

TABLE 2.8 FLOOD HAZARD AREA OVERLAY [FHO] DISTRICT

<p>(A) Purposes. The purposes of the Flood Hazard Area Overlay are to 1) 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; 2) ensure that the selection, design, creation, and use of development is reasonably safe and accomplished in a manner that is consistent with public wellbeing, does not impair floodplain services, and 3) manage the flood hazard area designated pursuant to 10 V.S.A. Chapter 32 § 753, the municipal hazard mitigation plan; and make the Town of Hardwick, its citizens, and businesses eligible for federal flood insurance, federal disaster recovery funds, and hazard mitigation funds as may be available;</p>			
<p>(B) Permitted Uses</p> <p>1. <u>Accessory structures not greater than 500 square feet and outside of the Floodway (of 500 square feet or less, outside of floodway)</u></p> <p>1-2. <u>Bridges and culverts</u></p> <p>3. <u>Building utilities</u></p> <p>4. <u>Channel Management</u></p> <p>2-5. <u>Footbridges</u></p> <p>3-6. <u>New or replacement storage tanks for existing structures</u></p> <p>4-7. <u>Non-substantial improvements to existing structures (outside of Floodway)</u></p> <p>5-8. <u>Parking, at grade (outside of Floodway)</u></p> <p>6-9. <u>Recreational vehicles (parking of) outside of the Floodway</u></p> <p>10. <u>Replacement of water supply or septic systems</u></p> <p>7-11. <u>River and floodplain restoration projects, including dam removal that restore natural & beneficial floodplain functions and include written information from the ANR Regional Floodplain Manager that the project is designed to meet the applicable</u></p>	<p>(C) Conditional Use</p> <p>1. <u>Accessory structures larger than 500 square feet, outside of the Floodway</u></p> <p>2. <u>All other new structures, (including accessory-Accessory dwelling-Dwelling units) outside of the Floodway</u></p> <p>3. <u>Bridges and culverts</u></p> <p>4. <u>Channel management</u></p> <p>5-3. <u>Fill (to elevate new and existing structures or for primary access)</u></p> <p>6-4. <u>Grading, excavation or the creation of a pond</u></p> <p>7-5. <u>Non-substantial improvements to existing structures (in Floodway)</u></p> <p>8-6. <u>Parking, at grade (in Floodway)</u></p> <p>9-7. <u>Public utilities</u></p> <p>10-8. <u>Road improvements</u></p> <p>11-9. <u>Substantial improvements to existing structures</u></p>	<p>(D) Prohibited Uses</p> <p>Accessory structures in floodway</p> <p>All new residential or non-residential structures, including small Accessory Structures, in the Floodway</p> <p>Caretaker's apartments</p> <p>Critical facilities</p> <p>Fill (for any purpose other than elevating structures or primary access)</p> <p>Salvage Yards</p> <p>Storage</p>	<p>(E) Exempted</p> <p>Agriculture**</p> <p>Forestry**</p> <p><u>Interior improvements or repairs to existing buildings that cost less than 500 dollars.</u></p> <p><u>Maintenance of roads, bridges, or stormwater drainage.</u></p> <p>Open space</p> <p>Removal of a structure (in whole or in part) <u>so long as the ground elevations under and adjacent to the removed structure remain unchanged</u></p> <p>Road maintenance<u>Routine maintenance of an existing building</u></p> <p><u>Streambank stabilization and abutment work that do not reduce the cross-sectional flow area of the river or stream channel and have coverage under a Stream Alteration Permit, if required.</u></p> <p><u>Subdivision of land that does not involve or authorize development.</u></p>

[standards in this
bylaw](#)

**Forestry activities conducted in accordance with the Vermont Department of Forests and Parks Acceptable Management Practices; and agriculture activities conducted in accordance with the Vermont Agency of Agriculture Food & Markets Required Agricultural Practices

(F) Dimensional Standards (unless otherwise specified for a particular use):

As required for the underlying zoning district. Subject to conditional use approval by the Development Review Board, a waiver may be granted to dimensional standards in the underlying district in order to locate development outside of flood hazard prone areas. Such a waiver shall represent the minimum deviation from dimensional standards in order to locate development away from flood prone areas and shall not encroach into public and private rights of way or required replacement fields or separation distances to accommodate on-site potable water and waste water systems.

