

Town of Wheelock Notice of Public Hearing

Notice is hereby given to the residents of the Town of Wheelock that the Wheelock Planning Commission will hold a public hearing in the Town of Wheelock at the Wheelock Town Hall on May 5th at 7:00 pm. This hearing will be held for public review and comment on Wheelock's proposed Flood Hazard Regulations in accordance with 10 V.S.A. Chapter 32, and 24 V.S.A. Chapter 117 §4424 and 24 V.S.A. Chapter 59. If and when it is adopted, the Flood Hazard Regulations will affect all regulated flood hazard areas within the Town of Wheelock:

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

Here are the contents of the Wheelock Flood Hazard Regulations:

- I. Statutory Authorization and Effect
- II. Statement of Purpose
- III. Other Provisions
- IV. Lands to Which these Regulations Apply
- V. Summary Table: Development Review in Hazard Areas
- VI. Development Review in Hazard Areas
- VII. Development Standards
- VIII. Administration
- IX Certificate of Occupancy
- X. Enforcement and Penalties
- XI. Definitions

Copies of the proposed revised Flood Hazard Regulations are available at the Wheelock Town Clerk's office.
Dated in Wheelock, Vermont, April 10, 2015.

Town of Wheelock Planning Commission

Planning Commission Reporting Form for Municipal Bylaw Amendments

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 and ...include a statement of purpose as required for notice under §4444 of this title,

The proposed flood hazard bylaw shall regulate flood hazard areas within the Town of Wheelock:

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

(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 furthers the flood resilience goals of the Wheelock town plan:

- Identify areas subject to normal channel erosion processes and avoid the loss of floodplain functions.
- Stream bank setbacks and buffer standards should be based on default geomorphic standards from VT DEC.
- Establish and sustain a flood hazard area education and outreach effort to support flood damage mitigation and better insure community residents and property against future flood damage.
- Establish clear guidelines to promote appropriate flood mitigation for historic structures in the Special Flood Hazard Area.

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

The plan calls for minimizing future risk, so this proposed bylaw is compatible because it effectively limits new development in hazard prone areas.

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

N/A

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.

TOWN OF WHEELLOCK
DRAFT FLOOD HAZARD REGULATIONS

1
2
3
4 I. Statutory Authorization and Effect..... 1
5 II. Statement of Purpose..... 1
6 III. Other Provisions..... 1
7 IV. Lands to Which these Regulations Apply..... 2
8 V. Summary Table: Development Review in Hazard Areas 2
9 VI. Development Review in Hazard Areas..... 3
10 VII. Development Standards..... 5
11 VIII. Administration 7
12 IX Certificate of Occupancy 11
13 X. Enforcement and Penalties..... 11
14 XI. Definitions 12

15 **I. Statutory Authorization and Effect**

16 In accordance with 10 V.S.A. Chapter 32, and 24 V.S.A. Chapter 117 §4424 and 24 VSA Chapter 59,
17 there is hereby established a bylaw for areas at risk of flood damage in the Town of Wheelock, Vermont.
18 Except as additionally described below, all administrative procedures follow 24 VSA Chapter 117.

19 **II. Statement of Purpose**

- 20 It is the purpose of this bylaw to:
- 21 A. Implement the goals, policies, and recommendations in the current municipal plan;
 - 22 B. Avoid and minimize the loss of life and property, the disruption of commerce, the impairment of
23 the tax base, and the extraordinary public expenditures and demands on public services that result
24 from flooding;
 - 25 C. Ensure that the selection, design, creation, and use of development is reasonably safe and
26 accomplished in a manner that is consistent with public wellbeing, does not impair flood plain
27 services or the stream corridor,
 - 28 D. Manage the flood hazard area designated pursuant to 10 V.S.A. Chapter 32 § 753, the municipal
29 hazard mitigation plan; and make the Town of Wheelock, its citizens, and businesses eligible for
30 federal flood insurance, federal disaster recovery funds, and hazard mitigation funds as may be
31 available.

32 **III. Other Provisions**

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

37 B. Validity and Severability
38 If any portion of this bylaw is held unconstitutional or invalid by a competent court, the remainder of this
39 bylaw shall not be affected.

40 C. Warning of Disclaimer of Liability
41 This bylaw does not imply that land outside of the areas covered by this bylaw will be free from flood
42 damages. This regulation shall not create liability on the part of the Town of Wheelock, or any municipal
43 official or employee thereof, for any flood damages that result from reliance on this regulation, or any
44 administrative decision lawfully made hereunder.

