighttime inspection to verify compliance with the requirements of this Ordinance, and if appropriate, to require remedial action at no expense to the Village.

### ARTICLE 6

#### 6.1 COMPLIANCE MONITORING:

- (A) Safety Hazards: If the Code Administrator judges a lighting installation to create a safety hazard, the person(s) responsible for the lighting shall be notified and required to take remedial action.
- (B) Nuisance Glare and Inadequate Illumination Levels: If the Code Administrator judges that an installation produces unacceptable levels of nuisance glare, skyward light, excessive or insufficient illuminating levels, or otherwise varies from this Ordinance, the Code Administrator may cause notification of the person(s) responsible for the lighting and require appropriate remedial action.



- (C) If appropriate corrective action has not been effected within 15 days of notification, or if the infraction so warrants, the municipality may undertake appropriate enforcement action.

## ARTICLE 7

### 7.1 NONCONFORMING LIGHTING:

- (A) Any luminaire or lighting installation existing on the effective date of this Ordinance that does not conform with the requirements of this Ordinance, shall be considered as a lawful nonconformance. A nonconforming luminaire or lighting installation shall be made to conform with the requirements of this Ordinance when:
  - (i) Minor corrective action, such as reaiming or shielding can achieve uniformity with the applicable requirements of this Ordinance.
  - (ii) Is deemed by the Code Administrator to create a safety hazard.
  - (iii) It is replaced by another luminaire or luminaires of a different light pattern or lumen output, abandoned or relocated.
  - (iv) There is a change of use.

## ARTICLE 8

### 8.1 PLAN SUBMISSION:

- (A) Submission Contents: The applicant for any permit required by any provision of the laws of the Village of Manchester, in connection with proposed work involving outdoor lighting, shall submit (as part of the application for such permit) evidence that the proposed work will comply with the provisions of this ordinance. This submission shall contain, but shall not necessarily be limited to, the following, all or part of which may be part of, or in addition to, the information required elsewhere in the laws of this jurisdiction upon application for the requested permit:
  - i) Plans indicating the location on the premises, and the type of illuminating devices, fixtures, lamps, switching devices, mounting heights and mounting methods.
  - ii) Description(s) of the illuminating devices, fixtures, lamps, switching devices, supports, reflectors, glare reduction and other devices, mounting heights and mounting devices. The description may include, but is not limited to, catalogue cuts by manufacturers and drawings (including sections, where required).
  - iii) Photometric data, such as that furnished by manufacturers, or similar, showing the angle of cut-off or light emissions.
  - iv) Information demonstrating the conformity of the outdoor lighting plan with the historic characteristics of the Village.
  - v) Documentation of the energy efficiency of the outdoor lighting plan, and its conformity with "Energy Star" standards.
- (B) Additional submissions: The above required plans, descriptions and data shall be sufficiently complete to enable the plans examiner to readily determine whether compliance with the requirements of this ordinance will be secured. If such plans, descriptions and data cannot enable this ready determination, by reason of the configuration of the devices, fixtures or lamps proposed, the applicant shall additionally submit, as evidence of compliance sufficient

to enable such determination, such certified reports of tests as will do so, provided that these tests shall have been performed and certified by a recognized testing laboratory.

- (C) Subdivision Plat Certification: If any subdivision proposed to have installed street or other common or public are outdoor lighting, the final plat shall contain a statement certifying that the developer will adhere to the applicable provisions of the Lighting Ordinance of the Village of Manchester.
- (D) Lamp or Fixture Substitution: Should any outdoor light fixture, or the type of light source therein, be changed after the permit has been issued, a change request must be submitted to the Code Administrator for his approval, together with adequate information to assure compliance with this Ordinance, which must be received prior to substitution.

#### ARTICLE 9

9.1 VALIDITY: If any section or provision of this Ordinance is adjusted to be unconstitutional, or otherwise invalid, such decision shall not affect the validity of this Ordinance as a whole, or any part thereof, other than the part so adjudicated.

#### ARTICLE 10

10.1 PUBLIC NOTICE: Any public notice required for public hearing under this Ordinance shall be given as required by law.

