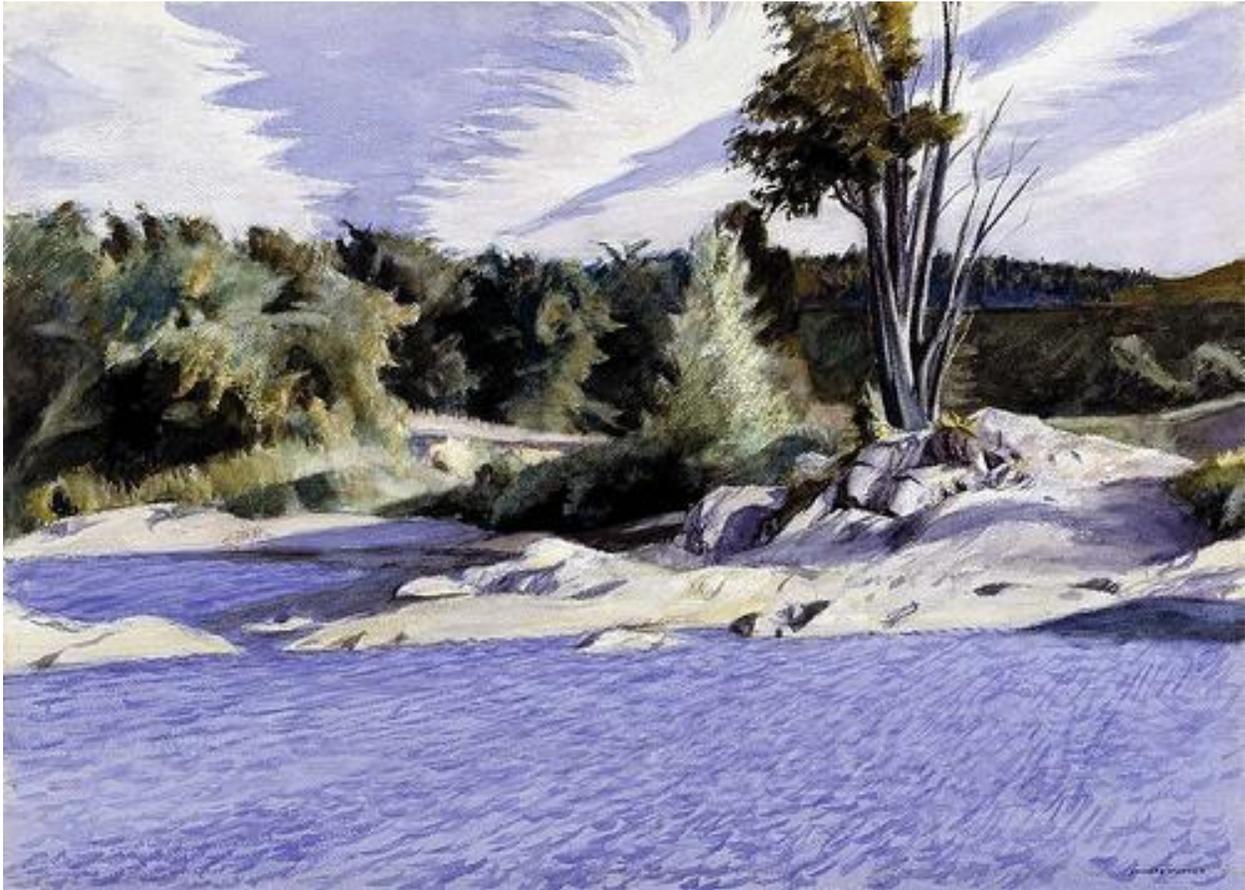


FLOOD HAZARD AREA BYLAW

Town of Sharon, Vermont



“White River at Sharon” Edward Hopper, 1937
Used with permission from the *Smithsonian American Art Museum*

These Regulations were developed by the Sharon Planning Commission and the Sharon Selectboard with assistance from the Vermont Agency of Natural Resources Department of Environmental Conservation’s Water Quality Division, and Two Rivers-Ottawaquechee Regional Commission

ADOPTED December 6, 2010

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1 STATUTORY AUTHORIZATION AND EFFECT

In accordance with 10 V.S.A. Chapter 32, and 24 V.S.A. Chapter 117 §4424, §4411 and §4414, there is hereby established a bylaw for areas at risk of flood damage in the Town of Sharon, Vermont. Except as additionally described below, all administrative procedures follow 24 V.S.A. Chapter 117.

2 STATEMENT OF PURPOSE

It is the purpose of this bylaw to:

1. Implement the goals, policies, and recommendations in the current municipal plan;
2. 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;
3. 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 flood plain services or the stream corridor;
4. 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 Sharon, its citizens and businesses eligible for federal flood insurance, federal disaster recovery funds, and hazard mitigation funds as they may be available.