(G) Development Standards [See section 5.3]

road, which may be crossed by driveways and sidewalks. Form, location, and composition of the landscaped strip shall be shown on the site plan and approved by the Development Review Board.

- (4) **Rural Residential and Compact Residential Districts.** Within the Rural Residential and Compact Residential Districts, development shall be designed in accordance with the following standards:
 - a. Development shall be designed to minimize loss of agricultural land and natural habitat, impact on water quality, and diminishment of the scenic and rural qualities of the site as experienced both on-site and from other vantage points in the Town.
 - b. Access roads, driveways and utility corridors shall be shared to the extent feasible; and, where sites include linear features such as existing roads, tree lines, stone walls, and/or fence lines, shall follow these features to the extent feasible in order to minimize the loss of productive agricultural and forest land, and to avoid physical and visual impacts.
- (5) **Forest Reserve District.** Development within the Forest District should not detract from the site's scenic qualities, nor obstruct significant views from public vantage points, and should blend in with the existing landscape. Development shall take into consideration existing contours and forest cover to ensure that adequate opportunities exist for the siting and natural screening of development to minimize site disturbance and visual impacts. The Board may require the submission of a visual impact assessment for conditional uses within this district, and/or require additional screening of structures consistent with the natural and built environment.

Section 5.3 Flood Hazard Review

- (A) **Applicability.** These regulations shall apply to the ~~Speeial~~ 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. Chapter 32 Section 753, which are hereby adopted by reference and declared to be part of these regulations. A permit is required from the Zoning Administrator for all development in all areas defined in Table 2.8 of these bylaws. Development that requires conditional use approval, non-conforming use approval, or a variance from the Development Review Board under these regulations must have such approvals prior to the issuance of a permit by the Zoning Administrator. Any development subject to municipal jurisdiction in the designated hazard areas shall meet the criteria of 5.3(G) and 5.3(H). Any permit issued will require that all other necessary permits from State and Federal Agencies have been received before work may begin.
- (B) **Warning of Disclaimer of Liability.** This bylaw does not imply that land outside of the areas covered by this bylaw will be free from flood damages. This regulation shall not create liability on the part of the Town of Hardwick, or any municipal official or employee thereof, for any flood damages that result from reliance on this regulation, or any administrative decision lawfully made hereunder.
- (C) **Permitted Development.** For the purposes of review under these regulations, the following development activities in the ~~Speeial~~ Flood Hazard Area ~~where outside of the~~

Floodway, and where meeting the Development Standards in Sections 5.3(G), require only an administrative permit from the Zoning Administrator:

1. Non-substantial improvements to existing structures, outside of the Floodway;
2. Small accessory structures not greater than 500 square feet and outside of the Floodway; of 500 square feet or less;
3. Development related to on-site septic or water supply systems;
4. Building utilities;
5. Bridges and culverts
6. Channel Management
7. Footbridges
8. River and floodplain restoration projects, including dam removal that restore natural and beneficial floodplain functions and include written information from the ANR Regional Floodplain Manager that the project is designed to meet the applicable standards in this bylaw.
59. -At-grade parking for existing buildings, outside of the Floodway;
610. Recreational vehicles (parking of) outside of the Floodway; and
- 7.11. New or replacement storage tanks for existing structures.

(D) **Conditional Use Review.** Conditional use review and approval by the Development Review Board is required prior to the issuance of a permit by the Zoning Administrator for the following development activities:

1. New structures Accessory structures larger than 500 square feet, outside of the Floodway.
2. All other new structures, (including Accessory Dwelling Units) outside of the Floodway
- 2.3 Substantial improvement, elevation, relocation, or flood proofing of existing structures;
34. Non-Substantial ~~i~~ improvements to existing structures in the Ffloodway;
45. Grading, excavation; or the creation of a pond;
56. Improvements to existing roads;
67. Fill to elevate new and existing structures or for primary access. Bridges, culverts, channel management activities, or public projects which are functionally dependent on stream access or stream crossing; -
98. Public utilities;

(E) **Application.** An application for development shall include:

- (1) Where applicable, a site plan that depicts the proposed development, all water bodies, ~~Special~~ Flood Hazard Areas, floodways, 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 shall identify all State and Federal agencies from which permit 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 Zoning Administrator and attached to the permit before work can begin.

(F) **Referrals.**

1. Upon receipt of a complete application for a substantial improvement or new construction, the Zoning Administrator 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 at 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.