1 **IV. Lands to Which these Regulations Apply**

2 **A. Regulated Flood Hazard Areas**

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

- 7 1. The River Corridors as published by the Vermont Agency of Natural Resources including the
 8 Statewide River Corridors and refinements to that data based on field-based assessments which
 9 are hereby adopted by reference. Where River Corridors are not mapped, the standards in VII C
 10 shall apply to the area measured as fifty (50) feet from the top of the stream bank or slope.
- 11 2. The Special Flood Hazard Area in and on the most current flood insurance studies and maps
 12 published by the Department of Homeland Security, Federal Emergency Management Agency,
 13 National Flood Insurance Program, as provided by the Secretary of the Agency of Natural
 14 Resources pursuant to 10 V.S.A. Chapter 32 § 753, which are hereby adopted by reference and
 15 declared to be part of these regulations.

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

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

23 **C. Interpretation**

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

- 26 1. If uncertainty exists with respect to the boundaries of the Special Flood Hazard Area or the
 27 floodway, the location of the boundary shall be determined by the Administrative Officer (AO). If
 28 the applicant disagrees with the determination made by the AO, a Letter of Map Amendment
 29 from FEMA shall constitute proof.
- 30 2. If uncertainty exists with respect to the boundaries of the River Corridor, the location of the
 31 boundary shall be determined by the AO. If the applicant disagrees with the determination made
 32 by the AO, a letter of determination from the Vermont Agency of Natural Resources shall
 33 constitute proof.

34 **V. Summary Table: Development Review in Hazard Areas**

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

#	Activity	Hazard Zone		
		Special Flood Hazard Area	Floodway	River Corridors
	P Permitted C Conditional Use Review X Prohibited A Exempted			
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	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

1 **VI. Development Review in Hazard Areas**

2 A. Permit

3 A permit is required from the Administrative Officer for all development in all areas defined in Section
4 IV. Development that requires conditional use approval, nonconforming use approval, or a variance from
5 the Board of Adjustment (Board) under these flood hazard regulations, must have such approvals prior to
6 the issuance of a permit by the AO. Any development subject to municipal jurisdiction in the designated
7 hazard areas shall meet the criteria in Section VI and VII. Any permit issued will require that all other
8 necessary permits from State or Federal Agencies have been received before work may begin.

9 B. Permitted Development

10 For the purposes of review under these regulations, the following development activities in the Special
11 Flood Hazard area where outside of the floodway and outside of the River Corridors, and meeting the
12 Development Standards in Section VII, require only an administrative permit from the AO:

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

19 C. Prohibited Development in Special Flood Hazard Area and River Corridors

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

26 D. Conditional Use Review

27 Conditional use review and approval by the Board, is required prior to the issuance of a permit by the AO
28 for the following proposed development:

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

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

14 E. Exempted Activities

15 The following are exempt from regulation under this bylaw:

- 16 1. The removal of a building or other structure in whole or in part;
- 17 2. Maintenance of existing roads and storm water drainage;
- 18 3. Silvicultural (forestry) activities conducted in accordance with the Vermont Department of
- 19 Forests and Parks Acceptable Management Practices; and,
- 20 4. Agricultural activities conducted in accordance with the Vermont Department of Agriculture's
- 21 Accepted Agricultural Practices (AAP). Prior to the construction of farm structures the farmer
- 22 must notify the AO in writing of the proposed activity. The notice must contain a sketch of the
- 23 proposed structure including setbacks.

24 F. Variances

25 Variances may be granted in writing by the Board only in accordance with all the criteria in 24 V.S.A. §

26 4469, § 4424 (E), and 44 CFR Section 60.6, after a public hearing noticed as described in Section VIII.

- 27 1. A variance for development within the River Corridor may be allowed if, based on a review by
- 28 VT ANR, it is determined that the proposed development will not obstruct the establishment and
- 29 maintenance of fluvial geomorphic equilibrium for the watercourse.
- 30 2. Any variance issued in the Special Flood Hazard Area will not increase flood heights, and will
- 31 inform the applicant in writing over the signature of a community official that the issuance of a
- 32 variance to construct a structure below the base flood elevation increases risk to life and property
- 33 and will result in increased flood insurance premiums up to amounts as high as \$25 for \$100 of
- 34 coverage. Such notification shall be maintained with a record of all variance actions.