3 OTHER PROVISIONS

3.1 PRECEDENCE OF BYLAW

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 Bylaw imposes a greater restriction the provisions here shall take precedence.

3.2 VALIDITY AND SEVERABILITY

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

3.3 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 bylaw shall not create liability on the part of the Town of Sharon or any municipal official or employee thereof, for any flood damages that result from reliance on this bylaw, or any administrative decision lawfully made hereunder.

3.4 ADMINISTRATIVE OFFICER

There is hereby established an Administrative Officer (AO) to be appointed by the Selectboard as specified under 24 V.S.A. §4448.

3.5 DEVELOPMENT REVIEW BOARD

There is hereby established a Development Review Board (Board) to be appointed by the Selectboard as specified under 24 V.S.A. §4460. Such a Board may be comprised of members of the Planning Commission.

4 LANDS TO WHICH THIS BYLAW APPLIES

4.1 REGULATED HAZARD AREAS

These bylaws shall apply to the Fluvial Erosion Hazard Areas and Special Flood Hazard Areas (hereafter called "hazard areas") in the Town of Sharon Vermont as described below. These bylaws shall also apply to lands near streams that may be at risk from flooding or erosion, but that have not been mapped as flood risks due to their smaller size. These hazard areas overlay each other, and any proposed development must meet the strictest minimum standards in any applicable area. These hazard areas include:

1. The Fluvial Erosion Hazard (FEH) area as determined on the most current Fluvial Erosion Hazard Area Map published by the Vermont Agency of Natural Resources which is hereby adopted by reference and declared to be part of these bylaws. The following streams were mapped and are included in the FEH area: Broad, Elmers, Fay, Quation;

2. The Special Flood Hazard Area (SFHA) in and on the most current flood insurance studies and maps published by the Department of Homeland Security, Federal Emergency Management Agency (FEMA), National Flood Insurance Program (NFIP), as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. Chapter 32 § 753, which are hereby adopted by reference and declared to be part of these bylaws; and
3. Lands Within the Stream Buffer, which are the lands within:
 - 50 feet of Broad Brook, Mitchell Brook, High Pole Branch (upstream to Carpenter Road), and Honey Brook (upstream to Howe Hill Road); and
 - 25 feet of all other perennial streams (excluding FEH areas);as measured perpendicular to the top of the bank.

4.2 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 bylaws. 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, the Commission may require the applicant to develop the necessary data. Where available, the applicant shall use data provided by FEMA, or Vermont, or federal agencies.

4.3 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 boundaries of the Special Flood Hazard Area or the floodway, the location of the boundary shall be determined by the Administrative Officer (AO). If the applicant disagrees with the determination made by the AO, a Letter of Map Amendment (LOMA) from FEMA shall constitute proof.
2. If uncertainty exists with respect to the boundaries of the Fluvial Erosion Hazard Area, the location of the boundary shall be determined by the AO. If the applicant disagrees with the determination made by the AO, a letter of determination from the Vermont Agency of Natural Resources shall constitute proof.
3. If uncertainty exists as to whether a perennial stream shown on the attached map exists and is in the correct location, or the location of the top of bank for that stream, the location/top of bank of the stream shall be determined by the AO, with assistance from the Vermont Agency of Natural Resources if needed. Landowners may provide survey or other data to aid in this determination.

5 SUMMARY TABLE: DEVELOPMENT REVIEW IN HAZARD AREAS

The hazard areas are not appropriate sites for new structures or for developments that increase the elevation of the base flood.

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

Table Legend	
P	Permitted
C	Conditional Use Review
X	Prohibited
A	Exempted

¹ Towns that do not have mapped floodways and/or base flood elevations (BFEs) may require the applicant to collect flood elevations (see 4.2.)

6 DEVELOPMENT REVIEW IN HAZARD AREAS

6.1 PERMIT

A permit is required from the Administrative Officer (AO) for all development in all areas defined in Section 4. Development that requires conditional use approval, non-conforming use approval, or a variance from the Development Review Board (Board) under these Flood Hazard Area Bylaws, must have such approvals prior to the issuance of a permit by the AO. Any development subject to municipal jurisdiction in the designated hazard areas shall meet the criteria in Section 6 and 7. Any permit issued will require that all other necessary permits from state or federal agencies have been received before work may begin.

6.2 PERMITTED DEVELOPMENT

For the purposes of review under these bylaws, the following development activities in the Special Flood Hazard Area where outside of the floodway and outside of the Fluvial Erosion Hazard Zone and the stream buffer, and meeting the Development Standards in Section 7, require only an administrative permit from the AO:

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

6.3 PROHIBITED DEVELOPMENT IN SPECIAL FLOOD HAZARD AREA, FLUVIAL EROSION HAZARD ZONE AND STREAM BUFFER

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 existing structures above the base flood elevation;
4. Accessory structures in the floodway only;
5. Critical facilities; and,
6. All development not exempted, permitted, or conditionally permitted.