(G) **Development Standards – ~~Special~~ Flood Hazard Area.**

- (1) All development below the Development Flood Elevation (DFE), except development that is exempt under Table 2.8 shall be:
 - a. reasonably safe from flooding;
 - b. designed, operated, maintained, modified, and adequately anchored to prevent flotation, collapse, 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 channel location over time and the need to intervene with such changes; and~~

~~h.g.~~ required to locate any fuel storage tanks and vents ~~(as needed to serve a building~~

~~in the Special Flood Hazard Zone) a minimum of one foot above the base flood elevation to be elevated above the DFE and be securely anchored to prevent flotation, or storage tanks may be placed underground, if securely anchored as certified by a qualified professional certifies that the installation will be anchored and protected from flood forces.~~

- (2) In Zones AE, AH, and A1-30, 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 by more than 1.00 foot at any point within 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) All new or substantially improved structures in Zones A, A1-30, AE, and AH shall be located such that the lowest floor is, including the basement, elevated to or above the Design Flood Elevation (two feet above base flood elevation). ~~This -at-or-above the base flood elevation, and this~~ must be documented, in the proposed and as-built condition, with a FEMA Elevation Certificate.
- (4) New or substantially improved non-residential structures shall:
 - a. Meet the standards in 5.3(G)(3); or,
 - b. Have the lowest floor, including basement, together with attendant utility and sanitary facilities be designed so that at or above the base flood elevation, that at least two feet above the base flood elevation of the structure is dry floodproofed, meaning watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
 - b.c. A permit for flood-proofing dry floodproofing 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 crawlspaces and basements) are prohibited.
- (6) Fully enclosed areas that are above grade, below the lowest floor, below ~~the Design Flood Elevation~~the base flood elevation, that are subject to flooding shall:
 - a. be solely used for parking of vehicles, storage, or building access, and such condition shall be clearly stated on any permits; ~~and~~ and be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Such designs must be certified by a registered engineer or architect; or
 - b. meet or exceed the following minimum criteria: 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 criteria:~~ a minimum of two openings on two walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above adjacent grade. Openings may be equipped with screens, louvers, valves or other cover coverings or devices provided that they permit the automatic entry and exit of floodwaters.

- (7) Recreational Vehicles or job site trailers placed on sites within Zones A1-A30, AH and AE, shall either (1) be on the site for fewer than 180 consecutive days, (2) be fully licensed and ready for highway use, or (3) meet all standards of Section 60.3(b)(1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for “manufactured homes” of Section 60.3(c)(6).
- (8) Accessory Structures: A small accessory structure of 500 square feet or less that represents a minimal investment need not be elevated to the base flood elevation if adequate flood openings are provided, the structure is placed on the site so as to offer the minimum resistance to the flow of floodwaters, and the construction meets the criteria of, ~~provided the structure is placed on the building site so as to offer the minimum resistance to the flow of flood waters and meet the requirements of~~ 5.3(G)(6).
- (9) New and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate the infiltration of flood waters into the systems and discharges from the systems into flood waters.
- (10) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- (11) The flood carrying and sediment transport capacity within any altered or relocated portion of a watercourse shall be maintained, and any alteration or relocation shall not result in any decrease of stream- equilibrium stability.
- (12) Bridges and culverts and channel management activities, which by their nature must be placed in or over the stream watercourse, must have a stream alteration permit from the Agency of Natural Resources- if applicable, where applicable.
- (13) Subdivisions and planned unit developments must be accessible by dry land access, outside the Special Flood Hazard Area.
- (14) New and replacement manufactured homes shall be elevated or placed on a permanent foundation so that the lowest floor is elevated to or above the Design Flood Elevation (two feet above a base flood elevation). This shall be documented in the proposed and as-built condition with a FEMA Elevation Certificate, above the base flood elevation.
- (15) Critical Facilities to be substantially improved shall have the lowest floor, including basement, elevated or dry-floodproofed at least one foot above the elevation of the 0.2% annual flood height (500-year floodplain), or three feet above base flood elevation, whichever is higher;
- (16) No net loss of flood storage capacity,

a. Except as needed to fill an existing basement or mitigate an existing structure.