35 G. Nonconforming Structures and Uses

36 The Board may, after public notice and hearing, approve the repair, relocation, replacement, or

37 enlargement of a nonconforming structure within a flood hazard area provided that:

- 38 1. The proposed development is in compliance with all the Development Standards in Section VII of
- 39 this bylaw;
- 40 2. A nonconforming structure that is substantially damaged or destroyed may be reconstructed only
- 41 in circumstances when the structure cannot be relocated to a less hazardous location on the parcel.
- 42 The lowest floor of the reconstructed structure must be rebuilt to one foot or more above the base
- 43 flood elevation, and the structure must otherwise comply with all requirements of the National
- 44 Flood Insurance Program;

- 1 3. Nonconforming structures or uses shall be considered abandoned where such structures or uses
2 are discontinued for more than 12 months; and
- 3 4. An individual manufactured home lot in an existing manufactured home park that is vacated shall
4 not be considered a discontinuance or abandonment of nonconformity. Replacement
5 manufactured homes must be placed so as to meet the development standards in this bylaw.

6 **VII. Development Standards**

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

9 **A. Special Flood Hazard Area**

- 10 1. All development shall be:
 - 11 a. Reasonably safe from flooding;
 - 12 b. Designed, operated, maintained, modified, and adequately anchored to prevent flotation, collapse,
13 release, or lateral movement of the structure;
 - 14 c. Constructed with materials resistant to flood damage;
 - 15 d. Constructed by methods and practices that minimize flood damage;
 - 16 e. Constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and
17 other service facilities that are designed and/or located so as to prevent water from entering or
18 accumulating within the components during conditions of flooding;
 - 19 f. Adequately drained to reduce exposure to flood hazards;
 - 20 g. Located so as to minimize conflict with changes in channel location over time and the need to
21 intervene with such changes; and,
 - 22 h. Required to locate any fuel storage tanks (as needed to serve an existing building in the Special
23 Flood Hazard Zone) a minimum of one foot above the base flood elevation and be securely
24 anchored to prevent flotation; or storage
25 i. tanks may be placed underground, if securely anchored as certified by a qualified professional.
- 26 2. In Zones AE, AH, and A1 – A30 where base flood elevations and/or floodway limits have not been
27 determined, development shall not be permitted unless it is demonstrated that the cumulative effect of
28 the proposed development, when combined with all other existing and anticipated encroachment, will
29 not increase the base flood elevation more than 1.00 foot at any point within the community. The
30 demonstration must be supported by technical data that conforms to standard hydraulic engineering
31 principles and certified by a registered professional engineer.
- 32 3. Structures to be substantially improved in Zones A, A1-30, AE, and AH shall be located such that the
33 lowest floor is at least one foot above base flood elevation, this must be documented, in as-built
34 condition, with a FEMA Elevation Certificate;
- 35 4. Non-residential structures to be substantially improved shall:
 - 36 a. Meet the standards in VII A 3; or,
 - 37 b. Have the lowest floor, including basement, together with attendant utility and sanitary facilities
38 be designed so that two feet above the base flood elevation the structure is watertight with walls
39 substantially impermeable to the passage of water and with structural components having the
40 capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; A permit for
41 flood proofing shall not be issued until a registered professional engineer or architect has
42 reviewed the structural design, specifications and plans, and has certified that the design and
43 proposed methods of construction are in accordance with accepted standards of practice for
44 meeting the provisions of this subsection
- 45 5. Fully enclosed areas below grade on all sides (including below grade crawlspaces and basements) are
46 prohibited.
- 47 6. Fully enclosed areas that are above grade, below the lowest floor, below BFE and subject to flooding,

