

Town of Lyndon Notice of Public Hearing

Notice is hereby given to the residents of the Town of Lyndon that the Lyndon Planning Commission will hold a public hearing via Zoom on **Wednesday, February 3rd, 2021 at 6:00 pm**. This hearing will be held for public review and comment on the proposed revisions to Lyndon's Zoning Bylaws pursuant to Title 24 VSA, Chapter 117, the statute that regulates planning and zoning. If and when it is adopted, the proposed Bylaws will affect all lands within the Town of Lyndon.

The Town of Lyndon's Bylaws have been revised to provide more flexibility to property owners within the Town's existing Special Flood Hazard Areas and River Corridors, while maintaining full compliance with the regulatory requirements of FEMA's National Flood Insurance Program (NFIP), thus allowing Lyndon property owners to continue obtain flood insurance through this federal program. Additionally, by adopting language pertaining to the regulation of River Corridors found in the Vermont Agency of Natural Resources' (ANR's) 2018 Model Bylaws, these revised bylaws will continue to allow Lyndon to participate in the Vermont Emergency Relief and Assistance Fund (ERAF) at the highest reimbursement rate available.

Specific changes to the Town of Lyndon's Bylaws include the following:

- The revised bylaws will allow the conditional use of fill within those portions of the Special Flood Hazard Areas that are outside the floodway limits, provided that specific development standards are met, and the fill is being proposed in conjunction with the development or redevelopment of a land parcel, or is being proposed contemporaneously with the removal of a building or structure. (Art. 11.4.D.2)
- The revised bylaws will allow for new structures, other than critical facilities, within those portions of the Special Flood Hazard Areas that are outside the floodway limits, provided that such proposed structures meet certain development standards. (Art. 11.4.D.1, Art. 11.5)
- More specifically, under the revised bylaws, a permit applicant proposing development within those portions of the Special Flood Hazard Areas that are outside the floodway limits, will be required to demonstrate that their proposed project will not negatively impact other properties by newly exposing existing structure thereon to inundation during a base flood (commonly referred to as a "100-year flood"). (Art. 11.5.A.3.a.) Alternatively, an applicant that cannot so demonstrate will be required to provide compensatory storage for floodwater to offset the impacts of their proposal. (Art. 11.5.A.3.b)
- New development within the River Corridors will also be allowed, if they meet specific development standards, which have been incorporated from ANR's 2018 Model Bylaws. More specifically, new development in the River Corridors will be allowed if the proposed development constitutes "in-fill development" or "shadow area development" as defined by the revised bylaws. (Art. 11.5.C)

- The revised bylaws will simplify the permitting of certain non-substantial improvements to existing structures outside the floodway, but within a Special Flood Hazard Area and/or a River Corridor, by eliminating the need for conditional use review. Proposed decks, patios, additions or accessory structures with footprints of 500 square feet or less will be able to obtain administrative permits from the Town's Administrative Officer, provided that such improvements to existing structures comply with the development standards appropriate for the particular hazard area in which they are located. (Art. 11.4.C.1.a-b)
- The revised bylaws will allow septic and water supply systems outside the floodway to receive administrative permits from the Administrative Officer as opposed to needing conditional use approval. (Art. 11.4.C.1.c) Such systems within the floodway, however, will continue to need conditional use approval, as is presently the case. (Art. 11.4.D.10)
- Proposed at-grade parking for existing structures within the floodway would be allowed through administrative permits, as opposed to requiring conditional use approval by the Development Review Board. (Art. 11.4.C.1.e)
- The placement of a mobile home upon an existing lot within a mobile home park will be allowed through an administrative permit from the Administrative Officer. (Art. 11.4.C.1.g)
- River or floodplain restoration projects that do not involve fill, structures, utilities, or other improvements, will be permitted through an administrative permit upon written confirmation from the ANR Regional Floodplain Manager that the project is designed to meet or exceed the applicable standards in the Town's bylaw. (Art. 11.4.C.1.f.)
- The revised bylaws adopt several new definitions. (Art. XVII) The revised bylaws incorporate definitions for "existing manufactured home park or subdivision," "expansion to an existing manufactured home park or subdivision," and "new manufactured home park or subdivision," as required to comply with FEMA's National Flood Insurance Program. The revised bylaws adopt the definition for "watercourse" used in ANR's Stream Alteration Rule, and the definition for "reach" used by the U.S. Geological Survey. Definitions from ANR's 2018 Model Bylaws have been adopted for the terms "designated center," "equilibrium condition," "infill development," "river," "top of bank," and "top of slope." Additionally, the definition of "critical facilities" has been changed to match that found in ANR's 2018 Model Bylaws.
- Sections of the existing flood hazard regulations that are redundant of other provisions within Lyndon's zoning bylaws have either been eliminated or combined. In particular, the definition section of the current flood hazard regulations has been combined with the definition section applicable to the Town's zoning bylaws generally. (Art. XVII) The sections on variances, statutory authorization, precedence, validity and severability, and certificates of occupancy, within Article XI have been eliminated, and where appropriate,

combined with their generally applicable counterparts found elsewhere in Lyndon's zoning bylaws. (See, e.g., Art. 4.6, Art. 1.1, Art. 14.4).

- The section in the current version of Article XI that lists types of development that are prohibited has been eliminated. Rather than identifying what development is prohibited, the revised bylaws simply identify what development is permitted, and then everything else automatically becomes prohibited. (Art. 13.2.1)
- Inconsistencies between the Summary Table and the text of Article XI have been corrected. (Art. 11.4.A) More specifically, the current Summary Table's approach to water supply and septic systems and recreational vehicles are inconsistent with the actual text of the current bylaws. (Art. 11.4.A.6, 14)
- In addition, some terminology has "Administrator" or "ZA" have been replaced throughout with "Administrative Officer" or "AO" to be consistent with Lyndon's bylaws more generally.
- Finally, corrections have been made to various statutory citations within the bylaws.

The particular Town of Lyndon's Zoning Bylaw Articles to which revisions have been made include the following:

Article I: Adoption: Purpose
Article II: Zoning Districts
Article III: District Objectives and District Regulations
Article IV: General Provisions
Article V: Non-Conforming Uses
Article XI: Flood Hazard Regulations
Article XIII: Administration and Enforcement
Article XIV: Amendments, Interpretation, Effective Date
Article XVII: Definitions

Copies of the proposed revisions to Lyndon's Zoning Bylaws (**with proposed changes in Redline**) are available at the Lyndon Town Clerk's office, as well as online at <http://www.lyndonvt.org/>.

Please use the following Zoom log-in information:

<https://us02web.zoom.us/j/82160683358?pwd=b25QcUlrWDZGSmpJQUVmODFjeHpTdz09>

Meeting ID: 821 6068 3358
Passcode: 179741

Dated in Lyndon, Vermont,
January 18, 2021.

