

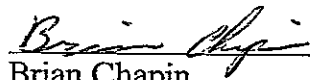
TOWN OF JAMAICA
FLOOD HAZARD AREA REGULATIONS

Effective September 7, 2007

Adopted by Jamaica Selectboard
September 24, 2007



Joel Beckwith - Chairperson

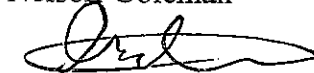


Brian Chapin



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Section 100: STATUTORY AUTHORIZATION

To effect the purposes of 10 V.S.A., Ch. 32, and in accordance with all applicable provisions of 24 V.S.A., Ch. 117 and all applicable provisions of 44 CFR, Ch. 1, which are incorporated herein by reference, there are hereby established Flood Hazard Area Regulations for areas of special flood hazard in the Town of Jamaica.

Section 110: STATEMENT OF PURPOSE

It is the purpose of these regulations to promote the public health, safety and general welfare; to prevent increase in flooding caused by uncontrolled development of lands in areas of special flood hazard; and to minimize losses due to floods by:

- a. restricting or prohibiting uses which are dangerous to health, safety or property in times of flood or which cause excessive increases in flood heights or velocities;
- b. requiring that uses vulnerable to floods, including public facilities, shall be protected against flood damage at the time of construction;

It is further the purpose of these regulations to maintain the Town's enrollment in the National Flood Insurance Program (NFIP). The availability of flood insurance for owners of public and private property within the Town is dependent on the Town's continued enrollment in the NFIP, and the enforcement of these regulations.

Section 120: ADMINISTRATION

These regulations shall be administered in the same manner as that provided for the administration of bylaws under the provisions of 24 V.S.A., Chapter 117. These provisions are incorporated herein by reference.

Section 130: APPEALS

Any interested person as defined by section 4465 of 24 V.S.A. may appeal a decision or act of the Administrative Officer by filing a notice of appeal with the Secretary of the Zoning Board of Adjustment or the Town Clerk, within 15 days of the date of decision. A copy of the notice of appeal must be filed with the Administrative Officer. A notice of appeal filed under this section shall be in writing and include the following information, in accordance with section 4466 of Chapter 117:

- (1) the name and address of the appellant,
- (2) a brief description of the property with respect to which the appeal is taken,
- (3) a reference to applicable provisions of these regulations,

- (4) the relief requested by the appellant, including any request for a variance from one or more provisions of these regulations, and
- (5) the alleged grounds why such relief is believed proper under the circumstances.

Interested persons as defined by 24 V.S.A., section 4465 may appeal decisions of the Zoning Board of Adjustment to the Environmental Court by filing a notice of such appeal within 30 days of the date of decision. The notice of appeal shall be filed by certified mailing, with fees, to the Environmental Court and by mailing a copy to the Town Clerk, or the Administrative Officer if so designated, who shall supply a list of interested persons (including the applicant if not the appellant), to the appellant within five (5) working days. Upon receipt of the list of interested persons, the appellant shall, by certified mail, provide a copy of the notice of appeal to every interested person. If any one or more of those persons are not then parties to the appeal, upon motion they shall be granted leave by the court to intervene.

Section 140: ENFORCEMENT, PENALTIES

It shall be the duty of the Administrative Officer to enforce the provisions of this bylaw. Whenever any development occurs contrary to these flood hazard area regulations, the Administrative Officer, in his/her discretion, shall institute appropriate action in accordance with the provisions of 24 V.S.A. section 4451 or 24 V.S.A. section 4452 to correct the violation. No action may be brought unless the alleged offender has had at least a seven-day warning notice by certified mail. An action may be brought without the seven-day notice and opportunity to cure if the alleged offender repeats the violation after the seven-day notice period and within the next succeeding twelve months. The seven-day warning notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the seven days, and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days.