- 1 shall
- 2 a. Be solely used for parking of vehicles, storage, or building access, and such a condition shall
- 3 clearly be stated on any permits; and,
- 4 b. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for
- 5 the entry and exit of floodwaters. Such designs must be certified by a registered professional
- 6 engineer or architect, or meet or exceed the following minimum criteria: A minimum of two
- 7 openings on two walls having a total net area of not less than one square inch for every square
- 8 foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no
- 9 higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or
- 10 other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- 11 8. Recreational vehicles must be fully licensed and ready for highway use;
- 12 9. A small accessory structure of 500 square feet or less that represents a minimal investment need not
- 13 be elevated to the base flood elevation in this area, provided the structure is placed on the building
- 14 site so as to offer the minimum resistance to the flow of floodwaters and shall meet the criteria in VII
- 15 A 6 (above).
- 16 10. Water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the
- 17 systems.
- 18 11. Sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into
- 19 the systems and discharges from the systems into flood waters.
- 20 12. On-site waste disposal systems shall be located to avoid impairment to them or contamination from
- 21 them during flooding.
- 22 13. The flood carrying and sediment transport capacity within the altered or relocated portion of any
- 23 watercourse shall be maintained, and any alteration or relocation shall not result in any decrease of
- 24 stream stability;
- 25 14. Bridges and culverts, which by their nature must be placed in or over the stream, must have a stream
- 26 alteration permit from the Agency of Natural Resources where applicable.
- 27 15. Subdivisions and Planned Unit Developments must be accessible by dry land access outside the
- 28 special flood hazard area.
- 29 16. Existing buildings, including manufactured homes, to be substantially improved in Zone AO shall
- 30 have the lowest floor, including basement, elevated above the highest adjacent grade, at least as high
- 31 as the depth number specified on the community's FIRM, or at least two feet if no depth number is
- 32 specified.

33 B. Floodway Areas

- 34 1. Encroachments or development above grade and less than one foot above the base flood elevation, are
- 35 prohibited unless hydrologic and hydraulic analyses are performed in accordance with standard
- 36 engineering practice, by a registered professional engineer, certifying that the proposed development
- 37 will:
- 38 a. Not result in any increase in flood levels (0.00 feet) during the occurrence of the base flood;
- 39 b. Not increase any risk to surrounding properties, facilities, or structures from erosion or flooding.
- 40 2. Public utilities may be placed underground, and the analyses may be waived, where a registered
- 41 professional engineer certifies that there will be no change in grade and the utilities will be adequately
- 42 protected from scour.

43 C. River Corridors

- 44 1. Improvements to existing structures, and any associated fill as needed to comply with elevation
- 45 requirements in the Special Flood Hazard Area shall not decrease the distance between the existing

- 1 primary building and the top of bank;
- 2 2. Accessory structures may be located within 50 feet of the existing primary building provided that the
- 3 location does not decrease the distance between the existing primary structure and the top of bank.
- 4 3. Development shall not increase the susceptibility of that or other properties to fluvial erosion damage;
- 5 4. Development shall not increase the potential of materials being swept onto other lands or into the
- 6 stream and causing damage to other properties from fluvial erosion;
- 7 5. Development shall not cause an undue burden on public services and facilities including roads,
- 8 bridges, culverts, and emergency service providers during and after fluvial erosion events.
- 9 6. Bridge and culvert projects must have a Stream Alteration Permit; and
- 10 7. Channel management activities must be authorized by the Agency of Natural Resources.

11 **VIII. Administration**

12 **A. Administrative Officer and Board of Adjustment**

13 There is hereby established and Administrative Officer (AO) and a Board of Adjustment to be appointed
14 by the Selectboard as specified under 24 VSA §4448 and §4460.

15 **B. Application Submission Requirements**

16 **1. Applications for development shall include:**

- 17 a. The name and contact information for the owner of the property, including any agents authorized
- 18 to act on their behalf;
- 19 b. A thorough description of the proposed development;
- 20 c. General location map including the address of the property, tax parcel ID, relative locations of the
- 21 existing development and the nearest public road;
- 22 d. Where applicable, a site plan that depicts the proposed development, all water bodies, Special
- 23 Flood Hazard Areas, floodways, any existing and proposed drainage, any proposed fill, and pre
- 24 and post development grades, and the elevation of the proposed lowest floor, as referenced to the
- 25 same vertical datum as the elevation on the current Flood Insurance Rate Maps;
- 26 e. A Vermont Agency of Natural Resources Project Review Sheet for the proposal. The Project
- 27 Review Sheet shall identify all State and Federal agencies from which permit approval is required
- 28 for the proposal, and shall be filed as a required attachment to the municipal permit application.
- 29 The identified permits, or letters indicating that such permits are not required, shall be submitted
- 30 to the AO and attached to the permit before work can begin;
- 31 f. If this is an appeal for a variance, then the appeal application must include responses to the
- 32 criteria set forth in 24 VSA §4469, §4424 (E), and CFR 60.6
- 33 g. ????? copies of the application, including one to be forwarded to the State National Flood
- 34 Insurance Program Coordinator at the Vermont Agency of Natural Resources, Department of
- 35 Environmental Conservation, River Management Program; and,
- 36 h. The appropriate fee as determined by the Selectboard.