Town of Lyndon Planning Commission

Planning Commission Reporting Form for Municipal Bylaw Amendments

The following amendment to the Town of Lyndon Zoning Bylaws (Bylaws) was originally developed by a ‘Flood Hazard Regulations Working Group’ that was appointed by the Lyndon Selectboard on March 16, 2020. The ‘Working Group’ was made up of seven Lyndon residents (Ken Mason, Sylvia Dodge, Curtis Carpenter, David Stahler, Marty Feltus, Sue Mills, Craig Weston). The Working Group submitted a draft amendment to the Town of Lyndon Selectboard on September 1, 2020, which immediately referred the document to the Lyndon Planning Commission for consideration. The Planning Commission completed its revisions and review process on January 13, 2021. The amendment is intended to replace the existing Article XI Flood Hazard Regulations in the Bylaws (enacted in 2016). This report was developed in accordance with 24 V.S.A. §4441(c) and *does recommend* the proposed amendment to the Town Zoning Bylaws (Bylaws).

This report is in accordance with 24 V.S.A. §4441(c) which states:

“When considering an amendment to a bylaw, the planning commission shall prepare and approve a written report on the proposal. A single report may be prepared so as to satisfy the requirements of this subsection concerning bylaw amendments and subsection 4384(c) of this title concerning plan amendments. The report shall provide(:)

(A) brief explanation of the proposed bylaw, amendment, or repeal andinclude a statement of purpose as required for notice under §4444 of this title,

The proposed amendment to the current Town of Lyndon Zoning Bylaw Article XI Flood Hazard Regulations would allow responsible and regulated development, redevelopment, and protection of properties in Lyndon’s flood hazard areas.

Specifically, the amendment would:

- allow the use of fill more generally within those portions of the Special Flood Hazard area that are outside the floodway limits, provided that specific development standards are met.
- allow for new structures within those portions of the Special Flood Hazard area that are outside the floodway limits, provided that such proposed structures meet certain development standards.
- allow compensatory storage as a development standard when new structures and/or fill are proposed in those portions of the Special Flood Hazard area that are outside the floodway limits.
- allow for Administrative approval without conditional-use review of non-substantial improvements to existing structures and accessory structures that are proposed in those portions of the Special Flood Hazard area that are outside the floodway limits.
- correct minor technical errors such as statutory citations, terminology, definitions, redundancies, and inconsistencies between Article XI tables and text.

(A)nd shall include findings regarding how the proposal:

- 1. Conforms with or furthers the goals and policies contained in the municipal plan, including the effect of the proposal on the availability of safe and affordable housing:*

The proposed Bylaw amendment conforms with and furthers the goals and policies of the 2020 Lyndon Municipal Plan (The Plan) for the following reasons:

- Policy 9.3 (p. 75) of the Plan states that the Town should “ensure that any development within the Special Flood Hazard Area fully conforms to the minimum requirements of the National Flood Insurance Program” and Action 9.1 (p. 75) specifically calls for the Town to “maintain eligibility and continue to participate in the National Flood Insurance Program and continue to qualify for enhanced funding level through the Emergency Relief and Assistance Fund (ERAF)”.

The Article XI Flood Hazard Regulations amendment approved by the Lyndon Planning Commission on January 13, 2021 has been reviewed for the NFIP compliance (Sacha Pealer, VT Agency of Natural Resources) to ensure that Lyndon’s residential and commercial property owners can continue to purchase affordable flood insurance through the NFIP, which enhances the affordability of housing located within the FEMA-mapped 100-year floodplain (Special Flood Hazard Area).

- Policy 9.3 (p. 75) states that the Town should “ensure that any development within the Special Flood Hazard “supports protection of the community from increased flood and fluvial erosion risk” and Objective 9.1 calls for the careful evaluation of “proposed new development in the Special Flood Hazard Area and River Corridor and ensure that redevelopment in such areas does not exacerbate flooding” (p. 75). River Corridor protection was purposefully included in the amendment to the Article XI Flood Hazard Regulations to better address these flooding and fluvial erosion risks. The Article XI Flood Hazard Regulations amendment includes adequate standards to ensure that development in the Special Flood Hazard Area or River Corridor do not unduly increase flood hazard or fluvial erosion risks. This is accomplished by requiring that proposed development is evaluated by a licensed professional engineer before the project is reviewed by the Lyndon Development Review Board. Additional project review may also be required by State and Federal agencies.

- Action 9.1 (p. 75) calls for the Town to “continue to qualify for enhanced funding level through the Emergency Relief and Assistance Fund (ERAF)”. The inclusion of River Corridor protections, based on VT Agency of Natural Resources’ 2018 Model Bylaws, in the Article XI Flood Hazard Regulations amendment enables the Town to continue to qualify for the highest level of ERAF funding possible.

- The Article XI Flood Hazard Regulations amendment complies with 24 V.S.A. § 4424, which states that no permit for new construction or substantial improvement shall be granted for a project within a flood hazard area until a copy of the application is delivered to the Agency of Natural Resources and either 30 days have elapsed following the delivery or the Agency delivers comments on the application.

2. *Is compatible with the proposed future land uses and densities of the municipal plan:*

The amendment to the Article XI Flood Hazard Regulations is compatible with the proposed future land uses and densities of the Plan as it will effectively protect existing and future development in areas threatened by flooding, while enhancing opportunities for economic growth in Lyndon’s existing commerce areas along VT State Routes 5, 114, and 122 and other local roadways. The amendment ensures thoughtful, regulated development, in conjunction with protection of existing structures through the use of development standards in both River Corridors and Special Flood Hazard Areas. The amendment codifies development standards in these areas to aid in the evaluation of the potential impacts that development or redevelopment projects will have.

Additionally, the amendment to the Article XI Flood Hazard Regulations confirms the importance of:

- Protecting Lyndon’s wetland and riparian habitats by requiring vegetated buffers (p. 21)
- Enhancing economic growth in a regulated manner to ensure protections to existing and proposed structures, as well as the nearby waterways (Objective 1.1, Policy 1.1, p.24)

3. *Carries out, as applicable, any specific proposals for any planned community facilities.”*

Not applicable.

The Planning Commission finds the proposed amendment to be consistent with the goals and policies contained in the Municipal Plan and ***recommends adoption*** of the proposed amendment.