#### ARTICLE 11

##### 11.1 ENACTMENT AND AMENDMENTS

- (A) This Ordinance is enacted under the provisions of Title 24 V.S.A., Chapter 59, as amended.
- (B) This Ordinance may be amended from time to time, as provided in Title 24, V.S.A., Chapter 59, as amended

#### ARTICLE 12

12.1 VIOLATIONS: A person violating the preceding Ordinance shall be fined not more than Five hundred Dollars (\$500.00), nor less than One Hundred Dollars (\$100.00) for each offense. Each day that the violation continues shall constitute a separate offense. The Town of Manchester Police Department, the Vermont State Police, the Bennington County Sheriff's Department, and such other enforcement officers as the village trustees may appoint from time to time, are authorized to enforce this Ordinance.

**SECTION VII  
FLOOD HAZARD ORDINANCE**

I. Statutory Authorization and Effect

A. In accordance with 10 V.S.A. Chapter 32, and V.S.A. Chapter 117 Sections 4424, 4421 and 4414, there is hereby established a bylaw for areas at risk of flood damage in the Village of Manchester, Vermont. Except as additionally described below, all administrative procedures follow municipal procedures under 24 V.S.A. Chapter 117.

II. Statement of Purpose

A. It is the purpose of this bylaw to:

B. Implement the goals, policies and recommendations of the current municipal plan;

C. Avoid and minimize 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 related inundation and erosion.

D. Ensure that the selection, design, creation and use of development in hazard areas is reasonably safe, and accomplished in a manner that is consistent with public well-being, does not impair stream equilibrium, flood plain services, or the stream corridor.

E. Manage all flood hazard areas designated pursuant to 10 V.S.A. Chapter 32, Section 753, the municipal hazard mitigation plan; and make the Village of Manchester, its citizens and businesses eligible for flood insurance, federal disaster recovery funds, and hazard mitigation funds as may be available.

III. Other Provisions

A. Precedence of Bylaw

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

C. Validity and Severability

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

E. Warning of Disclaimer of Liability

F. This bylaw does not imply that land outside of the areas covered by this bylaw will be free from flood or erosion damages. These regulations shall not create liability on the part of the Village of Manchester, or any municipal official or employee thereof, for any flood or erosion damages that result from reliance on this regulation, or any administrative decision lawfully made hereunder.

#### IV. Lands to Which These Regulations Apply

##### A. Regulated Flood Hazard Areas

1. These regulations shall apply to the Fluvial Erosion Hazard Areas and Special Flood Hazard Areas (hereinafter called “hazard areas”) in the Village of Manchester, Vermont, as described below. These hazard areas overlay any other existing zoning districts and the regulations herein are the minimum standards that must be met before meeting the additional standards applicable in the underlying district. These hazard areas include:
2. The Fluvial Erosion Hazard Zone as determined by the most current Fluvial Erosion Hazard Zone Map published by the Vermont Agency of natural resources, which are hereby adopted by reference, and declared to be part of these regulations, and
3. The Special Flood Hazard Area in and on the most current flood insurance studies and maps published by the Department of Homeland Security, Federal Emergency Management Agency, National Flood Insurance Program, as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. Section 753, which are hereby adopted by reference, and declared to be part of these regulations.

##### B. Base Flood Elevations and Floodway Limits in Special Flood Hazard Areas

Where available, base flood elevations and floodway limits provided by the National Flood Insurance Program and in the Flood Insurance Study and accompanying maps shall be used to administer and enforce these regulations. In Special Flood Hazard Areas where base flood elevations and/or floodway limits have not been provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps, it is the applicant’s responsibility to develop the necessary data. Where available, the applicant shall use data provided by FEMA, or State, or Federal agencies.

##### C. Interpretation

The information presented on any maps, or contained in any studies, adopted by reference, is presumed accurate.

1. If uncertainty exists with respect to the Special Flood Hazard Area or the floodway, the location of the boundary shall be determined by the Administrative Officer. If the applicant disagrees with the determination made by the Administrative Officer, a Letter of Map Amendment from FEMA shall constitute proof.
2. If uncertainty exists with respect to the boundaries of the Fluvial Erosion Hazard Zone, the location of the boundary shall be determined by the Administrative Officer. If the applicant disagrees with the determination made by the Administrative Officer, a letter of determination from the Vermont Agency of Natural Resources shall constitute proof.