37 **2. For applicants seeking conditional use approval, approval under nonconforming structures and uses,** 38 **or a variance, the following also need to be provided:**

- 39 a. A list of abutters names and mailing addresses;
- 40 b. A statement of purpose and need for the proposed development;
- 41 c. A description of the alternatives considered to the proposed development, including alternate
- 42 locations on site, especially outside of the hazard area;

- d. Such pertinent information as identified in the regulations or deemed necessary by the Board for determining the suitability of the proposed development for the site;
- e. Copies of the application sufficient for the file, the Board members, the State National Flood Insurance Program Coordinator, and additional parties such as the VT DEC Stream Alteration Engineer and adjacent communities if affected under Section VII C 2; and,
- f. Any additional fees as required by the Selectboard.

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

D. 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:
 - a. Publication of the date, place, and purpose of the hearing in the newspaper.
 - b. 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,
 - c. 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 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.
 - d. For hearings on subdivision plats located within 500 feet of a municipal boundary, written notification to the clerk of the adjoining municipality.
2. Public notice of all other types of development review hearings, including site plan review shall be given not less than seven (7) days prior to the date of the public hearing, and shall at minimum include the following:
 - a. Posting of the date, place and purpose of the hearing in three (3) or more public places within the municipality; and
 - b. Written notification to the applicant and to owners of all properties adjoining the property subject

1 to development, without regard to public rights-of-way, which includes a description of the
2 proposed project, information that clearly informs the recipient where additional information may
3 be obtained, and that participation in the local proceeding, is a prerequisite to the right to take any
4 subsequent appeal.

- 5 3. The applicant shall bear the cost of the public warning and notification of adjoining landowners.
- 6 4. No defect in the form or substance of any required public notice under this section shall invalidate the
7 action of the Board where reasonable efforts have been made to provide adequate posting and notice.
8 However, the action shall be invalid when the defective posting or notice was materially misleading
9 in content. If an action is ruled to be invalid by the Board of Adjustment or the Environmental Court,
10 the action shall be remanded to the Board to provide new posting and notice, hold a new hearing, and
11 take a new action.

12 E. Decisions

- 13 1. The Administrative Officer shall act within 30 days to approve or deny the application, or refer the
14 application to the Board. Applications that cannot be approved in compliance with this bylaw shall be
15 denied. The decision shall be issued in writing and include a statement of the factual bases on which
16 the conclusions were made. Decisions of the administrative officer can be appealed as below. If the
17 AO fails to act within the 30-day period, a permit shall be deemed issued on the 31st day.
- 18 2. The Board shall consider comments from the NFIP Coordinator at ANR. The Board may recess the
19 proceedings on any application pending submission of additional information. The Board should
20 close the hearing promptly after all parties have submitted the requested information, adjourn the
21 hearing, and may deliberate prior to issuing its decision.
- 22 3. Decisions by the Board shall include a statement of the factual basis on which the Board has made its
23 conclusions regarding how the proposed development will meet the development standards, and a
24 statement of the conclusions. In rendering a decision in favor of the applicant, the Board may attach
25 additional reasonable conditions and safeguards as it deems necessary to implement the purposes of
26 this bylaw and the municipal plan then in effect. Board decisions shall be conditioned to assure that
27 all necessary permits must be also received from those government agencies from which approval is
28 required by Federal, State or Municipal law for the approval to be valid. The Board may provide for
29 the conditioning of permit issuance on the submission of a bond, escrow account, or other surety in a
30 form acceptable to the legislative body of the municipality to assure one or more of the following: the
31 completion of the project, adequate stabilization, or protection of public facilities that may be affected
32 by a project.
- 33 4. Decisions of the Board shall be issued in writing within 45 days after the adjournment of the final
34 hearing. All decisions shall be sent by certified mail to the applicant, and the appellant in matters on
35 appeal. Copies of the decision shall also be mailed to every person or body appearing and having
36 been heard at the hearing. The decision will include a notice that an Interested Person may appeal the
37 decision within 15 days.