Respectively Submitted,

Justin M. Smith
Municipal Administrator
On Behalf Lyndon Planning Commission

Please Note:

- ❖ The planning commission shall hold at least one public hearing within the municipality after public notice on any proposed bylaw, amendment or repeal and;
- ❖ At least **15** days prior to the first hearing, a copy of the proposed plan or amendment and the written report shall be delivered with proof of the receipt, or mailed by certified mail, return receipt requested, to each of the following:
 1. the chairperson of the planning commission of each abutting municipality, or in the absence of any planning commission in an abutting municipality, to the clerk of that abutting municipality;
 2. the executive director of the regional planning commission of the area in which the municipality is located;
 3. the Department of Economic, Housing and Community Development within the Agency of Commerce and Community Development.
- ❖ The planning commission may make revisions to the proposed bylaw, amendment, or repeal and to the written report, and shall then submit the proposed bylaw, amendment or repeal and the written report to the legislative body of the municipality. If requested by the legislative body or supported by petition the planning commission shall promptly submit the amendment with changes only to correct technical deficiencies, together with any recommendations.
- ❖ Simultaneously, with the submission, the planning commission shall file with the clerk of the municipality a copy of the proposed bylaw, amendment, or repeal, and the written report for public review.

ARTICLE I.
ADOPTION: PURPOSE

- 1.1 **Adoption.** In accordance with 24 V.S.A. Chapter 117 §§ 4411, §4414, and 4424, 10 V.S.A. Chapter 32, and 24 VSA Chapter 59, the Town of Lyndon, Vermont hereby establishes the following ordinance as its zoning bylaws for the Town of Lyndon, which includes the Village of Lyndonville, and adopts the official zoning map for the Town of Lyndon. Except as additionally described below, all administrative procedures follow municipal procedures under 24 VSA Chapter 117.
- 1.2 **Purpose.** It is the purpose of these bylaws to provide for the orderly development of the Town of Lyndon in accordance with and to carry out the Lyndon Town Plan; to regulate the subdivision and uses of land and buildings in the town; to preserve and conserve the natural environment within the Town of Lyndon; to mitigate the burden of property taxes on agricultural, forest and other open lands; to protect residential, agricultural and other areas from undue concentrations of population and buildings and overcrowding of land, from traffic congestion, and from the loss of peace, quiet and privacy that presently characterizes the town; to maintain the historic settlement pattern within the town, and to promote the growth of the town consistent with that traditional settlement pattern; to foster a strong and diverse economy providing satisfying and rewarding job opportunities and to expand economic opportunities within the town while at the same time maintaining high environmental standards; to maintain and enhance the recreational opportunities within the town; to encourage and strengthen agricultural and forest industries and related businesses; to promote the availability of safe, sanitary, decent and affordable housing for all residents of the town; and to manage areas at risk of flood and fluvial erosion damage in the Town of Lyndon.

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ARTICLE II
ZONING DISTRICTS

- 2.1 Establishment of Zoning Districts. The Town of Lyndon is divided into the following 10 zoning districts and one overlay districts:
- 2.1.1 Rural Residential
 - 2.1.2 Residential Neighborhood
 - 2.1.3 Village Commercial
 - 2.1.4 Park
 - 2.1.5 Industrial
 - 2.1.6 Commercial
 - 2.1.7 Lyndon Corner Industrial
 - 2.1.8 Main Street
 - 2.1.9 Institutional Control
 - 2.1.10 Industrial/Commercial District
 - 2.1.11 Flood Hazard Overlay District

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ARTICLE III
DISTRICT OBJECTIVES AND DISTRICT REGULATIONS

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- 3.11 Flood Hazard Overlay District. The Flood Hazard Overlay district and the relevant regulations and development standards are fully described in Article XI.

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ARTICLE IV
GENERAL PROVISIONS

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- 4.6 **Variances.** Applications for a variance from the provisions of this bylaw shall be governed by, and granted or denied in accordance with, the provisions of 24 V.S.A. §4469, after a public hearing noticed as described in § 13.13 of these bylaws.

- 4.6.1 Any variance issued in the Special Flood Hazard Area must additionally comply with all the criteria 44 CFR § 60.6 and shall not increase flood heights. Pursuant to 44 CFR § 60.6(a)(5), the AO shall notify the applicant in writing that (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions as required by 44 CFR § 60.6 (a)(6).

- 4.6.2 A variance for development within the River Corridors may be allowed if, based on a review by the Vermont Agency of Natural Resources (ANR), it is determined that the proposed development will not obstruct the establishment and maintenance of fluvial geomorphic equilibrium for the watercourse.

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- 4.9 **Recreational Vehicle.** A recreational vehicle may not be occupied as a residence unless it is connected to a sewage disposal system and a permanent water supply.

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ARTICLE V
NON-CONFORMING USES

- 5.1 In any District other than a Residential Neighborhood or a Flood Hazard Overlay District, a non-conforming use may be moved, enlarged, altered, extended, reconstructed, restored, or changed to another non-conforming use as a conditional use if, after notice and hearing, the DRB finds (a) that the degree of non-conformance after such change will be no more nonconforming than existed prior to such change, and (b) that such change shall not adversely affect:
 - 5.1.1 The capacity of existing or planned community facilities.
 - 5.1.2 The character of the area affected, as defined by the purpose or purposes of the zoning district within which the project is located, and specifically stated policies and standards of the municipal plan.
 - 5.1.3 Traffic on roads and highways in the vicinity.
 - 5.1.4 By-laws and Ordinances then in effect.
 - 5.1.5 Utilization of renewable energy resources.
 - 5.1.6 Performance standards pursuant to Section 4414 (5) of the Act and Section 4.4.5 of this bylaw.
- 5.2 In a Residential Neighborhood District, if a non-conforming use has been discontinued for more than a 12 month time period, the non-conforming use may not be re-established. An existing non-conforming use or one that has not been discontinued for 12 months may be moved, enlarged, altered, extended, reconstructed, restored, or changed to another non-conforming use as a conditional use if, after notice and hearing, the DRB finds (a) that the degree of non-conformance after such change will be no more non-conforming than existed prior to such change, and (b) that such change shall not adversely affect:
 - 5.2.1 The capacity of existing or planned community facilities.
 - 5.2.2 The character of the area affected, as defined by the purpose or purposes of the zoning district within which the project is located, and specifically stated policies and standards of the municipal plan.
 - 5.2.3 Traffic on roads and highways in the vicinity.
 - 5.2.4 By-laws and Ordinances then in effect.
 - 5.2.5 Utilization of renewable energy resources.
 - 5.2.6 Performance standards pursuant to Section 4414 (5) of the Act and Section 4.4.5 of this bylaw.
- 5.5 In any district other than a Flood Hazard Overlay District, a non-conforming structure may be maintained, repaired and replaced provided that such action does not increase the degree of non-compliance in any respect.

- 5.6 Substantial improvements to non-conforming structures in a Flood Hazard Overlay District must meet the development standards in section 11.5.