V. Summary Table: Development Review in Hazardous Areas

The hazard areas are not appropriate sites for new structures, nor for development that increases the elevation of the base flood, or restricts the ability of streams to establish and maintain geomorphic equilibrium.

VI. Development Review in Hazard Areas

A. Permit

A permit is required from the Administrative Officer for all development in areas defined in Section IV. Development that requires conditional use approval, non-conforming use approval, or a variance from the Development Review Board (DRB) under these flood hazard area regulations, must have approvals prior to the issuance of a permit from the Administrative Officer. Any development subject to municipal jurisdiction in the designated hazard areas shall meet the criteria in Sections 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.

B. Permitted Development

For the purposes of review under these regulations, the following development activities in the Special Flood Hazard area where outside of the floodway and outside the Fluvial Erosion Hazard Zone, and meeting the Development Standards in Section VII, require only an administrative permit from the Administrative Officer.

1. Non-substantial improvements;
2. Accessory structures;
3. Development related to on-site septic or water supply systems;
4. Building utilities;
5. At-grade parking for existing buildings;
6. Recreational vehicles.

C. Prohibited Development in Special Flood Hazard Area and Fluvial Erosion Hazard Zone

1. New residential or non-residential structures (including the placement of manufactured homes);
2. Storage or junk-yards;
3. New fill, except as necessary to elevate structures above the base flood elevation.
4. Accessory structures in the floodway;
5. Critical facilities are prohibited in all areas affected by mapped flood hazards; and,
6. All developments not exempted, permitted, or conditionally permitted.

D. Conditional Use Review

Conditional use review and approval by the DRB, is required prior to the issuance of a permit by the Administrative Officer for proposed development within the following:

1. Substantial improvement, elevation, relocation or flood-proofing of existing structures;

2. New or replacement storage tanks for existing structures;
3. Improvements to existing structures in the floodway
4. Grading, excavation or the creation of a pond;
5. Improvements on existing roads;
6. Bridges, culverts, channel management activities, or public projects which are functionally dependent on stream access or stream crossing;
7. Public utilities'
8. Improvements to existing primary structures in the Fluvial Erosion Hazard Zone that do not expand the footprint of the existing structure more than 500 square feet;
9. Accessory structures in the Fluvial Erosion Hazard Zone, of 500 square feet, or less, that represent a minimal investment;
10. Building utilities in the Fluvial Erosion Hazard Zone; and,
11. At-grade parking for existing buildings in the Fluvial Erosion Hazard Zone.

E. Exempted Activities

The following are exempt from regulation under this bylaw:

1. The removal of a building or other structure in whole or in part;
2. Maintenance of existing roads and storm water drainage;
3. Silviculture (forestry) activities conducted in accordance with the Vermont Department of Forestry and Parks Acceptable Management Practices; and,
4. Agricultural activities conducted in accordance with the Vermont Department of Agriculture's Accepted Agricultural Practices (AAP).
5. Prior to the construction of farm structures the farmer must notify the Administrative Officer, in writing, of the proposed activity. The notice must contain a sketch of the proposed structure, including setbacks.

F. Variations

Variations may be granted, in writing, by the DRB, only in accordance with all of the criteria in 24 V.S.A. Sect. 4469, 4424(E), and 44 CFR Section 60.6.6, after a public hearing, noticed as described in Section VIII.

1. A variance for development within the Fluvial Erosion Hazard Zone may be allowed if, based upon a review by VT ANR, it is determined that the proposed development will not obstruct the establishment and maintenance of fluvial geomorphic equilibrium for the watercourse.
2. Any variance issued in the Special Flood Hazard Area will not increase flood heights, and 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.

#### G. Nonconforming Structures and Uses

The DRB 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 in Section VIII 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 less hazardous area 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.

#### VII. Development Standards

The criteria below are the minimum standards for development in the flood hazard areas. Where more than one zone or area is involved, the most restrictive standard shall take precedence.