38 F. Records

- 39 1. Within three days following the issuance of a permit, the Administrative Officer shall:
 - 40 a. Deliver a copy of the permit to the Lists of the municipality; and
 - 41 b. Post a copy of the permit in at least one public place in the municipality until the expiration of 15
42 days from the date of issuance of the permit.
- 43 2. Within 30 days after a municipal land use permit has been issued or within 30 days of the issuance of
44 any notice of violation, the Administrative Officer shall:
 - 45 a. Deliver the original or a legible copy of the permit, or notice of permit, and any approvals to the
46 municipal clerk for recording in the land records as provided in 24 VSA, § 1154(a), and § 4449;

- b. File a copy of the permit and any approvals in the municipal office in a location where all municipal land use permits shall be kept; and,
 - c. The Administrative Officer 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:
- a. All permits issued in areas covered by this bylaw;
 - b. 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
 - c. All flood proofing and other certifications required under this regulation; and,
 - d. All decisions of the Board (including variances and violations) and all supporting findings of fact, conclusions and conditions.

G. Permit Validity

Each permit issued shall:

1. Contain a statement of 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 shall take effect until 15 days after issuance, or in the event that a notice of appeal a decision by the Administrative Officer is properly filed, no such permit shall 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.

H. Appeals

An interested person, as defined in 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 shall be 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 cases in hearings before administrative agencies as set forth in 3 V.S.A. § 810.

Decisions of the Board may be appealed under §4469 in request for a Variance. Within 30 days of a

1 decision by the Board, under §4471 an Interested Person who has participated in the municipal regulatory
2 proceeding may appeal to the Vermont Environmental Court.

3 **IX Certificate of Occupancy**

4 In accordance with Chapter 117 §4449, it shall be unlawful to use or occupy, or permit the use or
5 occupancy of any land or structure, or part thereof, created, erected, changed, converted, or wholly or
6 partly altered or enlarged in its use or structure within Special Flood Hazard Area until a certificate of
7 occupancy is issued therefore by the Administrative Officer, stating that the proposed use of the structure
8 or land conforms to the requirements of these bylaws. A certificate of occupancy is not required for
9 structures that were built in compliance with the bylaws at the time of construction and have not been
10 improved since the adoption of this bylaw. Within 14 days of the receipt of the application for a
11 certificate of occupancy, the AO shall inspect the premises to ensure that all permits identified on the
12 Project Review Sheet have been acquired and all that all work has been completed in conformance with
13 the zoning permit and associated approvals. If the AO fails to grant or deny the certificate of occupancy
14 within 14 days of the submission of the application, the certificate shall be deemed issued on the 15th day.
15 If a Certificate of Occupancy cannot be issued, notice will be sent to the owner and copied to the lender.

16 **X. Enforcement and Penalties**

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

20 A. The notice of enforcement shall state that:

- 21 1. A violation exists;
- 22 2. That the alleged offender has an opportunity to cure the violation within seven days of receipt;
- 23 3. That failure to cure the violation may result in fines and/or loss of flood insurance;
- 24 4. That the alleged offender will not be entitled to an additional warning notice for a violation
25 occurring after the seven days within the next succeeding 12 months; and,
- 26 5. That the notice of violation may be appealed as specified under VI.H;

27 B. Copies of the notice of violation will be:

- 28 1. Mailed to the Vermont NFIP Coordinator and, within 30 days be
- 29 2. Filed in the land use permit files; and,
- 30 3. Delivered to the municipal clerk for recording in the land records.

31 C. After seven days, if the violation has not been remedied, in accordance with 24 VSA Chapter 59
32 §1974a, and Chapter 117 §4451 and §4452; any person who is found to have violated this bylaw shall
33 be fined by the court not more than \$100.00 for each offense. No action may be brought under this
34 section unless such notice as required in has been given as described above in this part. In default of
35 payment of the fine, the violator shall pay double the amount of the fine. Each day that a violation is
36 continued shall constitute a separate offense.

37 D. If any appeals have been resolved, but the violation remains, the AO shall submit a declaration to the
38 Administrator of the National Flood Insurance Program requesting a denial of flood insurance to the
39 violator. The declaration shall consist of: (a) the name of the property owner and address or legal
40 description of the property sufficient to confirm its identity or location, (b) a clear and unequivocal
41 declaration that the property is in violation of a cited State or local law, regulation, or ordinance, (c) a
42 clear statement that the Administrative Officer making the declaration has authority to do so and a
43 citation to that authority, (d) evidence that the property owner has been provided notice of the

1 violation and the prospective denial of insurance, and (e) a clear statement that the declaration is
2 being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

- 3 E. Violations of the Accepted Agricultural Practices shall be enforced under this Section as violations of
4 this bylaw. Such violations shall also be immediately reported to the Secretary of Agriculture for
5 enforcement under 6 V.S.A. Section 4812.