(H) **Development Standards – Floodway Areas**

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(1) Within the Floodway new encroachments are prohibited except for the following, which shall also comply with Section 2 below: 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. changes to existing structures where the footprint is proposed to expand horizontally into the Floodway less than 500 square feet; Not result in any increase in flood levels (0.00 feet) during the occurrence of the base flood;

b. new encroachments relating to bridges, culverts, roads, stabilization projects, public utilities, functionally dependent uses, and river and floodplain restoration projects; Not increase any risk to surrounding properties, facilities, or structures from erosion or flooding.

b.c. new encroachments relating to health and safety measures, such as replacement of pre-existing on-site septic and water supply systems, if other practical alternatives are not available.

(2) Within the Floodway all proposed new encroachments are required to provide a hydraulic analysis, performed by a registered professional engineer, in accordance with standard engineering practice, certifying that the proposed development will:

a. not result in any increase in flood levels during the occurrence of the base flood;

b. not increase base flood velocities; and,

c. not increase any risk to surrounding properties, facilities, or structures from erosion or flooding.

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(3) For development that will not result in any change in grade, the hydrologic and hydraulic analyses may be waived, where the applicant will provide pre- and post-development elevations demonstrating that there will be no change in grade, and that the development will be adequately protected from scour.

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.

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(I) **Nonconforming Structures and Uses.**

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The Development Review Board may, after public notice and hearing, approve the repair, relocation, replacement, or enlargement of a nonconforming structure within a flood hazard area but outside of the Floodway provided that:

(1) The proposed development is in compliance with all the Development Standards in Section 5.3(G)-(H) of this bylaw;

(2) A nonconforming structure that is substantially damaged or destroyed may be reconstructed only in circumstances when the structure cannot be relocated to a less hazardous location on the parcel. The lowest floor of the reconstructed structure

must be rebuilt to or above the Design Flood Elevation (two feet above a base flood elevation). ~~at or above the base flood elevation.~~ This shall be documented in the proposed and as-built condition with a FEMA Elevation Certificate. ~~and~~ The structure must otherwise comply with all requirements of the National Flood Insurance Program; and

- (3) 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.

Section 5.4 Planned Unit Development

- (A) **Applicability.** Planned Unit Development (PUD) review procedures and standards may be applied by the Development Review Board at the request of the applicant for any parcel which meets the minimum lot size for the district within which it is located.
- (B) **Purpose.** In accordance with the Act §4417, PUDs are permitted in all zoning districts to allow for innovative and flexible design and development that will promote the most appropriate use of land, and specifically achieve one or more of the following objectives:
 - (1) increase density, reduce lot size and/or facilitate the adequate and economical provision of streets and utilities to provide housing in a cost-effective manner;
 - (2) cluster residential development to preserve and maintain open space;
 - (3) protect significant natural, cultural or scenic features as identified in the Hardwick Town Plan, or through site investigation; and/or,
 - (4) allow for creative design and layout of development, an efficient use of land, and to provide for the integrated mix of housing types.
- (C) **Review Procedure.**
 - (1) A proposed PUD that requires a subdivision of land shall be reviewed as a Major Subdivision Review as set forth in Section 6.3. Nevertheless, review and approval of a PUD involving the development of one or more conditional uses under this Section shall not exempt the proposed development from review under Section 5.2. The Development Review Board may review and approve one or more conditional uses concurrently with granting PUD approval, or may require the submission of a conditional use application subsequent to PUD approval.
 - (2) A proposed PUD that requires no subdivision of land shall be reviewed as a conditional use, as set forth in Section 5.2.
 - (3) In addition to the application requirements specified under Section 6.3 or 5.2, an application for PUD approval shall include a statement describing all proposed modifications, changes or supplements to existing bylaw requirements. Modifications of these bylaws approved by the Development Review Board shall be noted in writing and appended to a plat depicting the project to be filed in the Hardwick Land Records. All other provisions of these bylaws not specifically modified shall remain in effect and be applicable to the project.
- (D) **General Standards.** The modification of zoning regulations by the Development Review Board may be permitted in accordance with the following standards:

average between the highest and lowest grades shall be used in calculating the antenna height.

Applicant: The owner of land or property proposed to be developed in accordance with these regulations, and/or his or her duly authorized representative. Any party with a legal interest in land development may apply in cooperation with the owner of the property.

Approval: A written decision issued by the Development Review Board within the statutory time limit, or in the event of the Board's failure to act within the specified time limit, a certification of such failure to act issued by the Town Clerk, as attached to the permit application and recorded in the land records of the town.