6.4 CONDITIONAL USE REVIEW

Conditional use review and approval by the Board is required prior to the issuance of a permit by the AO for the following proposed development within the hazard areas, unless otherwise specified:

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 to 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/Stream Buffer that do not expand the footprint of the existing structure by more than 500 square feet;
9. Small accessory structures in the Fluvial Erosion Hazard Zone or Stream Buffer, of 500 square feet or less, that represent a minimal investment;
10. Building utilities in the Fluvial Erosion Hazard Zone or Stream Buffer; and,
11. At-grade parking for existing buildings in the Fluvial Erosion Hazard Zone or Stream Buffer.

6.5 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. Silvicultural (forestry) activities conducted in accordance with the Vermont Department of Forests and Parks Acceptable Management Practices; and,
4. Agricultural activities conducted in accordance with the Vermont Department of Agriculture's Accepted Agricultural Practices (AAP). Prior to the construction of farm structures the farmer must notify the AO in writing of the proposed activity. The notice must contain a sketch of the proposed structure including setbacks.

6.6 VARIANCES

Variations may be granted in writing by the Board only in accordance with all the criteria in 24 V.S.A. § 4469, § 4424 (E), and 44 CFR § 60.6, and after a public hearing noticed as described in Section 8.

1. A variance for development within the Fluvial Erosion Hazard Zone may be allowed if, based on 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 shall not increase flood heights, and shall 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 by amounts up to \$25 for each \$100 of coverage. Such notification shall be maintained with a record of all variance actions.

6.7 NONCONFORMING STRUCTURES AND USES

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

1. The proposed development is in compliance with all the development standards in Section 7 of this bylaw;
2. A nonconforming structure that is substantially damaged or destroyed may be reconstructed only in circumstances when the structure cannot be relocated to a less hazardous location on the parcel. The lowest floor of the reconstructed structure must be rebuilt to one foot or more above the base flood elevation, and the structure must otherwise comply with all requirements of the National Flood Insurance Program;
3. Nonconforming structures or uses shall be considered abandoned where such structures or uses have been 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 according to the development standards in Section 7 of this bylaw.

7 DEVELOPMENT STANDARDS

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

7.1 SPECIAL FLOOD HAZARD AREA

1. All development shall be:
 - Reasonably safe from flooding;
 - Designed, operated, maintained, modified, and adequately anchored to prevent flotation, collapse, release, or lateral movement of the structure;
 - Constructed with materials resistant to flood damage;
 - Constructed by methods and practices that minimize flood damage;
 - 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;
 - Adequately drained to reduce exposure to flood hazards;
 - Located so as to minimize conflict with changes in channel location over time and the need to intervene with such changes; and,
 - 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 securely anchored to prevent flotation; or storage tanks may be placed underground, if securely anchored as certified by a qualified professional.
2. Where base flood elevations and/or floodway limits have not been determined, new enclosed additions to existing structures 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 one 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. Structures to be substantially improved shall be located such 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:
 - Meet the standards in 7.1.3; or,
 - Have the lowest floor including basement, together with attendant utility and sanitary facilities, be 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 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 crawlspaces and basements) are prohibited.
6. Fully enclosed areas that are above grade, below the lowest floor, below base flood elevation and subject to flooding, shall:
 - Be solely used for parking of vehicles, storage, or building access, and such a condition shall clearly be stated on any permits; 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 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. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
 - The bottom of all openings shall be no higher than one foot above grade.
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 Section 7.1.6.
9. Water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
10. Sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
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. Bridges and culverts, which by their nature must be placed in or over the stream, must have a stream alteration permit from the Agency of Natural Resources where applicable.
14. Subdivisions and Planned Unit Developments must be accessible by dry land access outside the Special Flood Hazard Area.

7.2 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:
 - Not result in any increase in flood levels (0.00 feet) during the occurrence of the base flood;
 - 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.

7.3 FLUVIAL EROSION HAZARD ZONE/STREAM BUFFER

1. Improvements to existing structures, and any associated fill that is needed to comply with elevation requirements in the Special Flood Hazard Area shall not decrease the distance between the existing primary building 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 and facilities including roads, bridges, culverts, and emergency service providers during and after fluvial erosion events.
6. Bridge and culvert projects must have a Stream Alteration Permit (if required); and,
7. Channel management activities must be authorized by the Agency of Natural Resources.