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ARTICLE XI
FLOOD HAZARD REGULATIONS

11.1 Statement of Purpose

It is the purpose of this bylaw to:

- A. Implement the goals, policies, and recommendations in the current municipal plan;
- B. Avoid and minimize the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public services that result from flooding related inundation and erosion;
- C. Ensure that the selection, design, creation, and use of development in hazard areas is reasonably safe and accomplished in a manner that is consistent with public wellbeing, does not impair stream equilibrium, flood plain services, or river corridors,
- D. Manage all flood hazard areas designated pursuant to 10 V.S.A. Chapter 32 § 753, the municipal hazard mitigation plan; and make the Town of Lyndon, its citizens, and businesses eligible for federal flood insurance, federal disaster recovery funds, and hazard mitigation funds as may be available.

11.2 Warning of Disclaimer of Liability

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

11.3 Lands to Which these Regulations Apply

A. Regulated Flood Hazard Areas

These regulations shall apply to the River Corridors and Special Flood Hazard Areas (hereafter called “hazard areas”) in the Town of Lyndon, Vermont as described below. These hazard areas overlay any other existing zoning districts and the regulations herein are the minimum standards that must be met before meeting the additional standards applicable in the underlying district. These hazard areas include:

- 1. The River Corridors as published by the Vermont Agency of Natural Resources including the Statewide River Corridors, refinements to that data based on field-based assessments, and VT DEC approved administrative areas which are hereby adopted by reference. Where River Corridors are not mapped, the standards in §

11.5.C shall apply to the area measured as fifty (50) feet from the top of the stream bank or slope.

2. The Special Flood Hazard Area in and on the most current flood insurance studies and maps published by the Department of Homeland Security, Federal Emergency Management Agency, National Flood Insurance Program, as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. Chapter 32 § 753, which are hereby adopted by reference and declared to be part of these regulations.

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

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

C. Interpretation

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

1. If uncertainty exists with respect to the 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 from FEMA shall constitute proof.
2. If uncertainty exists with respect to the boundaries of the River Corridor, 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.

11.4 Development Review in Hazard Areas

A. Summary Table:

#	ACTIVITY	HAZARD ZONE		
		Special Flood Hazard Area Outside Floodway Limits	Special Flood Hazard Area Within Floodway Limits	River Corridors
	P Permitted C Conditional Use Review X Prohibited A Exempted			
1	New Structures	C	X	C
2	Storage	C	X	C
3	Improvements to Existing Structures	P, C	C	P, C
4	Small Accessory Structures	P	X	P
5	At Grade Parking for Existing Structures	P	C	P
6	Water supply or septic systems	P	C	P
7	Fill as needed to elevate existing structures	C	C	C
8	Fill	C	X	C
9	Grading	C	C	C
10	Road maintenance	A	A	A
11	Road improvements	C	C	C
12	Bridges and culverts	C	C	C
13	Channel management	C	C	C
14	Recreational vehicles	P	P	P
15	Forestry	A	A	A
16	Agriculture	A	A	A

All development as allowed pursuant to this summary table shall meet the minimum standards set forth below. Where more than one zone or area is involved, the most restrictive standard shall take precedence.

B. 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 sidewalks, roads, parking areas, 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.

C. Permitted Development

1. For the purposes of review under these regulations, the following development activities outside the floodway, but within the Special Flood Hazard area and/or the River Corridors, require only an administrative permit from the AO, provided that they meet the Development Standards in § 11.5:
 - a. Non-substantial improvements limited to 500 square feet or less in the River Corridor);
 - b. Accessory structures (limited to 500 square feet or less in the River Corridor);
 - c. Development related to on-site septic or water supply systems;
 - d. Building utilities;
 - e. At-grade parking for existing structures;
 - f. River or floodplain restoration projects that do not involve fill, structures, utilities, or other improvements, and which have written confirmation from the ANR Regional Floodplain Manager that the project is designed to meet or exceed the applicable standards in this bylaw; and
 - g. The placement of a mobile home upon an existing lot within a mobile home park.
2. The placement of a recreational vehicle within the Special Flood Hazard and/or River Corridors, requires only an administrative permit from the AO, provided it meets the Development Standards in § 11.5

D. Conditional Use Review

Conditional use review is required prior to the issuance of a permit by the AO for all development within the hazard areas, other than those activities which either are exempt under § 11.4.B or require only an administrative permit under § 11.4.C. The following proposed development may be permitted within the hazard areas, provided that the DRB finds that the applicant has complied with the Development Standards in § 11.5:

1. New structures, other than critical facilities, outside the floodway;
2. The use of fill outside the floodway when either
 - a. used in conjunction or association with a new or existing structure; or
 - b. used contemporaneously with the removal of a building or other structure, but limiting to the structure's footprint or foundation hole.

3. Substantial improvement, elevation, relocation, or flood proofing of existing structures;
4. New or replacement storage tanks for new or existing structures;
5. Non-substantial improvements (i.e., decks, patios, additions or accessory structures) with a footprint of 500 square feet or less to existing structures in the floodway;
6. Grading, excavation; or the creation of a pond;
7. Improvements to existing roads;
8. Storage outside of the floodway;
9. Bridges, culverts, channel management activities, or public projects which are functionally dependent on stream access or stream crossing;
10. Development related to on-site septic or water supply systems within the floodway;
11. Public utilities
12. At grade parking within the floodway; and
13. Building utilities in the River Corridors.

“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 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 **and may also include interior renovations.**

11.5 Development Standards

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

A. Special Flood Hazard Area

1. *All development* shall be:
 - a. Reasonably safe from flooding;
 - b. Designed, operated, maintained, modified, and adequately anchored to prevent flotation, collapse, release, or lateral movement of the structure;
 - c. Constructed with materials resistant to flood damage;
 - d. Constructed by methods and practices that minimize flood damage;

- e. Constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
 - f. Adequately drained to reduce exposure to flood hazards;
 - g. Located so as to minimize conflict with changes in channel location over time and the need to intervene with such changes; and,
 - h. Required to locate any fuel storage tanks (as needed to serve a new or existing structure in the Special Flood Hazard Zone) a minimum of one foot above the base flood elevation and be securely anchored to prevent flotation; or storage tanks may be placed underground, if securely anchored as certified by a qualified professional.
2. In Zones AE, AH, and A1 – A30 *where base flood elevations and/or floodway limits have not been determined*, development shall not be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the base flood elevation 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 licensed professional engineer.
3. *Development in the special flood hazard area, but outside floodway limits*, must not unduly increase base flood elevations or flood velocities. Such development shall not be permitted unless:
- a. an applicant shows that any increase in Base Flood Elevation (BFE) or flood velocities from a proposed project will not negatively impact existing properties by newly exposing existing structure thereon to inundation during a base flood. This standard may be demonstrated by providing the lowest floor elevations for all neighboring buildings within the same reach as the proposed development project, which are identified as have a footprint located within 1 foot of the base flood elevation as shown on Lidar referenced contours or better, and/or mapping the extent and depth of the increased flood elevation to a Lidar standard within the same reach as the proposed development. The demonstration must be supported by technical data that conforms to standard hydraulic engineering principles and is certified by a licensed professional engineer; or,
 - b. the proposal provides compensatory storage for floodwater (in the same reach and at elevations up to and including the base flood elevation) to offset the impacts of the proposal. The net post-construction flood storage capacity shall not be less than the pre-construction capacity. A volumetric analysis and supporting data must be provided by the applicant and certified by a licensed professional engineer.