Area of Shallow Flooding: A designated AO or AH Zone on the Flood Insurance Rate Map (FIRM) having a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where the velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of Special Flood Hazard: is synonymous in meaning with the phrase "special flood hazard area" for the purposes of these regulations.

Bar: See *Restaurant*.

Bank: See *Financial Institution*.

Banner: A temporary sign composed of lightweight, flexible, non-rigid material either enclosed or not enclosed in a rigid frame.

Base Flood: 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): The elevation of the water surface elevation resulting from a flood that has a 1 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 Vertical Datum of 1988, or other datum referenced in the Flood Insurance Study report, or the average depth of the base flood, usually in feet, above the ground surface.

Basement: Any area of a building having its floor at subgrade (below ground level) on all sides including crawlspaces.

Bed & Breakfast (B&B): A single family dwelling occupied by the owner or operator, in which not more than six double occupancy rooms within the dwelling and/or in an accessory structure located on the same lot, are rented out to provide overnight accommodations to transient travelers. Individual cooking and eating facilities shall not be provided; breakfasts shall be the only meals served and shall be limited to overnight guests. The bed and breakfast shall function as a private home with house guests. See also *Hotel/Motel*.

Board: The Hardwick Development Review Board, as established under the Act, unless otherwise specified.

Buffer: Any space between adjoining land uses or between a land use and a natural feature, which is intended and designed to reduce the impact of one use on the other use or feature. Buffers may include open space, woodland, landscaped areas, undisturbed vegetated areas, or other types of physical, visual or sound barriers.

Building: (1) A structure used for the shelter or accommodation of persons, animals, goods,

chattel or equipment, which has a roof supported by columns or walls; (2) for development within the flood hazard area overlay district, this definition also includes a gas or liquid storage tank that is principally above ground. See also Structure.

Building Envelope: A specific area delineated on a lot within which all structures are to be located, and outside of which no structures are to be located.

Building Face: The exterior surface of any side of a building, minus windows and doors.

Building Height: The distance measured vertically from the average (of the highest and lowest) finished grade at the base or foundation to the highest point on top of the building (or structure), excluding any noted structural exemptions from height requirements under Section 3.7.

Building Line: The line parallel to the lot line transecting that point in the principal or accessory dwelling face which is closest to the lot line, including porches, whether enclosed or unenclosed, but excluding steps. See also Lot Line, Street Line.

Building Orientation: The location on a lot of a building or other structure in relation to roads, rights-of-way, parks, and building or street lines.

Camp: See Seasonal Dwelling.

Camper: See Recreational Vehicle.

Campground: A parcel of land upon which two or more campsites are located for occupancy by a tent, cabin, lean-to, or similar structure as temporary living quarters for recreation, education, or vacation purposes. "Primitive" campgrounds are further characterized as campgrounds which are limited to substantially unimproved camp sites intended for tenting use only (see Section 4.5).

Caretakers Apartment: A secondary dwelling unit established in conjunction with and clearly subordinate to a principal use other than a single family dwelling, which is retained in common ownership, is located on the same parcel as the primary structure, and which otherwise meets applicable criteria of these regulations. See Accessory Apartment. (see Section 4.2).

Cemetery: Land used or dedicated to the burial of the dead, which includes as accessory structures mausoleums, columbariums, and maintenance facilities, but specifically excludes crematoriums. An individual or family burial plot on private land, registered with the Hardwick Town Clerk in accordance with state law, is exempted from this definition.

Change of Use: Any use which differs substantially from an established use based on the type, intensity, or magnitude of use. For example, this may include a change from one type of use to another (e.g., from a residential to commercial use), or from an accessory to a principal use, or from seasonal to year-round use (see Section 3.4).

Channel: An area that contains continuously or periodic flowing water that is confined by banks and a streambed.

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Church: See Place of Worship.

Commercial Use: An enterprise that is carried on for profit by the owner, lessee or licensee.

Common Land: Land within a development or subdivision that is not individually owned or dedicated for public use, but which is intended to be held in common, for use, enjoyment, management and maintenance by the residents of the development or subdivision. Such land may include but not be limited to open space areas, parking lots, pedestrian walkways, utility and road

rights-of way.

Common Plan of Development: Where a structure will be refurbished over a period of time. Such work might be planned unit by unit.