##### A. Special Flood Hazard Area

1. All development shall be:
  - a. Reasonably safe from flooding;
  - b. Designed, operated, maintained, and adequately anchored to prevent flotation, collapse, release, or lateral movement of the structure.
  - c. Constructed with materials resistant to flood damage;
  - d. Constructed by methods and practices that minimize flood damage;
  - 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;
  - f. Adequately drained to reduce exposure to flood hazards;
  - g. Located so as to minimize conflict with changes in the channel location over time and the need to intervene with such changes; and
  - h. Required to locate any fuel storage tanks (as needed to serve an existing building in the Special Flood Hazard Zone) a minimum of one foot above the base flood elevation and be securely anchored to prevent flotation; or storage tanks may be placed underground, if securely anchored, as certified by a qualified professional.

2. In Zones AE, AH, and A1-A30, where base flood elevations and/or floodway limits have not been determined, development shall not be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated encroachment, will not increase the base flood elevation more than 1.00 foot at any point in the community. The demonstration must be supported by technical data that conforms to standard hydraulic engineering principles and certified by a registered professional engineer.
3. Structures to be substantially improved in Zones A, A1-30, AE and AH shall be located so that the lowest floor is at least one foot above base flood elevation. This must be documented, in as-built condition, with a FEMA Elevation Certificate.
4. Non-residential structures to be substantially improved shall:
  - a. Meet the standards in VII A3; or,
  - b. Have the lowest floor, including basement, together with attendant utility and sanitary facilities, designed so that two feet above the base flood elevation the structure is watertight, with walls substantially impermeable to the passage of water, and with the structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A permit for flood proofing 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.
5. Fully enclosed areas below grade on all sides (including below grade crawl-spaces) and basements are prohibited.
6. Fully enclosed areas that are above grade, below the lowest floor, below BFE and subject to flooding shall:
  - a. Be solely used for the parking of vehicles, storage or building access, and such a condition shall be clearly stated on any permits; and,
  - b. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Such design shall be certified by a professional engineer or architect, or meet the following minimum criteria:

A minimum of two openings on two walls having a total net area of not less than one square inch for every 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 entry and exit of floodwaters.

7. Recreational vehicles must be fully licensed and ready for highway use.
8. A small accessory structure of 500 square feet or less, that represents a minimal investment, need not be elevated to the base flood elevation in this area, provided the structure is placed on the building site so as to offer the minimum resistance to the flow of floodwaters, and shall meet the criteria in VII A6 (above).
9. Water supply systems shall be designed to minimize infiltration of floodwaters into the system.
10. Sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the system into floodwaters.
11. On-site waste disposal systems shall be located to avoid impairment to them, or contamination from them, during flooding.
12. 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.
13. Bridge 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, where applicable.
14. Subdivisions and Planned Unit Developments must be accessible by dry land access outside the special flood hazard area.
15. Existing buildings, including manufactured homes, to be substantially improved in Zone AO shall have the lowest floor, including basement, elevated above the highest adjacent grade, at least a high as the depth number specified in the community's FIRM, or at least two feet if no depth number is specified.

#### B. Floodway Areas

1. Encroachments or development above grade, and less than one foot above the base flood elevation, are prohibited unless hydrologic and hydraulic analyses are performed in accordance with standard engineering practice, by a registered professional engineer, certifying that the proposed development will:
  - a. Not result in any increase in flood levels (0.00 feet) during the occurrence of the base flood.
  - b. Not increase any risk to surrounding properties, facilities or structures from erosion or flooding.
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.

### C. Fluvial Erosion Hazard Zone

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 the distance between the existing primary structure and the top of bank,
2. Accessory structures may be located within 50 feet of the existing primary building, provided that the location does not decrease the distance between the existing primary structure and the top of bank.
3. Development shall not increase the susceptibility of that or other properties 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 or 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.
7. Channel management activities must be authorized by the Agency of Natural Resources.