8 ADMINISTRATION

8.1 APPLICATION SUBMISSION REQUIREMENTS

1. Applications for development shall be made to the AO and shall include:
 - The name and contact information for the owner of the property, including any agents authorized to act on their behalf;
 - A thorough description of the proposed development;
 - General location map including the address of the property, tax parcel ID, relative locations of the existing development and the nearest public road;
 - Where applicable, a site plan that depicts the proposed development, all water bodies, Special Flood Hazard Areas, Fluvial Erosion Hazard Areas, Stream Buffer, floodways, top of banks, 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;
 - A Vermont Agency of Natural Resources Project Review Sheet for the proposal. The 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 AO and attached to the permit before work can begin;
 - If this is an appeal for a variance, then the appeal application must include responses to the criteria set forth in 24 V.S.A. §4469, §4424 (E), and CFR 60.6;
 - Three (3) copies of the application to be forwarded to: the National Flood Insurance Program Coordinator at the Vermont Agency of Natural Resources; Department of Environmental Conservation; River Management Program; and,
 - The appropriate fee as determined by the Selectboard.
2. For applicants seeking conditional use approval, approval under nonconforming structures and uses, or a variance, the following shall also be provided:
 - A list of all abutters names and mailing addresses;
 - A statement of purpose and need for the proposed development;
 - A description of the alternatives to the proposed development considered, including alternate locations on site, especially outside of the hazard area;
 - Such pertinent information as identified in the bylaws or deemed necessary by the Board for determining the suitability of the proposed development for the site;

- Copies of the application sufficient for the file, the Board members, the National Flood Insurance Program Coordinator at the Vermont Agency of Natural Resources, and additional parties such as the VT DEC Stream Alteration Engineer and adjacent communities if affected under Section 8.2.2; and,
- Any additional fees as required by the Selectboard.

8.2 REFERRALS

1. Upon receipt of a complete application the AO shall submit a copy of the application and supporting information to the 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 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.

8.3 PUBLIC NOTICE

1. Prior to the issuance of a permit, proposals needing conditional use review, nonconforming structures and uses review, or approval for a variance, must have a warned public hearing. A copy of the application shall be submitted to VT ANR at least 30 days prior to the date of the public hearing. Public notice of the hearing shall be provided at least 15 days notice before the date of the hearing by all the following:
 - Publication of the date, place, and purpose of the hearing in the newspaper.
 - Posting of the same information in three or more public places within the municipality including posting within view from the public right-of-way nearest to the property for which an application is made; and,
 - Written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to any public right-of-way, as well as to all interested persons (as defined in 24 V.S.A. Chapter 117). The notification shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal.

- For hearings on subdivision plats located within 500 feet of a municipal boundary, written notification to the clerk of the adjoining municipality.
2. The applicant shall bear the cost of the public warning and notification of adjoining landowners.
 3. No defect in the form or substance of any required public notice under this section shall invalidate the action of the Board where reasonable efforts have been made to provide adequate posting and notice. The action shall be invalid, however, when the defective posting or notice was materially misleading in content. If an action is ruled to be invalid by the Environmental Court, the action shall be remanded to the Board to provide new posting and notice, hold a new hearing, and take a new action.

8.4 DECISIONS

1. The Administrative Officer shall act within 30 days to approve or deny the application, or refer the application to the Development Review Board. Applications that cannot be approved in compliance with this bylaw shall be denied. Actions of the AO can be appealed as stated in 8.7. If the AO fails to act within the 30-day period, a permit shall be deemed issued on the 31st day.
2. The Board shall consider comments from the NFIP Coordinator at ANR. The Board may recess the proceedings on any application pending submission of additional information. The Board should close the hearing promptly after all parties have submitted the requested information, adjourn the hearing, and may deliberate prior to issuing its decision.
3. Decisions by the Board shall include a statement of the factual basis on which the Board based its conclusions regarding how the proposed development will meet the development standards, and a statement of the conclusions. In rendering a decision in favor of the applicant, the Board may attach additional reasonable conditions and safeguards as it deems necessary to implement the purposes of this bylaw and the municipal plan then in effect. For the approval to be valid, board decisions shall be conditioned to assure that all necessary permits are received from federal, state or municipal agencies that require approval by law. The Board may provide for the conditioning of permit issuance on the submission of a bond, escrow account, or other surety in a form acceptable to the legislative body of the municipality to assure one or more of the following: the completion of the project, adequate stabilization, or protection of public facilities that may be affected by a project.
4. Decisions of the Board shall be issued in writing within 45 days after the adjournment of the final hearing. All decisions shall be sent by certified mail to the applicant, and the appellant in matters on appeal. Copies of the decision shall also be mailed to every person or body appearing and having been heard at the hearing. The decision will include a notice that an interested person may appeal the decision within 15 days.

8.5 RECORDS

1. Within three days following the issuance of a permit, the Administrative Officer shall:
 - Post a copy of the permit in at least one public place in the municipality until the expiration of 15 days from the date of issuance of the permit.
2. Within 30 days after a permit has been issued or within 30 days of the issuance of any notice of violation, the AO shall:
 - Deliver the original or a legible copy of the permit, or notice of permit, and any approvals to the municipal clerk for recording in the land records as provided in 24 V.S.A., § 1154(a), and § 4449;
 - File a copy of the permit and any approvals in the municipal office in a location where all municipal land use permits are kept; and,
 - The AO may charge the applicant for the cost of the recording fees as required by law.
3. The Administrative Officer shall properly file and maintain a record of:
 - All permits issued in areas covered by this bylaw;
 - Elevation Certificates with the as-built elevation (consistent with the datum of the elevation on the current Flood Insurance Rate Maps for the community) of the lowest floor, including basement, of all new or substantially improved buildings (not including accessory buildings) in the Special Flood Hazard Area
 - All flood proofing and other certifications required under this bylaw; and,
 - All decisions of the Development Review Board (including variances and violations) and all supporting findings of fact, conclusions and conditions.