If the structure or property is still not in compliance after the opportunity to cure has passed, the Administrative Officer shall submit a declaration to the Administrator of the NFIP requesting a denial of flood insurance. Section 1316 of the National Flood Insurance Act of 1968, as amended, authorizes FEMA to deny flood insurance to a property declared by a community to be in violation of their flood hazard area regulations. The declaration shall consist of: (a) the name of the property owner and address or legal description of the property sufficient to confirm its identity or location, (b) a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance, (c) a clear statement that the public body making the declaration has authority to do so and a citation to that authority, (d) evidence that the property owner has been provided notice of the violation and the prospective denial of insurance, and (e) a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

Section 150: LANDS TO WHICH THESE REGULATIONS APPLY

These Regulations shall apply to development in all areas in the Town of Jamaica identified as areas of special flood hazard in and on the most current flood insurance studies and maps published by the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), National Flood Insurance Program (NFIP), as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. section 753, which are hereby adopted by reference and declared to be part of these regulations. Copies of these maps are available for inspection by the public at the town office.

Section 160: INTREPRETATION OF DISTRICT BOUNDARIES

The Administrative Officer shall determine the boundaries of any designated areas of special flood hazard by scaling distances on the currently effective Flood Insurance Rate Map (FIRM). When making a determination as to whether or not a particular structure or site is within a certain designated flood hazard area boundary, the Administrative Officer may require the owner to furnish necessary survey data to determine the exact location and elevation of structure or site.

Section 170: PERMIT REQUIREMENTS, ISSUANCE OF PERMITS

In accordance with 24 V.S.A., sections 4448 and 4449, no development as defined in these regulations may be commenced on lands to which these regulations apply unless a permit has been duly issued. No permit may be issued by the Administrative Officer except in conformance with these regulations. No permit shall take effect until the expiration of 15 days from the date on which the permit was granted, or, in the event that notice of appeal is properly filed, the permit shall not take effect until final adjudication of the appeal.

Conditional use permits approved by the Zoning Board of Adjustment are required for the construction of new buildings, the substantial improvement of existing buildings and the placement of manufactured homes, including mobile homes. Permits for all other development may be issued by the Administrative Officer.

Minor improvements to existing buildings and structures, including normal maintenance activities, repairs, and minor structural alterations shall not require a permit, provided that such improvements do not involve any changes to the existing contours of land, do not increase the size of the building or structure footprint, and do not constitute "substantial improvement."

Permit applications shall not be deemed to have been received by the town until the Administrative Officer or the Secretary of the ZBA has determined that the application is complete and includes all required information.

Section 180: FEES

The Selectboard may establish such fees for the processing of applications as it may deem reasonable and necessary to defray the expense incurred by the Town in administering these regulations.

Section 190: DUTIES OF THE ADMINISTRATIVE OFFICER

The Administrative Officer shall:

1. administer and enforce the provisions of this bylaw in accordance with all applicable statutory requirements;
2. review all permit applications and issue or deny all permits not requiring conditional use approval within 30 day of receipt of the permit application. In the case of an application for a permit requiring conditional use approval, the Administrative Officer shall promptly deliver the application to the Secretary of the Zoning Board of Adjustment;
3. post, within 3 days of issuance of a permit, a copy of the permit in at least one public place in the municipality until the expiration of at least 15 days from the date of issuance of the permit;
4. deliver, within 3 days of the issuance of any permit, a copy to the listers;
5. maintain a record of all permits issued for development in areas of special flood hazard, including the elevations, relative to mean sea level, of the lowest floor, including basement, of all new or substantially improved buildings;
6. maintain a record of the elevations, relative in relation to mean sea level, to which all new or substantially improved buildings have been floodproofed;
7. maintain a record of all floodproofing certifications required under this regulation;
8. maintain a record of all variance actions, including copies of variance decisions issued by the ZBA; and,
9. comply with all record-keeping and reporting duties required under the provisions of 44 CFR, Ch. 1.

Section 200: REVIEW PROCEDURES

1. Proposed development shall be reviewed to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law. An application for a permit shall not be deemed to be complete until the applicant has demonstrated that all applicable state and federal permits have been issued.

2. Adjacent communities and the Stream Alteration Engineer at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section shall be notified at least 30 days prior to issuing any permit for the alteration or relocation of a watercourse and copies of such notification shall be submitted to the Administrator of the National Flood Insurance Program.

3. Prior to issuing a permit, a copy of the application and supporting information shall be submitted by the Administrative Officer to the State National Floodplain Insurance Program Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section in accordance with 24 V.S.A. section 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.