4. Analyses required under § 11.5.A.2 and § 11.5.A.3 will be waived for replacement or relocated primary structures where the proposal indicates no new fill and no increase in the structure's footprint (or an open foundation design).
5. *New structures or structures to be substantially improved* in Zones A, A1-30, AE, and AH 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.
6. *New non-residential structures and non-residential structures to be substantially improved shall:*
 - a. Meet the standards in § 11.5.A.5 or,
 - b. 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 licensed 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.
7. *Fully enclosed areas below grade* on all sides (including below grade crawlspaces and basements) are prohibited.
8. *Fully enclosed areas that are above grade*, below the lowest floor, below BFE and subject to flooding, shall:
 - a. Be solely used for parking of vehicles, storage, or building access, and such a condition shall clearly be stated on any permits; and,
 - b. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Such designs must be certified by a licensed 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 grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
9. *Recreational vehicles* must be fully licensed and ready for highway use.
10. 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 § 11.5.A.6 (above).

11. *Water supply systems* shall be designed to minimize or eliminate infiltration of flood waters into the systems.
12. *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.
13. *On-site waste disposal systems* shall be located to avoid impairment to them or contamination from them during flooding.
14. *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.
15. Access to new subdivisions and new planned unit developments must be located on dry land outside the special flood hazard area.

B. Floodway Areas- Additional Requirements

1. 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 licensed professional engineer, certifying that the proposed development will:
 - a. Not result in any increase in flood levels (0.00 feet) during the occurrence of the base flood;
 - b. Not increase any risk to surrounding properties, facilities, or structures from erosion or flooding.
2. Public utilities may be placed underground, and the analyses may be waived, where a licensed professional engineer certifies that there will be no change in grade and the utilities will be adequately protected from scour.

C. River Corridors

1. Development within designated centers shall be allowed within the River Corridors if the applicant can demonstrate that the proposed development will not be any closer to the river than pre-existing adjacent development.
2. Development outside of designated centers shall meet the following criteria:
 - a. **In-Fill Between Existing Development:** Development must be located no closer to the channel than the adjacent existing primary structures, within a gap that is no more than 300 feet, or

- b. Down River Shadow: An addition to an existing structure, or an accessory structure that is adjacent to an existing structure, shall be located in the shadow area directly behind and further from the channel than the existing structure, or within 50 feet to the downstream side and no closer to the top of bank. Below-ground utilities may also be placed within the same shadow dimensions of an existing below-ground system.

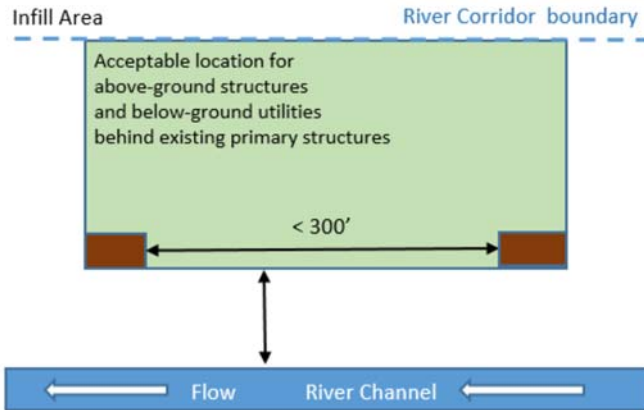


Figure 1 In-fill Development Standard

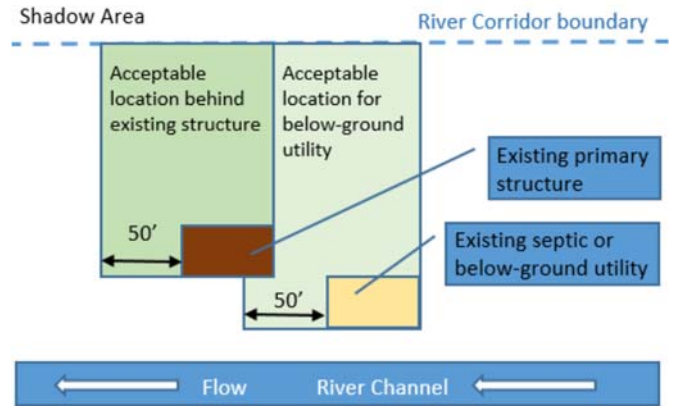


Figure 2 Shadow Area Development Standard

3. River Corridor Performance Standard

- a. Proposals that do not meet the infill or shadowing criteria in section § 11.5.C.2 must demonstrate and the DRB must find that the proposed development will:
- i. not be placed on land with a history of fluvial erosion damage or be imminently threatened by fluvial erosion;
 - ii. not cause the river reach to depart from or further depart from the channel width, depth, meander pattern, and slope associated with natural stream processes and equilibrium conditions; and
 - iii. not result in an immediate need or anticipated future need for stream channelization solely as a result of the proposed development, that would increase flood elevations and velocities or alter the sediment regime triggering channel adjustments and erosion in adjacent and downstream locations.
- b. Proposals that meet the infill or shadowing criteria in § 11.5.C.2 are presumed to meet the River Corridor Performance Standard. However, The DRB has the option to require an applicant to demonstrate that a proposal meets the River Corridor Performance Standard if there is a concern that the proposed development is at particular risk from fluvial erosion or may increase fluvial erosion, based on location or past flood damage.

11.6 Administration

A. Application Submission Requirements

1. Where applicable, applications for development shall include a site plan that depicts the proposed development, all water bodies, Special Flood Hazard Areas, floodways, River Corridors, the shortest horizontal distance from the proposed development to the top of bank of any stream, any existing and proposed drainage, any proposed fill, and pre and post development grades, and the elevation of the proposed lowest floor, as referenced to the same vertical datum as the elevation on the current Flood Insurance Rate Maps;

B. Referrals

1. Upon receipt of a complete application for a substantial improvement or new construction the AO 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. The AO and the DRB shall consider all comments from ANR.
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.

C. Records

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

1. All permits issued in areas covered by Article XI;
2. An Elevation Certificate 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, substantially improved, or flood proofed buildings (not including accessory buildings) in the Special Flood Hazard Area;
3. All flood proofing and other certifications required under this regulation; and,

4. All decisions of the DRB (including variances and violations) and all supporting findings of fact, conclusions and conditions.