8.6 PERMIT VALIDITY

Each permit issued shall:

1. State the period of time within which an appeal may be taken;
2. Require posting of a notice of permit on a form prescribed by the municipality within view from the public right-of-way most nearly adjacent to the subject property until the time for appeal in has passed;
3. Not take effect until 15 days after issuance, or in the event that a notice of appeal of a decision by the Administrative Officer is properly filed, not take effect until adjudication of that appeal by the Board is complete and the time for taking an appeal to the Environmental Court has passed without an appeal being taken. If an appeal is taken to the Environmental Court, the permit shall not take effect until adjudication by the Environmental Court; and,
4. Be valid for a period of two years.

8.7 APPEALS

An interested person, as defined in 24 V.S.A. Chapter 117, may appeal any decision or act taken by the Administrative Officer by filing a notice of appeal with the secretary of the Board, or with the municipal clerk if no such secretary has been elected. This notice of appeal must be filed within 15 days of the date of that decision or act, and a copy of the notice of appeal shall also be filed with the Administrative Officer.

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

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

Decisions of the Board may be appealed under §4471. Within 30 days of a decision by the Commission, under §4471 an Interested Person who has participated in the municipal regulatory proceeding may appeal to the Vermont Environmental Court.

9 CERTIFICATE OF OCCUPANCY

In accordance with 24 V.S.A. Chapter 117 §4449, it shall be unlawful to use or 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 any hazard area regulated under this Bylaw until a certificate of occupancy is issued by the Administrative Officer, stating that the proposed use of the structure or land conforms to the requirements of these bylaws.

A certificate of occupancy is not required for structures that were built prior to the adoption of this bylaw that are in compliance with the 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 AO 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 permit and associated approvals. If the AO 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, the denial will be sent to the owner with a copy to the lender.

10 ENFORCEMENT AND PENALTIES

It shall be the duty of the Administrative Officer to enforce the provisions of this bylaw. Upon determination that a violation exists, the Administrative Officer shall notify the alleged offender of the violation by certified mail.

1. The notice of enforcement shall state that:
 - A violation exists;
 - The alleged offender has an opportunity to cure the violation within seven days of receipt;
 - Failure to cure the violation may result in fines and/or loss of flood insurance;
 - The alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days within the next succeeding 12 months; and,
 - The notice of violation may be appealed as specified in Section 8.7.
2. Copies of the notice of violation will be:
 - Mailed to the Vermont NFIP Coordinator,
 - Filed in the land use permit files within 30 days; and,
 - Delivered to the municipal clerk for recording in the land records.
3. After seven days, if the violation has not been remedied, in accordance with 10 V.S.A. §1974(a), or 24 V.S.A. §4451 and §4452, any person who is found to have violated this bylaw shall be fined by the court not more than \$100.00 for each offense. No action may be brought under this section unless notice, as required above, has been given. In default of payment of the fine, the violator's fine shall be doubled. Each day that a violation is continued shall constitute a separate offense.
4. If any appeals have been resolved, but the violation remains, the AO shall submit a declaration to the Administrator of the National Flood Insurance Program requesting a denial of flood insurance to the violator. The declaration shall consist of: (a) the name of the property owner and address or legal description of the property sufficient to confirm its identity or location, (b) a clear and unequivocal declaration that the property is in violation of a cited state or local law, bylaw, or ordinance, (c) a clear statement that the Administrative Officer making the declaration has authority to do so and citation to that authority, (d) evidence that the property owner has been notified of the violation and the prospective denial of insurance, and (e) a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.
5. 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.

11 DEFINITIONS

“Accessory Structure (small)” means a structure which is: 1) detached from and clearly incidental and subordinate to the principal use of or 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.

“Agriculture” refers to the land-based production of food through activities such as the cultivation of plants and the raising of livestock.

“AO” means Administrative Officer, see Section 3.4.

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

“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 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.

“BFE” see Base Flood Elevation.

“Board” means Development Review Board, see Section 3.5.

“Channel” means an area that contains continuously or periodic 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 average, about once every one to two years.

“Channel Management” means intentional changes to the bed, bank or current of any watercourse.

“Common Plan of Development” is where a structure will be refurbished over a period of time. Such work might 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 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.

“Development” means 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.

“FEH” means Fluvial Erosion Hazard.