Section 210: BASE FLOOD ELEVATIONS AND FLOODWAY LIMITS

1. Where available, i.e. zone A1, A30, AE and AH, the most current effective base flood elevations and floodway limits provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps shall be used to administer and enforce the provisions of these regulations.

2. In areas where base flood elevations and floodway boundaries have not been provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps, i.e., zone A, base flood elevations and floodway information provided by FEMA or available from federal or state agencies or other sources shall be obtained and reasonably utilized to administer and enforce the provisions of these regulations.

3. Until a regulatory floodway has been designated, no new construction, substantial improvements, or other development shall be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the community.

Section 220: DEVELOPMENT STANDARDS

Development permitted under these regulations shall conform to the following standards:

1. All development, including subdivisions and manufactured home parks, shall be designed to (i) minimize flood damage within the flood-prone area; (ii) assure public facilities and utilities, such as roads, sewer, gas, electric and water systems, are located and constructed to minimize or eliminate flood damage; and provide adequate drainage to reduce exposure to flood hazards.

2. All development shall be reasonably safe from flooding and (i) designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement during the occurrence of the base flood, (ii) be constructed with materials resistant to flood damage, (iii) be

constructed by methods and practices that minimize flood damage, and (iv) be 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.

3. The flood carrying capacity within any altered or relocated portion of a watercourse shall be maintained.
4. New and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.
5. Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
6. Manufactured homes to be placed and existing manufactured homes to be substantially improved that are:
 - (i) located in a new manufactured home park or subdivision, outside of a manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in a manufactured home park or subdivision which has incurred substantial damage from a flood shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to at or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement during the occurrence of the base flood.
 - (ii) located in an existing manufactured home park, where elevating a replacement home to or above base flood elevation is not possible, the lowest floor shall be supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored system to resist floatation, collapse, and lateral movement.
7. Development within the regulatory floodway, as determined by Section 210.2, is prohibited unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice by a registered professional engineer certifying that the proposed development will not result in any increase in flood levels during the occurrence of the base flood.
8. The lowest floor, including basement, of all new buildings shall be at or above the base flood elevation.
9. Existing buildings to be substantially improved for residential purposes shall be modified or elevated to meet the requirements of subsection 8.
10. Existing buildings to be substantially improved for non-residential purposes shall either meet the requirements of subsection 8, or together with attendant utility and sanitary

facilities be designed to be watertight below the base flood elevation 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 a building proposed to be floodproofed shall not be issued until a registered professional engineer or architect has reviewed the structural design and specifications and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards or practice for meeting the provisions of this subsection.

11. Enclosed areas below the lowest floor which are subject to flooding shall be used solely for parking of vehicles, building access, or storage. All new construction and substantial improvements with fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings 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.

12. All new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, shall include within such proposals base flood elevation data;

13. Recreational Vehicles placed on sites with special flood hazard areas shall either:

- (i) be on the site for fewer than 180 consecutive days, and
- (ii) be fully licensed and ready for highway use, or
- (iii) be permitted in accordance with the elevation and anchoring requirements for "manufactured homes" in section 220.6

14. A small accessory building that represents a minimal investment need not be elevated to the base flood elevation provided the building:

- (i) shall not be used for human habitation,
- (ii) shall be designed to have low flood damage potential,
- (iii) shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters,
- (iv) shall be firmly anchored to prevent flotation, and
- (v) shall have service facilities such as electrical and heating equipment elevated or floodproofed.

Section 230: CONDITIONAL USE APPLICATION PROCEDURES

With the application of a conditional use permit, the applicant shall provide the following information:

1. base flood elevation at the site;
2. the elevation, in relation to mean sea level, of the lowest habitable floor, including basement;
3. where floodproofing is to be used, the elevation to which the structure or improvement is to be floodproofed;
4. certification from a registered professional engineer or architect that the floodproofing measures to be used meet the requirements of 44 CFR, Chapter 1; and,
5. such other information as is required to be provided on the application form provided by the Town.

Section 240: CONSIDERATION BY BOARD OF ADJUSTMENT

In reviewing each application and in making findings and decision to grant or deny a conditional use permit, the Board of Adjustment shall consider and implement all applicable provisions of 24 V.S.A., Chapter 117 and 44 CFR, Chapter 1.