## VIII. Administration

### A. Application Submission Requirements

Applications for development shall include:

1. Where applicable, a site plan that depicts the proposed development, all water bodies, Special Flood Hazard Areas, floodways, Fluvial Erosion Hazard Zone, the shortest horizontal distance from the proposed development to the top of the bank of any stream, any existing and proposed drainage, any proposed fill, and pre and post development grades, and the elevation of the proposed lowest floor, as referenced to the same vertical datum as the elevation on the current Flood Insurance Rate Maps:
2. A Vermont Agency of Natural Resources Project Review Sheet for the proposal. The Project Review Sheet shall identify all Federal and State Agencies from which project approval is required for the proposal, and shall be filed as a required attachment to the municipal permit application. The identified permits, or letters indicating that such permits are not required, shall be submitted to the Administrative Officer and attached to the permit before work can begin.

### B. Referrals

1. Upon receipt of a complete application for substantial improvement or new construction, the Administrative Officer shall submit a copy of the application and supporting information to the State National Flood Insurance Program (NFIP) Coordinator, at the Vermont Agency of Natural Resources, in accordance with 24 V.S.A. 4424. A permit may be issued only 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.

2. If the applicant is seeking a permit for the alteration or relocation of a watercourse, copies of the application shall also be submitted to the adjacent communities, the Stream Alteration Engineer at the Vermont Agency of Natural Resources, and the Army Corps of Engineers. Copies of such notice shall be provided to the State National Flood Insurance Program (NFIP) Coordinator of the Vermont Agency of Natural Resources, Department of Environmental Conservation. A permit may be issued only following receipt of comments from the Vermont Agency of Natural Resources, or the expiration of 30 days from the date the application was mailed to the Vermont Agency of Natural Resources, whichever is sooner. The Board should consider comments from the NFIP Coordinator at ANR.

#### C. Decisions

The DRB shall consider comments from the NFIP Coordinator at ANR. The DRB may recess the proceedings on any application pending submission of additional information.

#### D. Records

The Administrative Officer shall properly file and maintain a record of:

1. All permits issued in areas covered by this bylaw;
2. An Elevation Certificate, with the as-built elevation (consistent with the datum of the elevation of the current Flood Insurance Rate Maps for the community) of the lowest floor, including basement, of all new, substantially improved, or flood proofed buildings (not including accessory buildings) in the Special Flood Hazard Area.
3. All flood proofing and other certifications required under this regulation; and,
4. All decisions of the DRB (including variances and violations) and all supporting findings of fact, conclusions and conditions.

#### IX. Certificates of Occupancy

In accordance with 24 V.S.A. 4449 it shall be unlawful to occupy, or permit the use or occupancy of any land or structure, or part thereof, created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure within Special Flood Hazard Area or Fluvial Hazard Zone until a certificate of occupancy is issued therefore by the Administrative Officer, stating that the proposed use of the structure or land conforms to the requirements of these bylaws. A certificate of use is not required for structures that were built in compliance with these bylaws at the time of construction and have not been improved since the adoption of this bylaw. Within 14 days of the receipt of the application for a certificate of occupancy, the Administrative Office shall inspect the premises to ensure that all permits identified on the Project Review Sheet have been acquired, and that all work has been completed in conformance with the zoning permit and associated approvals. If the Administrative Officer fails to grant or deny the certificate of occupancy within 14 days of the submission of the application, the certificate shall be deemed issued on the 15th day. If a

Certificate of Occupancy cannot be issued, notice will be sent to the owner, and copied to the lender.

X. Enforcement and Penalties

- A. This bylaw shall be enforced under the municipal zoning bylaw in accordance with 10 V.S.A. 1974a, 4451 and 4452. A copy of the notice of violation will be mailed to the State NFIP Coordinator.
- B. If any appeals have been resolved, but the violation remains, the Administrative Officer shall submit a declaration to the Administrator of the National Flood Insurance Program requesting a denial of flood insurance to the property, pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.
- C. Violations of the Accepted Agricultural Practices shall be enforced under this Section as violations of this bylaw. Such violations shall also be immediately reported to the Secretary of Agriculture for enforcement under 6 V.S.A. 4812.

XI. Definitions

“Accessory Structure” means a structure which is:

- 1) detached from and clearly incidental and subordinate to the principal use of a structure on a lot,
- 2) located on the same lot as the principal structure or use, and
- 3) clearly and customarily related to the principal structure or use. For residential uses these include, but may not be limited to garages, garden and tool sheds and playhouses.

“Area of Special Flood Hazard” is synonymous with the phrase “special flood hazard area” for the purposes of these regulations.