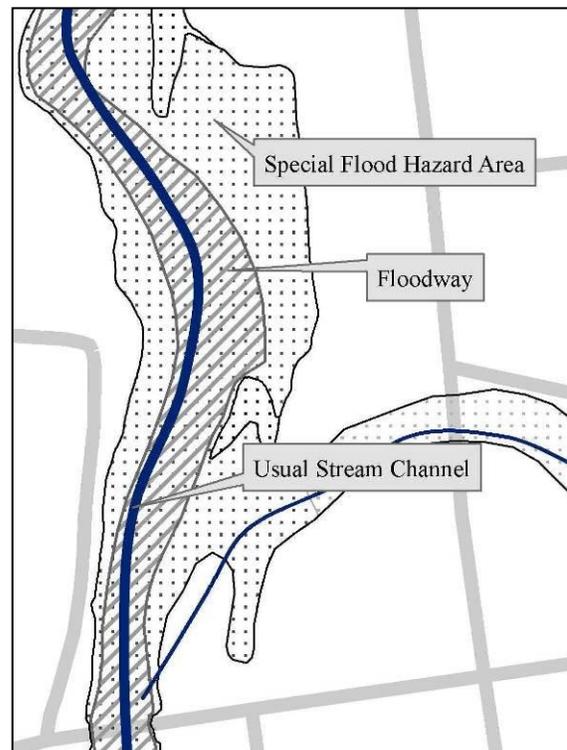
“FEMA” means Federal Emergency Management Agency.

“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 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 a body of water as a result of erosion or undermining caused by 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 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 or Flood-Prone Area” means any land area susceptible to being inundated by water from any source (see definition of “flood”).

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

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

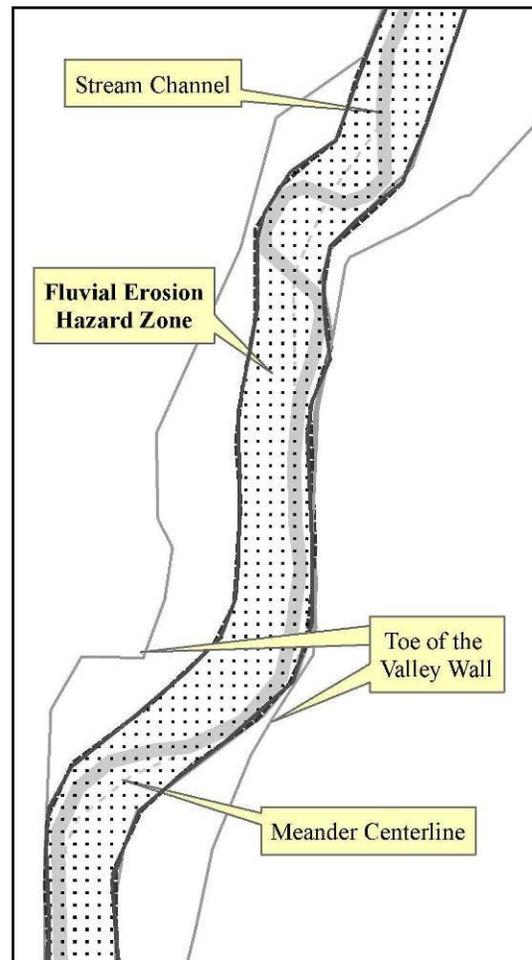
“Floodway, Regulatory in the Town of Sharon” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation by more than one foot at any point.

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

“Fluvial Erosion Hazard Zone” includes the stream and adjacent lands necessary to accommodate the slope and plan form 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.

“Forestry” is the land-based practice of growing and managing woodlands.

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



“Hazard Areas” means any area in the Fluvial Erosion Hazard Area, Stream Buffer or Special Flood Hazard Area.

“Historic Structure” means any structure that is: (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (i) by an approved state program as determined by the Secretary of the Interior or (ii) directly by the Secretary of the Interior in states without approved programs.

“Grading” is a human-caused change to landscape elevation or shape.

“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 requirements 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 bylaw adopted by the community and includes any subsequent improvements to such structures.

“NFIP” means National Flood Insurance Program.

“Nonconforming Structure” means 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 bylaws prior to the enactment of the present bylaws, including a structure improperly authorized as a result of error by the administrative officer. Structures that were in violation of the Flood Hazard Bylaws at the time of their creation, and remain so, remain violations and are not nonconforming structures.

“Nonconforming Use” means 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.

“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.

“Open Space, Recreation” are areas or activities compatible with flood water storage and movement such as providing access to water, fishing, hunting, trails, picnic areas, game fields, outdoor activities, and the gathering of people that does not involve the erection of structures or other development.

“Perennial Stream” means a stream or river that flows year round and is mapped as such on the Vermont Hydrography data layer. Mapping errors can be contested by landowners under the appeal process.

