

# **Emergency Flood Hazard Area Regulations**

## **Town of Bolton, Vermont**

### **Section 1. Findings**

- A. A Presidential declaration of a major disaster (FEMA-4022-DR) was issued for the State of Vermont, including Chittenden County, due to storm damage resulting from Tropical Storm Irene, under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, beginning August 29, 2011. This declaration authorizes federal relief and recovery assistance, including applications for public, individual and hazard mitigation assistance.
- B. By Executive Order (#11-11) dated August 27, 2011, Peter Shumlin, Governor of Vermont, declared a State of Emergency for the State of Vermont in connection with Tropical Storm Irene.
- C. As a result of flooding associated with Tropical Storm Irene, several town residents and businesses have experienced flood damage to their property, including repairs that may qualify for federal disaster assistance during the time in which the Presidential declaration remains in effect.
- D. The Town of Bolton has adopted permanent flood hazard area regulations as part of and included in the Bolton Land Use and Development Regulations, as amended effective August 9, 2010, and as approved by the Federal Emergency Management Agency (FEMA). The town is a participating community in the National Flood Insurance Program (NFIP).
- E. The town's current flood hazard area regulations require that the Development Review Board approve all development, including repairs, in mapped flood hazard areas, which could cause unnecessary and undue delay in issuing permits for the repair of properties that suffered minor flood damage.
- F. Under Vermont law, 20 V.S.A. § 16, the Bolton Select Board is authorized to make, amend and rescind such orders, rules and regulations as may be necessary for emergency management purposes, and to supplement the carrying out of the provisions of Chapter 1 of Title 20 (Emergency Management) to address disasters or emergencies.

### **Section 2. Intent**

- A. These emergency regulations are intended to facilitate recovery efforts by amending, on a temporary basis, specified sections of the Bolton Land Use and Development Regulations to allow for the efficient and expeditious administrative review and approval of repair, relocation and mitigation projects for those properties within mapped flood hazard areas (Table 2.8 Flood Hazard Area Overlay District) that suffered minor damage from August 2011 flooding.
- B. These emergency regulations shall apply only to those properties that suffered minor flood damage. The repair, replacement or relocation of substantially damaged structures, or structures that need substantial improvements, shall continue to require conditional use review and approval from the Development Review Board under the town's permanent bylaws prior to the issuance of zoning permits.

### Section 3. Effect

1. These emergency regulations shall be effective upon adoption by the Bolton Select Board and shall remain in effect for 180 days following the date of emergency declaration, until Thursday, February 23, 2012.
2. All provisions of the Bolton Land Use and Development Regulations not amended under or affected by these emergency regulations shall remain in full force and effect. Nothing in these emergency regulations shall be construed to permanently amend or repeal the Bolton Land Use and Development Regulations.
3. These emergency regulations are severable. Should any section of these regulations be declared unconstitutional or invalid by a court of law, such decision shall not affect the validity of any other section of these regulations, in whole or part, that is not so declared.

### Section 4. Administrative Review

- A. **Amendments.** The following sections of the Bolton Land Use and Development Regulations are hereby temporarily amended to incorporate the following on a temporary, emergency basis, to allow for administrative review as applied to repair and mitigation projects for properties that suffered minor flood damage in August 2011:
  1. **Table 2.8 Flood Hazard Area Overlay Districts.** The repair or mitigation of properties within Flood Hazard Overlay Districts that were not substantially damaged by August 2011 flooding shall be considered permitted uses under Table 2.8 (B) and (E)(4) that require only administrative review by the Zoning Administrator and the issuance of a zoning permit. Zoning permits shall be required prior to the start of construction.
  2. **Section 3.1(4) (Abandoned and Damaged Structures).** The repair or mitigation of properties within Flood Hazard Overlay Districts that were not substantially damaged by August 2011 flooding are subject only to administrative review by the Zoning Administrator under Sections 5.5 (Flood Hazard Review) and 9.3 (Zoning Permits) of the Bolton Land Use and Development Regulations. The Zoning Administrator must find that proposed repairs or mitigation projects meet applicable requirements of Section 5.5 (Flood Hazard Review) prior to the issuance of a zoning permit, and attach standard conditions of approval as recommended by Vermont Floodplain Management.
- B. **Appeals.** A written determination or zoning permit issued by the Zoning Administrator under these emergency regulations may be appealed to the Development Review Board as provided under Section 9.5 (Appeals) of the Bolton Land Use and Development Regulations.

### Section 5. Zoning Permit Applications

- A. Zoning permit applications under these emergency regulations shall at minimum include the following information:
  1. A Town of Bolton zoning application,
  2. Photos of the flood damage,
  3. Photos of pre-flood damage (if available),
  4. Description of work/repair to be done,

5. Schedule of work/repair (if available),
6. An estimate for the cost of work/repair that includes material and labor costs;
7. Most recent assessed or appraised value of the structure (excluding land) to be repaired, and
8. Any other information the Zoning Administrator deems necessary to determine compliance with these regulations.

B. The Bolton Select Board hereby waives required application fees for all permit applications covered under these emergency regulations, and for conditional use review applications for the repair or replacement of properties that experienced substantial damage from August 2011 flooding.

## **Section 6. Enforcement.**

These emergency regulations shall be enforced in the same manner as the Bolton Land Use and Development Regulations, however enforcement of permit requirements under these regulations shall be temporarily suspended until such time as notice is provided to affected property owners regarding municipal permit requirements for flood repair work.

## **Section 7. Definitions**

National Flood Insurance Program definitions contained in the Code of Federal Regulations (Title 44 Part 60 Subpart A) and Article 10 of the Bolton Land Use and Development Regulations are hereby adopted by reference and shall be used to interpret and enforce these regulations. In addition, the following definitions shall apply:

**Flood damage repair:** Work or mitigation measures needed to repair flood damage, and to bring a structure into compliance with applicable NFIP standards.

**Minor Damage:** Damage sustained by a structure whereby the cost of restoring the structure to its before-damaged condition is less than 50 percent of the market value of the structure before the damage occurred. See Substantial Improvement.

**Substantial Damage:** Damage sustained by a structure whereby the cost of restoring the structure to its before-damaged condition is equal to or greater than 50 percent of the market value of the structure before the damage occurred. See Substantial Improvement.

**Substantial Improvement:** Any repair, reconstruction, or improvement of a structure, the cost of which (including materials, repairs, built-in appliances, and labor) equals or exceeds 50% of the market value of the structure (excluding land) either (1) before the improvement or repair is started or (2) if the structure has been damaged and is being restored, before the damage occurred. This 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 necessary to ensure safe living conditions; or (2) any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

These emergency regulations are hereby adopted by majority vote of the Bolton Select Board, dated this \_\_\_\_ day of October, 2011.

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Attest: \_\_\_\_\_  
Deborah LaRiviere, Bolton Town Clerk

Public Notice Date: \_\_\_\_\_  
Public Hearing Date: \_\_\_\_\_