Community Care Facility: A residential care facility licensed by the state which provides 24-hour supervision, personal care services, and limited medical services to seven or more individuals who are in need of care, protection and/or assistance to sustain the activities of daily living. See also Group Home.

Community Center: A building owned by a public or nonprofit entity, or a homeowners or similar community association, which is used for recreational and social activities and is intended primarily to serve the population of the community in which it is located.

Community System: Any water or wastewater disposal system other than a municipally-owned system which provides potable water to or disposes of wastewater from two or more domestic, commercial, industrial, or institutional uses. Such systems shall include related collection, distribution and treatment facilities.

Compensatory Storage: A volume not previously used for flood storage and which shall be incrementally equal to or exceed the theoretical volume of flood water at each elevation, up to and including the base flood elevation, which would be displaced by the proposed project. Such compensatory volume shall have an unrestricted hydraulic connection to the same waterway or water body. Further, with respect to waterways, such compensatory volume shall be provided within the same reach of the river, stream, or creek.

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Contiguous Land: (1) A parcel of land contained within a single, unbroken parcel boundary (a division of land by a town or private road right-of-way shall not render such land noncontiguous); or (2) two or more parcels which share a common parcel boundary or point.

Contractor's Yard: A parcel of land with or without buildings thereon to be used for the storage of equipment, materials, and/or vehicles used in the operation of construction and related trades.

Cul-de-Sac: A road intersecting another road at one end, and terminated at the other end by some form of vehicular turnaround.

Cultural Facility: A museum, theater, concert hall, botanical or zoological garden, or other establishment which offers programs, performances or exhibits of cultural, educational, historical, or scientific interest, and is not operated as a commercial use. See also Commercial Use, Recreation, Indoor.

Critical facility: Includes 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 health and 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.

Day Care Facility: All state registered or licensed day care facilities which do not meet the definition of "home child care," including nonresidential child and adult day care facilities, and home-based child care facilities that serve more than six children on a full-time basis. See also Home Child Care, Residential Care Facility.

Degree of Nonconformity: The extent which the nonconforming feature/element of a structure extends beyond that point which constitutes the greatest pre-existing encroachment.

Density: The number of dwelling units, principal uses or structures permitted per area of land, excluding land area within designated road rights-of-way.

Design Flood Elevation (DFE): The Base Flood Elevation plus two feet (in the Town of Hardwick).

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Development in the Flood Hazard Area Overlay: See Land-Development any human-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

Drive-through: A business establishment which includes a driveway approach or parking spaces for motor vehicles to serve patrons while in the motor vehicle rather than within a building or structure.

Driveway: A minor, private travel way, serving up to three adjoining parcels, which provides vehicular access from an adjoining road to a parking space, garage or other structure. See also Road.

Dwelling Unit: A space consisting of one or more rooms designed, occupied or intended for occupancy as a separate living quarters, with cooking, sleeping, and sanitary facilities provided within that space for the exclusive use of a single family or individual maintaining a household. See also Family, Accessory Apartment, and Seasonal, Single Family, Two-Family, and Multi-Family Dwelling.

Easement: The legal authorization given by a property owner to another person or party for the use of any designated part of his or her property for a specified purpose.

Educational Facility: See School.

Elderly Housing: A multiple dwelling in one or more buildings, each unit of which is specifically designed and intended for occupancy by at least one person who is 55 years of age or older. Such housing may include, as accessory structures or uses, congregate dining and recreational facilities, and assisted living services. See also Community Care Facility.

Encroachment: Fill or development that reduces the functional river corridor (impairs the equilibrium condition) or increases flood levels.

Erosion Control: Measures to prevent the detachment and movement of soil or rock fragments or the wearing away of the land surface by water, wind, ice and gravity.

Equilibrium Condition: The width, depth, meander pattern, and longitudinal slope of a stream channel that occurs when water flow, sediment, and woody debris are transported by the stream in such a manner that it generally maintains dimensions, pattern, and slope without unnaturally aggrading or degrading the channel bed elevation.

Extraction of Earth Resources: A use involving the on-site removal of surface and subsurface materials, including soil, sand, gravel, stone or organic substances other than vegetation, from land or water. Customary extraction operations include sand and gravel pits, and accessory operations such as the crushing, screening, and temporary storage of materials on-site (see Section 4.8). Specifically excluded from this definition are the grading and removal of dirt which is associated with and incidental to an approved site plan or subdivision, or an excavation associated with an accepted agricultural practice. See also Quarrying.