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

“Special Flood Hazard Area” is the floodplain within a community subject to a one percent or greater chance of flooding in any given year. For purposes of these bylaws, the term “area of special flood hazard” is synonymous in meaning with the phrase “special flood hazard area”. For the White River in Sharon, this area is labeled Zone A, in the most current flood insurance studies and on the maps published by the Federal Emergency Management Agency. Base flood elevations have not been determined in Zone A. FEMA maps are available for viewing in the Sharon Town Hall or online from the FEMA Map Service Center: www.msc.fema.gov.

“Start of Construction” for purposes of floodplain management, the effective map or bylaw regulates development in the Special Flood Hazard Area. The “start of construction” includes substantial improvement, and means the date the permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not

part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, regardless whether that alteration affects the external dimensions of the building.

“Storage” is the placement of equipment or material of more than 10 cubic yards of average volume for more than 180 days.

“Stream” means a perennial stream or river.

“Stream Buffer” means the land within: 50 feet of Broad Brook, Mitchell Brook, High Pole Branch (upstream to Carpenter Road), and Honey Brook (upstream to Howe Hill Road); and 25 feet of all other perennial streams (excluding FEH areas) as measured perpendicular to the top of the bank.

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

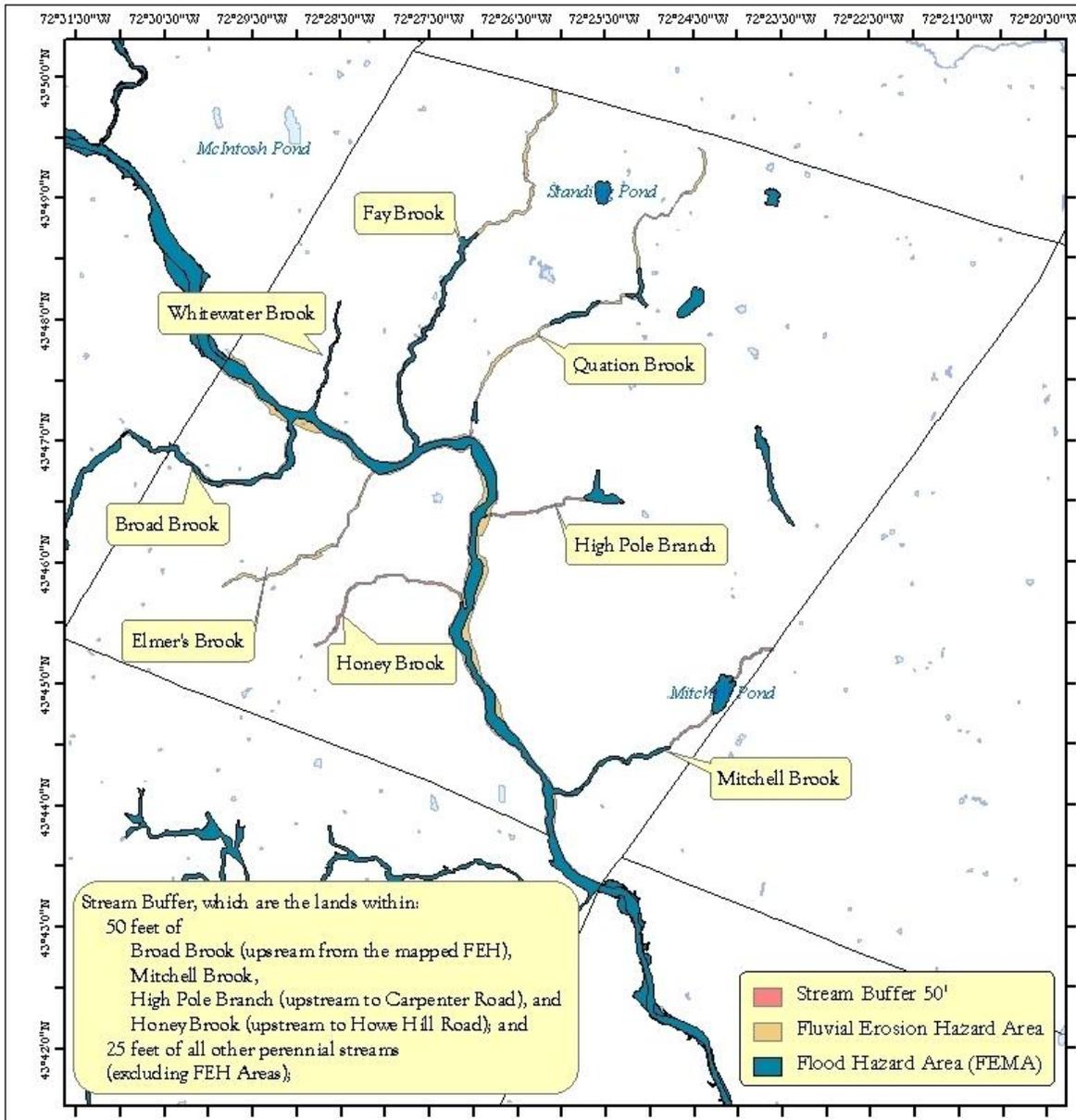
“Substantial Damage” means damage to a structure by any cause whereby the cost of restoring the structure to its before-damaged conditions would equal or exceed 50 percent of the market value of the structure before the damage occurred.