“Base Flood” means the flood having a one percent chance of being equaled or exceeded in any given year (commonly referred to as the “100 year flood”).

“Base Flood Elevation” (BFE) is the elevation of the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year. On the Flood Insurance Rate Map the elevation is usually in feet, in relation to the National Geodetic Vertical Datum of 1929. The North American Geodetic Datum of 1988 or other datum referenced in the Flood Insurance Study report, or the average depth of base flood , usually in feet, above the ground surface.

“BFE” see Base Flood Elevation

“Channel” means an area that contains continuous flowing water that is confined by banks and a streambed.

“Channel Width” (or bankfull width) is the width of a stream channel when flowing at a bankfull discharge. The bankfull discharge is the flow of water that first overtops the natural banks. This flow occurs, on an average, about once every 1 to 2 years.

“Common Plan of Development” is where a structure will be refurbished over a period of time. Such work may be planned unit by unit.

“Critical Facilities” include police stations, fire and rescue facilities, hospitals, shelters, schools, nursing homes, water supply and waste treatment facilities, and other structures the community identifies as essential to the welfare of the population and that are especially important following a disaster. For example, the type and location of a business may raise its status to a Critical Facility, such as a grocery or gas station.

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

“Fill” means any placed material that changes the natural grade, increases the elevation, or diminishes the flood storage capacity at the site.

“FIRM” see Flood Insurance Rate Map

“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 of 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 bank 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 a 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 flood hazard areas and the risk premium zones applicable to the community. In some communities the hazard boundaries are available in paper, pdf, or Geographic Information System formats as a Digital Flood Insurance Rate Map (DFIRM).

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

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

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

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

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

“Fluvial Erosion Hazard Zone” includes the stream and adjacent lands necessary to accommodate the slope and platform requirements of a geomorphically stable channel, and is subject to fluvial erosion as defined by the Vermont Agency of Natural Resources and delineated on the current Fluvial Erosion Hazard Zone Map.

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

“Historic structure” means any structure that is:

- 1) listed in the National Register of Historic Places 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;
- 2) certified or preliminarily determined by the Secretary of the Interior as contributing to the historic significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.
- 3) 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
- 4) 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.

“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, except 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 measurements of 44 CFR 60.3.

“Manufactured home (or Mobile 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.”

“New construction” for regulation under this bylaw, means structures for which the start of construction commenced on or after the effective date of the floodplain management regulation adopted by the community, and includes any subsequent improvements to such structures.

“Nonconforming structure” means a structure or part of a structure that does not conform to the present bylaw but did conform to all applicable laws, ordinances and regulations prior to the enactment of the present bylaws, including a use improperly authorized as a result of error by the administrative officer.

“Nonconformity” means a nonconforming use, structure, lot or parcel.

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

“Recreational vehicle” means a vehicle which is:

- 1) Built on a single chassis;
- 2) 400 square feet or less when measured at the largest horizontal projection;
- 3) Designed to be self-propelled, or permanently towable by a light duty truck; and
- 4) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping or seasonal use.

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

“Start of construction” for purpose of floodplain management, determines the effective map or bylaw that regulated development in the Special Flood Hazard Area. The “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 a 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 sidewalks; 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 the alteration affects the external dimensions of the building.

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

“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 fifty percent (50%) of the market value of the structure before the damage occurred.

“Substantial improvement” means any reconstruction, rehabilitation, addition, or other improvement of a structure after the date of adoption of this bylaw, the most of which, over three years, or over the period of a common plan of development, cumulatively equals or exceeds fifty percent (50%) 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:

Any project for improvement of a structure to cure existing violations of a state or local health, sanitary, or safety code specification, which has been ide notified by the local code enforcement official, and which are the minimum necessary to assure safe living conditions; or,

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 the vertical point along a stream bank where an abrupt change in slope is evident. For stream in wider valleys, it will generally be the same as the top of the slope.

“Violation” means the failure of a structure or other development to be fully compliant with this bylaw. A structure or other development without the elevation certificate, or other certifications, or other evidence of compliance with 44 CFR 60.3is presumed to be in violation until such time as that documentation is provided.