Family: A group of two or more persons living together as a household, or a single person

maintaining a household.

Farm Structure: In accordance with the Act [§4495], a building for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with agricultural or farming practices, as "farming" is defined in 10. V.S.A. §6001(22). This definition includes such farm structures as barns, silos, fences and manure pits, but specifically excludes a dwelling for human habitation. See also Accessory Dwelling, Agriculture, Accepted Agricultural Practices.

Farming: See Agriculture.

Fill: Any placed material that changes the natural grade, increases the elevation, redirects the movement of flood water, or diminishes the flood storage capacity at the site. Temporary storage of material for less than 180 days is not considered fill.

Final Plat: The final drawings on which the subdivision is presented to the Planning Commission for approval and which, if approved, shall be filed for record with the Town Clerk.

Financial Institution: A bank, savings and loan, finance, mortgage or investment company that is open to the public.

FIRM: See Flood Insurance Rate Map.

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

Flood Hazard: Those hazards related to damage from flood-related inundation or erosion.

Flood Insurance Rate Map (FIRM): 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.

Flood Insurance Study (FIS): An examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations or an examination, evaluation, and determination of a mudslide and/or flood-related erosion hazards.

Flood Insurance Rate Map: 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

Floodplain or flood-prone area: Any land area susceptible to being inundated by water from any source (See Flood.)

Floodproofing: Any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improve real property, water and sanitary facilities, structures, and their contents.

Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point. Please note that ~~Special~~-Flood Hazard Areas and floodways may be shown on separate map panels.

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

Fluvial Erosion: Erosion or scouring of riverbeds and banks during high flow conditions of a river. Fluvial erosion is most likely to occur within the river corridor.

Forestry: The use and management of woodlands for purposes of timber production, harvesting, and management for commercial, wildlife and/or conservation purposes. This definition specifically excludes permanent sawmills, lumber yards and other similar facilities used for the processing and/or manufacturing of wood and wood products; but may include, as accessory uses, portable sawmills and equipment used on-site in association with timber harvesting activities. See also Accepted Management Practices, Sawmill.

Frontage: The width of a lot abutting a road as measured at the street line.

Functionally Dependent Use: A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water.

Gasoline Station: An establishment principally used for the sale of automobile or motor vehicle fuels, lubricants, and related motor vehicles products, and/or which has facilities for fueling motor vehicles. This definition specifically excludes automobile and motor vehicle repair services and sales, and the sale of food and unrelated convenience or grocery items. See also Motor Vehicle Service, Mixed Use.

Grading: The movement or replacement of topsoil or other material originating on the site and within the hazard area. Grading results in minor or no changes in topographic elevations. If new material is brought from outside the hazard area and such new material is not offset with an equal or greater removal of material from the portion of the site within the hazard area, the new material shall be considered "fill" and shall not be considered grading.

Greenhouse/Nursery: The use of land, buildings and/or structures for the purpose of selling lawn and garden equipment, furnishings and supplies. This definition specifically does not include nurseries and greenhouses that are defined by the state as "Agriculture" or "Accepted Agricultural Practices" and are therefore exempted from these regulations. See also Agriculture, Accepted Agricultural Practices.

Group Home: A residential care home to be operated under state licensing or registration, serving not more than eight persons who have a handicap or disability as defined in 9 V.S.A. §4501. (See Section 4.7.)

Health Clinic: A building or part thereof used for the medical, dental, surgical, or therapeutic treatment of human beings, but does not include a public or private hospital or a professional office of a doctor located in his or her residence. See also Home Occupation, Office.

Height: see Building Height.

Historic Structure: Any structure that is: (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on

Maintenance: Periodic actions required to keep up a condition and that do not significantly change the materials or extent of an existing condition in the hazard area.

Manufactured Home: See Mobile Home.

Mean Sea Level: The standard datum to which base flood elevations shown on Flood Insurance Rate Maps, and typical contour elevations, are referenced.

Mixed Use: A building or parcel containing two or more uses which are otherwise allowed as permitted or conditional uses within the district in which the building or parcel is located (see Section 4.12). See also Accessory Use, Principal Use.

Mobile Home (or Manufactured Home): 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.”

Mobile Home Park: A parcel of land under single or common ownership or control which contains, or is designed, laid out or adapted to accommodate three or more mobile homes.