11.7 **Enforcement and Penalties**

- A. This bylaw shall be enforced under the municipal zoning bylaw in accordance with 24 VSA Chapter 117 § 4451, § 4452 and 24 VSA Chapter 59 §1974a, A copy of the notice of violation will be mailed the State NFIP Coordinator.
- B. 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 property pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.
- C. Violations of the Accepted Agricultural Practices shall be enforced under this Section as violations of this bylaw. Such violations shall also be immediately reported to the Secretary of Agriculture for enforcement under 6 V.S.A. § 4992.

* * *

ARTICLE XIII ADMINISTRATION AND ENFORCEMENT

* * *

- 13.2.1 No person shall commence development without first obtaining a permit therefor pursuant to these bylaws. Any land development not specifically authorized by, or exempt from, this bylaw is prohibited. A person who wishes to undertake development shall first apply in writing to the Zoning Administrator for a permit.
- 13.7 The Administrative Officer shall notify the applicant in writing whether the permit is approved or denied and shall state the reasons therefor. Any permit issued within the Special Flood Hazard Area will require that all other necessary permits from State or Federal Agencies have been received before work may begin.

* * *

ARTICLE XIV AMENDMENTS, INTERPRETATION, EFFECTIVE DATE

- 14.1 **Amendments.** These bylaws may be amended according to the requirements and procedures established in 24 V.S.A. §§4441 & 4442..
- 14.2 **Interpretation.**
 - 14.2.1 These bylaws shall be interpreted to be minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare.

14.2.2 The provisions of these bylaws shall not in any way impair or remove the necessity of compliance with any other local, state, or federal laws or regulations. Except as is provided in 24 V.S.A. §4413(c), and where it is specifically provided to the contrary in these bylaws, these bylaws are not intended to repeal, annul or in any way impair any regulations or permits previously adopted or issued, provided, however, that where these bylaws impose a more stringent requirement upon use of a structure or land than are required by any other statute, ordinance, rule, regulation, permit, easement or agreement, the provisions of these bylaws shall control.

14.3 **Effective Date.** The effective date of these bylaws shall be determined according with 24 V.S.A. §4442.

14.4 **Validity and Severability** – If any portion of these bylaws is held unconstitutional or invalid by a competent court, the remainder of this bylaw shall not be affected.

14.5 **Repeal.** The ordinance entitled the "Zoning Ordinance of the Town of Lyndon," adopted in accordance with the now superseded provisions of 24 V.S.A. Chapter 59, together with all changes and amendments thereto is repealed as of the effective date of these bylaws.

ARTICLE XVII DEFINITIONS

“*Accessory Dwelling Unit*” is defined as an efficiency or one-bedroom apartment within or appurtenant to an owner-occupied single-family dwelling that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation.

“*Accessory Structure*” 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.

“*Act*” means Chapter 117 of Title 24, Vermont Statutes Annotated.

“*Administrative Officer (AO)*” means the administrative officer for the Town of Lyndon appointed pursuant to 24 V.S.A. § 4448.

“*Affordable Housing*” means either of the following:

- (A) Housing that is owned by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income, or 80 percent of the standard metropolitan statistical area income if the municipality is located in such an area, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including principal, interest, taxes, insurance, and condominium association fees is not more than 30 percent of the household's gross annual income.

(B) Housing that is rented by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income, or 80 percent of the standard metropolitan statistical area income if the municipality is located in such an area, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including rent, utilities, and condominium association fees, is not more than 30 percent of the household's gross annual income.

“Affordable Housing Development” means a housing development of which at least 20 percent of the units or a minimum of five units, whichever is greater, are affordable housing units. Affordable units shall be subject to covenants or restrictions that preserve their affordability for a minimum of 15 years or longer as provided in municipal bylaws.

“Agriculture” means the raising of crops, livestock raising and feeding, poultry raising and feeding, field crop farming and animal husbandry, greenhouse operations, and includes a roadside stand for the sale of agricultural products raised on the premises.

“Antenna” means a device for the transmission or reception of personal wireless service signals together with any appurtenances to an antenna.

“Appropriate Municipal Panel” is defined as a Planning Commission, the Zoning Board of Adjustment, Development Review Board, or a Legislative Body performing development review.

“Automobile Repair Facility” means any building or land area, or portion thereof, used for the servicing and repair of automobiles.

“Automobile Service Station” means a facility used or designed to be used for the sale of gasoline, diesel fuel and other petroleum fuel for the operation of motor vehicles, for the sale of lubricating oil, and for cleaning motor vehicles.

“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.

“Bed and Breakfast” means a portion of a dwelling in which the operator of the bed and breakfast business permanently resides, made available to transients for overnight accommodations and a meal for those transients for compensation, where such use is secondary to the occupancy of the dwelling by the operator of the bed and breakfast business.

“BFE” see *“Base Flood Elevation”*.

“*Buffer*” means an undisturbed area consisting of trees, shrubs, ground cover plants, duff layer, and generally uneven ground surface that extends a specified distance horizontally across the surface of the land from the mean water level of an adjacent lake or from the top of the bank of an adjacent river or stream.

“*Business Plaza*” for the purposes of these Regulations, a business plaza consists of three or more directly adjoining retail and/or service establishments served by common curb cuts, access facilities, or parking areas.

“*DRB*” means the Development Review Board for the Town of Lyndon established pursuant to the Act.

“*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 1 to 2 years.

“*Common plan of development*” is where a structure will be refurbished over a period of time. Such work might be planned unit by unit.

“*Community Care Home*” means a structure, all or a portion of which is used to provide living accommodations, meal and personal care on a continual basis operated as a business for persons with physical, emotional or cognitive impairment.

“*Compensatory storage*” means a volume not previously used for flood storage and which shall be in a volume not previously used for flood storage and which shall be incrementally equal to 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 river, stream, or creek.

“*Convenience Store*” means a retail store of less than 2,000 square feet offering for sale prepackaged food products, household items, newspapers, magazines, beer, wine and food for consumption off of the premises.

“*Critical facilities*” means facilities that are vital to public health and safety, including police stations, fire and rescue facilities, hospitals, shelters, schools, nursing homes, water supply and waste treatment facilities.

“*Day Care Center*” means an establishment operated as a business on a continual basis, to provide care, protection, supervision and/or education for more than six children under the age of 16 outside of their homes for periods of less than 14 hours per day by a person other than a child's own parent, guardian or relative. “*Day Care Center*” also means an establishment operated as a business on a continual basis, to provide care, protection, supervision and/or education for more than six adults with physical, emotional or cognitive

impairment outside of the adult's home for periods of less than 24 hours per day by persons other than the adult's parent, guardian or relative. (Note: pursuant to Section 4412 (5) of V.S.A. 24, a state registered or licensed day care facility serving six or fewer children shall be considered by right to constitute a permitted single-family residential use of property.)