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

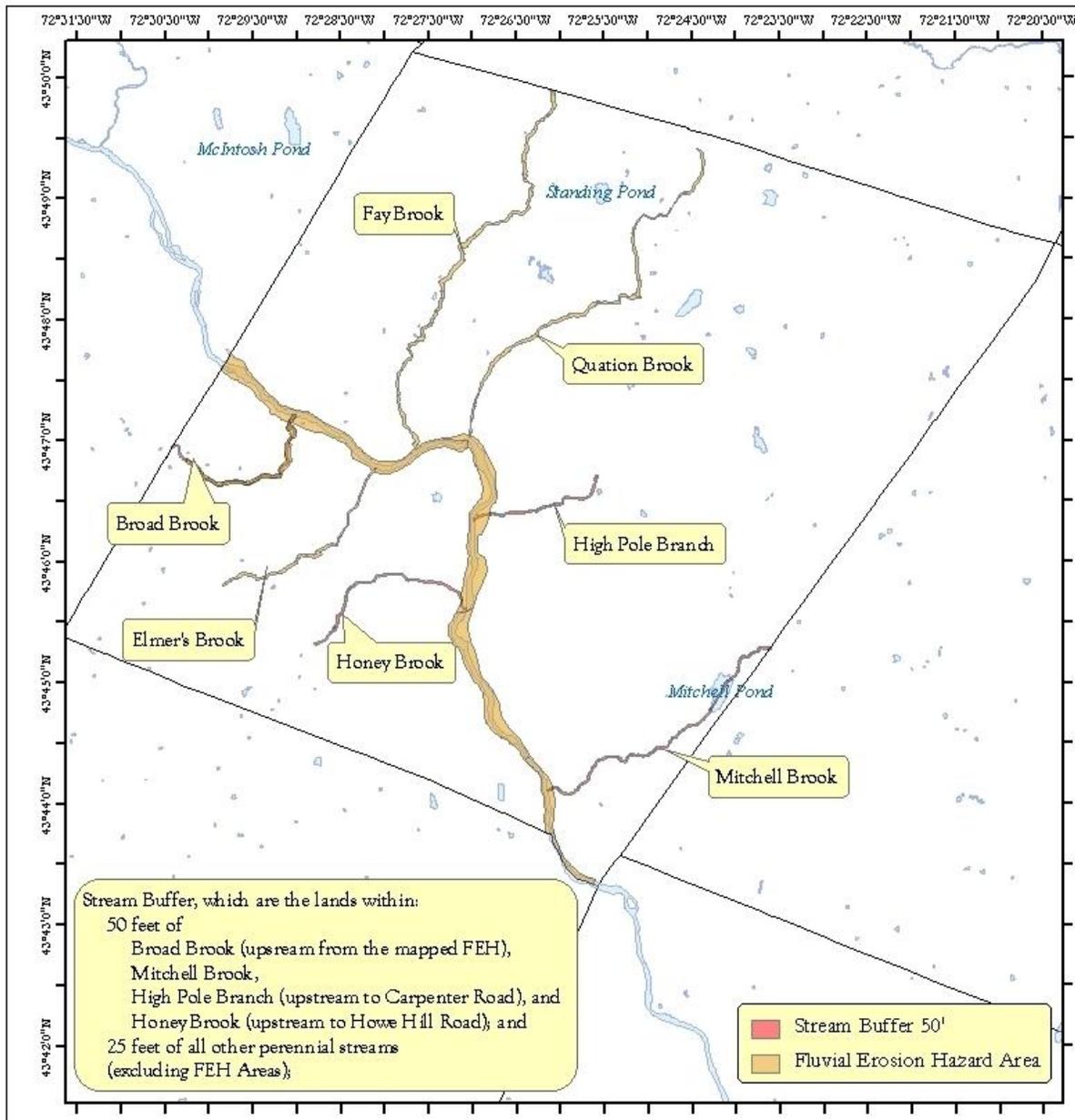
“Top of Bank” means that vertical point along a stream bank where an abrupt change in slope is evident. For streams in wider valleys it is the point where the stream is generally able to overflow the banks and enter the floodplain. For steep and narrow valleys, it will generally be the same as the top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

“Top of Slope” means a break in slopes adjacent to steep-banked streams that have little or no floodplain.

“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, other certifications, or other evidence of compliance required in 44 CFR 60.3 is presumed to be in violation until such time as that documentation is provided.



Map of FEMA Flood Hazard Area in Sharon, VT.



Map of Fluvial Erosion Hazard and Stream Buffer Areas in Sharon, VT.