Motor Vehicle Sales: A building, lot or portion thereof used for the sale and/or rental of automobiles, trucks, motorcycles, or other motor vehicles. This definition specifically excludes motor vehicle service, which may be allowed in designated zoning districts subject to review as a Mixed Use. See also Mixed Use, Motor Vehicle Service.

Motor Vehicle Service: An establishment whose principal purpose is the repair of motor vehicles, including body shops, general vehicle and engine repair shops, and rebuilding and/or reconditioning shops. Gasoline stations are specifically excluded from this definition. See also Gasoline Station, Motor Vehicle Sales.

Multi-Family Dwelling: A building housing three or more dwelling units, including apartments or attached town houses. See also Dwelling Unit.

Municipal Land Use Permit: As defined in the Act [§4303(11)] to include, as issued by the municipality: (1) final zoning, subdivision, site plan or building permits or approvals relating to subdivision and land development; (2) septic or sewage system permits; (3) final official minutes of meetings which relate to permits or approvals, which serve as the sole evidence of such permits or approvals; (4) certificates of occupancy, compliance or similar certificates; and (5) any amendments to the previously listed, permits, approvals and/or certificates.

New Construction: Structures or subsequent improvements to existing structures that were either a) Issued a permit by the Zoning Administrator after the effective date of these bylaws; or b) Structures or subsequent improvements to existing structures, not exempt from these bylaws, that occurred after the effective date of these bylaws. For purposes of these bylaws, “occur” shall mean: a) Substantial commencement of any development outside of the Special Flood Hazard Area; or b) Start of construction of any development within the Special Flood Hazard Area.

Nonconforming Structure: A structure or part of a structure that does not conform to the present bylaws but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a structure improperly authorized as a result of error by the administrative officer.

Nonconforming Use: The use of land that does not conform to the present bylaws 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.

accessory to an approved educational facility or a residential use.

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

Replacement Structure: A new building placed in the same footprint as the pre-existing building and does not include a change in use.

Required Agricultural Practices (RAPs): Required practices for agriculture, including farm structures other than dwellings, as currently defined by the Commissioner of Vermont Department of Agriculture, Food and Markets in accordance with the Act [§4413(d)]. Also see *Agriculture*.

Residential Care Facility: A facility licensed by the state which provides primarily non-medical residential care services to seven or more individuals in need of personal assistance essential for sustaining the activities of daily living, or for the protection of the individual, on a 24-hour a day basis. See also Day Care Facility, Group Home.

Residential Use: The use of a structure principally for dwelling purposes, and associated customary accessory uses such as a child care home or home occupation as defined under these regulations. For the purposes of these regulations, group homes shall also be considered a residential use of a single family dwelling.

Restaurant: Premises where food and drink are prepared, served and consumed primarily within the principal building.

Retail Store: Establishment where goods or merchandise are offered for retail sale or short term rental to the general public for personal, business or household consumption and services incidental to the sale of such goods are provided. This definition specifically excludes motor vehicle sales, motor vehicle service and gasoline stations, and the retail sale of gasoline in association with other retail uses.

Retreat Center: A facility used for professional, education or religious conclaves, meetings, or seminars and which may provide meals, housing and recreation for program participants. Such facilities shall not be open to the general public for meals or lodging. Kitchen and dining facilities shall be located in a single, centrally located building.

Ridgeline: The uppermost points on a profile of a ridge, hill, cliff, slope or face. It may coincide with the top (highest elevation) of a rock cliff or, where the bedrock is not exposed, the most obvious break in slope associated with the underlying bedrock. The term does not include intermediate terraces, steps, or elevations along the face of a slope.

Road: A right-of-way that provides access to four or more parcels. The word "road" shall mean the entire right-of-way, unless otherwise specified under these regulations. See also Driveway, Public Road.

Road Grade: Officially established grade (slope) of the road upon which a lot fronts. If there is no officially established grade, the existing grade of the road shall be taken as the road grade.

Salvage Yard: Any place of outdoor storage or deposit for storing, keeping, processing, buying, or selling junk or as a scrap metal processing facility as defined in 24 V.S.A. § 2241(12). "Salvage yard" also means any outdoor area used for operation of an automobile graveyard as defined in 24 V.S.A. § 2241. It does not mean a garage where wrecked or disabled motor