“Designated center” means a downtown, village center, new town center, growth center, or neighborhood development area designated pursuant to 24 V.S.A. Chapter 76A.

“Development” see *“Land Development”*.

“Dwelling Units” means one room or rooms connected together, constituting a separate, independent housekeeping establishment which is physically separated from any other rooms or dwelling units in the same structure, and containing independent cooking, sleeping and bath facilities.

“Equilibrium condition” means 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.

“Existing manufactured home park or subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

“Expansion to an existing manufactured home park or subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

“Extraction of Earth Resources” means the removal or recovery, by any means, of soil, rock, minerals, or organic substances other than vegetation from water or land, on or beneath the surface thereof.

“Facility” ("facilities") means facilities for the provision of personal wireless services.

“Family” means (a) an individual, or two or more persons related by blood, marriage, adoption (including those placed in the home for adoption), and foster children, or (b) a group of not more than six persons who need not be related by blood, marriage, adoption, potential adoption or foster care, living together as a single housekeeping unit.

“Family Child Care Home or Facility” is defined as a home or facility where the owner or operator is to be licensed or registered by the state for child care. A family child care home serving six or fewer children shall be considered to constitute a permitted single-family residential use of property. A family child care home serving no more than six full-time children and four part-time children, as defined in subdivision 33 V.S.A. § 4902(3)(A), shall

be considered to constitute a permitted use of property but may require site plan approval based on local zoning requirements. A family child care facility serving more than six full-time and four part-time children may, at the discretion of the municipality, be subject to all applicable municipal bylaws.

“Farm Structure” In accordance with 4413 (d) of the Act, any building for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with agriculture or accepted agricultural practices. This includes a silo or a farm stand for the sale of agricultural products principally produced on the farm, but specifically excludes other types of farm stands and dwellings for human habitation.

“Farm Employee Residence” means a single- or two-family dwelling occupied only by employees (and such employee's family if any) of the farm on which the residence is located.

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

“FIRM” see *“Flood Insurance Rate Map”*.

“Flood” means (a) a general and temporary condition of partial or complete inundation of normally dry land areas from: the overflow of inland or tidal waters; the unusual and rapid accumulation 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 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. Please note that Special Flood Hazard Areas and floodways may be shown on a separate map panels.

“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.

“Forestry” means silviculture and includes the harvesting of timber.

“Frontage” shall mean the width of a lot measured at the line where the lot adjoins the abutting public highway or public waters.

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

“Guest Home” has the same meaning as Bed and Breakfast except that a guest home does not serve meals.

“Grading” means 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.

“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.

“Home Occupation” is an occupation carried on for profit inside of a dwelling unit, which is customary in residential areas, does not use more than a minor portion of the occupant’s dwelling, is carried on by the occupant of the dwelling, does not change the character of the area in which it is situated, and is secondary to the use of the property as a dwelling by the residents thereof.

“Infill development” means construction, installation, modification, renovation, or

rehabilitation of land, interests in land, buildings, structures, facilities, or other development in an area that was not previously developed but is surrounded by existing development.

“Interested Person” means any one of the following: (1) A person owning title to property, or a municipality or solid waste management district empowered to condemn it or an interest in it, affected by a bylaw, who alleges that the bylaw imposes on the property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case. (2) The municipality that has a plan or a bylaw at issue in an appeal brought under this chapter or any municipality that adjoins that municipality. (3) A person owning or occupying property in the immediate neighborhood of a property that is the subject of any decision or act taken under this chapter, who can demonstrate a physical or environmental impact on the person's interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes, or terms of the plan or bylaw of that municipality. (4) Any ten persons who may be any combination of voters or real property owners within a municipality listed in subdivision (2) of this subsection who, by signed petition to the appropriate municipal panel of a municipality, the plan or a bylaw of which is at issue in any appeal brought under this title, allege that any relief requested by a person under this title, if granted, will not be in accord with the policies, purposes, or terms of the plan or bylaw of that municipality. This petition to the appropriate municipal panel must designate one person to serve as the representative of the petitioners regarding all matters related to the appeal. (5) Any department and administrative subdivision of this state owning property or any interest in property within a municipality listed in subdivision (2) of this subsection, and the agency of commerce and community development of this state.

“Land Development” means the division of a parcel into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure; any mining, excavation or landfill for a commercial purpose; and any change in the use of any structure or land or extension of the use of land. "Land Development" does not include the replacement of an existing sign with another sign of the same type construction and having the same or less area than the sign being replaced. For regulator purposes within the Special Flood Hazard Area (SFHA) or River Corridor, “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.

“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 licensed 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.

“Light Industry” means a facility not exceeding two thousand square feet in size, employing not more than ten persons (including the owner or operator of the Light Industry), and which emits no noise, odors or light which can be detected on surrounding land held by owners other than the owner of the land on which the Light Industry is located.

“*Lot*” means a parcel of land occupied or to be occupied by a building or buildings, a mine, an excavation, or a landfill. A lot shall be of sufficient size to meet the minimum requirements of this bylaw. A lot shall have frontage on a public highway, or access thereto by a legal perpetual right-of-way not less than fifty feet in width. A lot may consist of (a) a single lot of record; (b) a portion of a lot of record; (c) a combination of complete lots of record, or complete lots of record and portions of lots of record, or of portions of lots of record; and (d) a parcel of land described by metes and bounds.

“*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”.

“*Manufactured or mobile home park or subdivision*” means a parcel (or contiguous parcels) of land divided into two or more manufactured/mobile home lots for rent or sale.

“*Manufacturing*” means the processing, treatment and/or conversion of raw, semi-finished or finished materials into a different, more or less refined form or state, including the physical assembly, from standardized parts, of a distinct or finished product that differs from its individual components. This definition does not include the processing of agricultural goods raised on the premises, which falls under the definition of agriculture.

“*Medical Clinic*” means any establishment where human patients are examined and treated by doctors or dentists but are not hospitalized overnight.

“*Mobile Home*” see “Manufactured home”.

“*Mobile Home Park*” see “Manufactured or mobile home park or subdivision”.

“*Multi-Family Dwelling*” means a residential building designed for and occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units.

“*Neighborhood Facility*” means a building or a portion of a building used for a commercial facility selling food for consumption off the premises, household goods, beer and wine, newspapers, magazines, patent medicines and sundries intended principally to serve the Residential Neighborhood in which it is located, and not exceeding 600 square feet in area.

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

“New manufactured home park or subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

“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 regulations 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 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.

“Office” means a structure, or a portion thereof, in which administrative, clerical or professional services are performed.