Section 250: CONDITIONAL USE APPROVAL – CONDITIONS

When granting approval for development requiring conditional use approval under these regulations the Board of Adjustment shall attach such conditions as it may deem necessary to implement the purposes of these regulations, state law, and the requirements of the National Flood Insurance Program (44 CFR, Ch 1).

Section 260: VARIANCES

Variations shall be granted by the Board of Adjustment only in accordance with the provisions of 24 V.S.A., section 4469 and in accordance with the criteria for granting variances found in 44 U.S. CFR, section 60.6 of the NFIP regulations.

Section 270: PRECEDENCE OF REGULATIONS

The provisions of these regulations shall take precedence over any conflicting and less restrictive local regulations. The issuance of a permit under these regulations shall be a prerequisite for the issuance of any other local permits for development on lands subject to these regulations. The issuance of a permit under these regulations shall not relieve the recipient of responsibility for obtaining all other required local, state and federal permits.

Section 280: SEVERABILITY

A finding that any section or part of these regulations is held unconstitutional or not valid by a competent court shall not invalidate any other section or part of these regulations.

Section 290: INTERPRETATION

Where any part of these regulations is found to conflict with any part of statutes or regulation incorporated by reference in these regulations, the terms of the applicable statute or regulation shall apply.

Section 300: DISCLAIMER OF LIABILITY

These regulations do not imply that land outside of the areas of special flood hazard or land use s permitted within such areas will be free of flooding or flood damages. These regulations shall not create liability on the part of the Town of Jamaica or any town official or employee thereof for flood damages that result from reliance on these regulations or any administrative decision lawfully made thereunder.

DEFINITIONS

“Areas of special flood hazard” means those lands identified as lying within the boundaries of Special Flood Hazards Areas shown on the current FIRM.

“Base flood” means the flood having a one percent chance of being equaled or exceeded in any given year (the “one hundred year flood”).

“Base Flood Elevation” means the elevation, relative to mean sea level, of the water surface during the flood having a one percent chance of being equaled or exceeded in any given year.

“Basement” means any area of the building having its floor subgrade on all sides.

“Building” means a walled and roofed structure, and shall include a gas or liquid storage tank that is situated principally above ground.

“Development” as used in these regulations shall mean any man-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. Development shall not include any activities specifically exempted from permit requirements as set forth in Section 170 of these regulations or agricultural, forestry or recreational use which do not involve the construction of buildings or structures or the storage of materials or equipment and which do not involve changing the existing contour of the land in any way .

“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 manufactured 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).

“FIRM” means the Flood Insurance Rate Map. These maps are available for inspection in the town office.

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

“Floodproofing” 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 at any point.

“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.

“Lowest Floor” means the lowest floor of the lowest enclosed area (including basement). 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, section 60.3.

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

“New construction” means, for the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after

December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of the floodplain management regulation adopted by a 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 the floodplain management regulations adopted by a community.

“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.

“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.

“Structure” means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. Structure, for insurance purposes, means: (a) A building with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site; (b) A manufactured home (“a manufactured home,” also known as a mobile home, is a structure: built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or (c) A travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under the community’s floodplain management and building ordinances or laws. For the latter purpose, “structure” does not mean a recreational vehicle or a park trailer or other similar vehicle, except as described in (c) of this definition, or a gas or liquid storage tank.

“Substantial damage” means damage of any origin sustained by a structure such that the cost of restoring the structure to its undamaged conditions would equal or exceed 50 percent of the market value of the structure before the damage occurred.

“Substantial Improvement” means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either (a) before the improvement or repair is started, or (b) if the structure has been damaged, and is being restored, before the damage occurred. The term does not, however, include either (1) any project for improvement of the structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (2) Any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.

“Violation” means the failure of a structure or other development to be fully compliant with the community’s floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 U.S. CFR 60.3 is presumed to be in violation until such time as that documentation is provided.

Terms used in the sections of these regulations which apply to the administration of federal regulations required by 44 CFR, Chapter 1 shall carry the meaning defined in that chapter.

All other terms used in these regulations and not specifically defined herein shall carry their usual and customary meanings.