6 **XI. Definitions**

7 “Accessory Structure” means a structure which is: 1) detached from and clearly incidental and
8 subordinate to the principal use of or structure on a lot, 2) located on the same lot as the principal
9 structure or use, and 3) clearly and customarily related to the principal structure or use. For residential
10 uses these include, but may not be limited to garages, garden and tool sheds, and playhouses.

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

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

15 “Base Flood Elevation” (BFE) is the elevation of the water surface elevation resulting from a flood that
16 has a 1 percent chance of equaling or exceeding that level in any given year. On the Flood Insurance Rate
17 Map the elevation is usually in feet, in relation to the National Geodetic Vertical Datum of 1929, the
18 North American Vertical Datum of 1988, or other datum referenced in the Flood Insurance Study report,
19 or the average depth of the base flood, usually in feet, above the ground surface.

20 “BFE” see Base Flood Elevation

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

25 “Channel” means an area that contains continuously or periodic flowing water that is confined by banks
26 and a streambed.

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

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

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

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

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

42 “FIRM” see Flood Insurance Rate Map

43 “Flood” means (a) a general and temporary condition of partial or complete inundation of normally dry
44 land areas from: the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of
45 surface waters from any source; and mudslides which are proximately caused by flooding and are akin to

1 a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a
2 current of water and deposited along the path of the current. (b) The collapse or subsidence of land along
3 the shore of a lake or other body of water as a result of erosion or undermining caused by waves or
4 currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water
5 level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature,
6 such as flash flood or abnormal tidal surge, or by some similarly unusual and unforeseeable event which
7 results in flooding.

8 “Flood Insurance Rate Map” (FIRM) means an official map of a community, on which the Federal
9 Insurance Administrator has delineated both the special flood hazard areas and the risk premium zones
10 applicable to the community. In some communities the hazard boundaries are available in paper, pdf, or
11 Geographic Information System formats as a Digital Flood Insurance Rate Map (DFIRM).

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

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

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

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

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

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

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

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

42 “Letter of Map Amendment (LOMA)” is a letter issued by the Federal Emergency Management Agency
43 officially removing a structure or lot from the flood hazard zone based on information provided by a
44 certified engineer or surveyor. This is used where structures or lots are located above the base flood
45 elevation and have been inadvertently included in the mapped special flood hazard area.

46 “Lowest floor” means the lowest floor of the lowest enclosed area, including basement, except an
47 unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in
48 an area other than a basement area is not considered a building’s lowest floor provided that such

1 enclosure is not built so as to render the structure in violation of the applicable non-elevation design
2 requirements of 44 CFR 60.3.

3 “Manufactured home (or Mobile home)” means a structure, transportable in one or more sections, which
4 is built on a permanent chassis and is designed for use with or without a permanent foundation when
5 attached to the required utilities. The term “manufactured home” does not include a “recreational
6 vehicle”.

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

10 “Nonconforming structure” means a structure or part of a structure that does not conform to the present
11 bylaws but was in conformance with all applicable laws, ordinances, and regulations prior to the
12 enactment of the present bylaws, including a structure improperly authorized as a result of error by the
13 administrative officer. Structures that were in violation of the flood hazard regulations at the time of their
14 creation, and remain so, remain violations and are not nonconforming structures.

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

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

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

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

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

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

41 “Start of construction” for purposes of floodplain management, determines the effective map or bylaw
42 that regulated development in the Special Flood Hazard Area. The “start of construction” includes
43 substantial improvement, and means the date the building permit was issued provided the actual start of
44 construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within
45 180 days of the permit date. The actual start means either the first placement of permanent construction of
46 a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of
47 columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a
48 foundation. Permanent construction does not include land preparation, such as clearing, grading and

1 filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a
2 basement, footing, piers, or
3 foundations or the erection of temporary forms; nor does it include the installation on the property of
4 accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main
5 structure. For a substantial improvement, the actual start of construction means the first alteration of any
6 wall, ceiling, floor, or other structural part of a building, regardless whether that alteration affects the
7 external dimensions of the building.