“Outdoor Recreation” means the organized or unorganized use of fields, trails, bodies of water, or other land for recreational purposes and includes swimming pools, tennis courts, skating rinks, playground equipment, horseback riding trails, storage and accessory buildings, and similar facilities.

“Person” means an individual, a corporation, a partnership, an association, or any other incorporated or unincorporated organization or group.

“Personal Service” means a business providing services of a personal nature including barber, hairdresser, beauty parlor, shoe repair, laundromat, dry cleaner, photography studio, and other similar business.

“Personal Wireless Services” means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services as those terms are defined in 47 U.S.C. § 332.

“Planned Unit Development” means one or more lots, tracts, or parcels of land to be developed as a single entity, the plan for which may propose any authorized combination of density or intensity transfers or increases, as well as the mixing of land uses. This plan, as

authorized, may deviate from bylaw requirements that are otherwise applicable to the area in which it is located with respect to lot size, bulk, or type of dwelling or building, use, density, intensity, lot coverage, parking, required common open space, or other standards in accordance with 24 V.S.A. § 4303.

“Planning Commission” means the Planning Commission of the Town of Lyndon established pursuant to the Act.

“Private Club” means an establishment operated on a not-for-profit basis for social, recreation or education purposes, but open only to members and members' guests, and not to the general public.

“Public Building” means a structure occupied by a federal, state or local government agency and used, in part or in whole, by members of the public.

“Reach” is generally defined as is a section of a stream or river along which similar hydrologic conditions exist, such as discharge, depth, area, and slope. It can also be the length of a stream or river (with varying conditions) between two streamgages, or a length of river for which the characteristics are well described by readings at a single streamgage. However, in practical use, a reach is just any length of a stream or river. The term is often used by hydrologists when they're referring to a small section of a stream or river rather than its entire length.

“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.

“Retail Service” means the offering of services at retail to the general public.

“Retail Store” means a building, or portion thereof, the principal activity of which is the offering of goods for sale to the general public at retail.

“River” means the full length and width, including the bed and banks, of any watercourse, including rivers, streams, creeks, brooks, and branches which experience perennial flow.

“River” does not mean constructed drainageways, including water bars, swales, and roadside ditches.

“River Corridor” means the land area adjacent to a river that is required to accommodate the dimensions, slope, planform, and buffer of the naturally stable channel and that is necessary for the natural maintenance or natural restoration of a dynamic equilibrium condition, as that term is defined in 10 V.S.A. §1422, and for minimization of fluvial erosion hazards, as delineated by the Agency in accordance with the ANR River Corridor Protection Guide.

“School” means a facility used for education, instruction or research in any branch of knowledge including, but not limited to, private and public elementary and secondary

schools, colleges, universities, business schools, trade schools, schools of dance, and schools of martial arts.

“*Sign*” means any assemblage of materials placed for the purpose of informing, or attracting the attention of, persons not on the premises on which the sign is located, for a commercial purpose.

“*Single-Family Dwelling*” means a detached residential dwelling unit designed for and occupied by one family.

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

“*Start of construction*” for purposes of floodplain management, determines the effective map or bylaw that regulated development in the Special Flood Hazard Area. The “start of construction” includes substantial improvement, and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of 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,*” for regulator purposes within the Special Flood Hazard Area (SFHA) or River Corridor, shall means the aggregation of materials, items, or objects whether natural or human-made; that is kept as a stockpile, collection, or inventory; where individual materials from the stockpile, collection or inventory may change, but where the general footprint of the stored materials continues to be used for the same purpose; whether set upon the land or within a container, structure, or facility; and that would not otherwise be in compliance with applicable development standards.

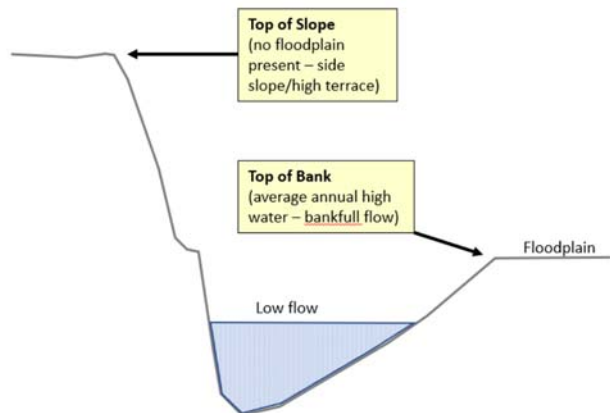
“*Street*” means any public thoroughfare affording access to property.

"Structure" means an assembly of materials with a fixed location on the ground, or attached to something having a fixed location on the ground, intended for occupancy or use. This term includes, but is not limited to, a building, mobile home, trailer, tractor trailer, billboard or sign. For regulatory purposes within the Special Flood Hazard Area (SFA) and River Corridor, "structure" means a walled and roofed building, as well as a manufactured home, and any related built systems, including gas or liquid storage tanks. *"Substantial damage"* means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged conditions would equal or exceed 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 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".

"Suitable Pad" means a solid foundation that will not heave in the winter. For mobile home installation, a suitable pad could include a concrete slab, gravel, asphalt, piles, frostwalls, or any other stable platform.

"Top of Bank" means the point along a streambank where an abrupt change in slope is evident, and where the stream is generally able to overflow the banks and enter the adjacent floodplain during flows at or exceeding the average annual high water stage..



"Top of Slope" means a break in slopes adjacent to steep-banked streams that have little or no floodplain; or a break in slope where the side slopes adjacent to an incised, or deeply cut, channel meet floodplains that have been abandoned or are undergoing abandonment.

"Tower" means any structure on which one or more antennas are to be mounted.

"Transient Lodging" means a guest home, hotel, motel, or other structure providing overnight accommodations to the traveling public.

“Truck Terminal” means a facility used for the purpose of loading or unloading materials or goods from trucks, for the primary purpose of transferring materials and goods, either for distribution or changing from one transportation carrier to another. The definition of "truck terminal" does not include the facility of a shipper of origin or receiver of goods at the final destination.

“Two-Family Dwelling” means a detached residential building containing two dwelling units, designed for occupancy and occupied by not more than two families.

“Use” means the specific purpose for which a structure or land is or may be occupied, maintained, designated or intended. The term "Permitted Use" or its equivalent does not include any nonconforming use or nonconforming structure.

“Violation” means the failure of a structure or other development to be fully compliant with these bylaws. Within the context of the flood hazard regulations, a structure or other development without an 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.

“Watercourse” means any perennial stream. “Watercourse” shall not include ditches or other constructed channels primarily associated with land drainage or water conveyance through or around private or public infrastructure.

“Wetland” means an area inundated by surface or ground water with a frequency to support aquatic vegetation or aquatic life that depend on saturated or seasonally saturated soil conditions for growth and reproduction.