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





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

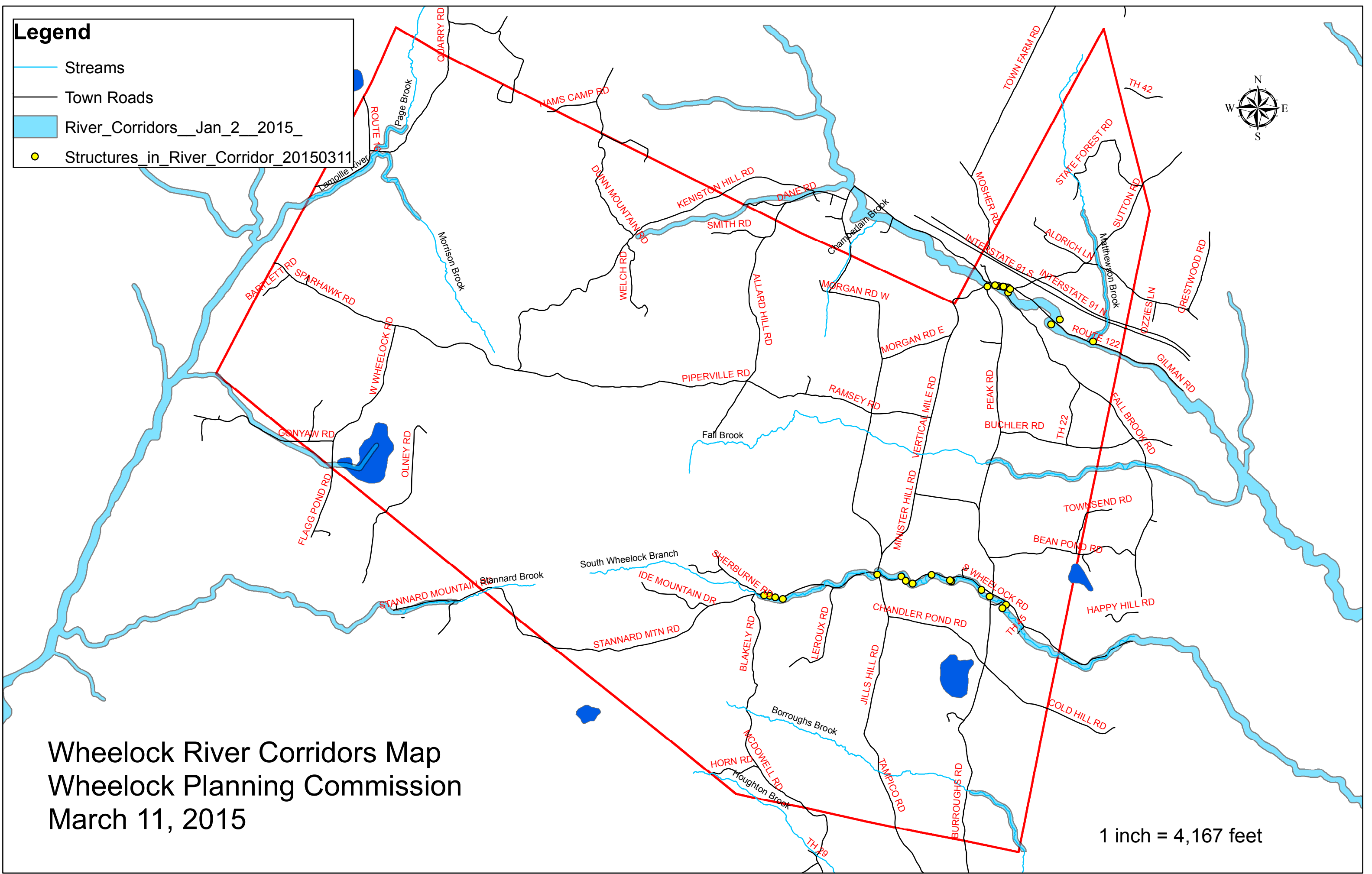
13 “Substantial improvement” means any reconstruction, rehabilitation, addition, or other improvement of a
14 structure after the date of adoption of this bylaw, the cost of which, over three years, or over a the period
15 of a common plan of development, cumulatively equals or exceeds 50 percent of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

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

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

Legend

-  Streams
-  Town Roads
-  River_Corridors__Jan_2_2015_
-  Structures_in_River_Corridor_20150311



Wheelock River Corridors Map
 Wheelock Planning Commission
 March 11, 2015

1 inch = 4,167 feet