

## 10 OVERLAY DISTRICTS FP, TR, SVP, IHO, TO, UDO, RCO

- 10.01 Flood Plain Overlay District
- 10.02 Traffic Overlay District
- 10.03 Scenic View Protection Overlay District
- 10.04 Interstate Highway Overlay District
- 10.05 Transit Overlay District
- 10.06 Urban Design Overlay District
- 10.07 River Corridor Overlay District

**NOTE TO USERS: SECTION 10.01 [FLOODPLAIN] IS DRAFTED AS A COMPLETE REPLACEMENT OF THE EXISTING 10.01. TEXT THAT IS SUBSTANTIVELY DIFFERENT IS CALLED OUT AS SUCH IN THE COMMENTS ON THE RIGHT SIDE OF THE PAGE.**

### 10.01 Floodplain Overlay District (FP)

A. **Purpose.** It is the purpose of the Floodplain Overlay District to:

1. Avoid and minimize the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public services that result from flooding;
2. Ensure that the selection, design, creation, and use of development is reasonably safe and accomplished in a manner that is consistent with public wellbeing, does not impair flood plain services or the stream corridor;
3. Manage the flood hazard area designated pursuant to 10 V.S.A. Chapter 32 § 753, the municipal hazard mitigation plan; and make the City of South Burlington, its citizens, and businesses eligible for federal flood insurance, federal disaster recovery funds, and hazard mitigation funds as may be available.

B. **Authority.** In accordance with 10 V.S.A. Chapter 32, and 24 V.S.A. Chapter 117 §4424, §4411 and §4414, there is hereby established a bylaw for areas at risk of flood damage in the City of South Burlington Vermont. These regulations shall apply to development in all areas in the City of South Burlington identified as within the Floodplain Overlay District designated in Section 3.01(B).

C. **[reserved]**

D. **Administration**

1. **Floodplain Review.** All development in the City of South Burlington located within the Floodplain Overlay District shall be subject to Floodplain Review. The Floodplain Overlay District overlays other existing zoning districts. All other requirements of the underlying district shall apply in addition to the provisions herein, unless otherwise indicated. The Floodplain Overlay District is composed of two areas:
  - a. Floodplain Overlay District Zones A, AE, and A1-30. The boundaries of these Zones include those areas of special flood hazard designated in and on the above referenced studies and

**Commented [TN1]:** This is a type of review separate from Conditional Use Review or Site Plan Review. CCRPC finds that this approach is enabled in 24 V.S.A. 4411(b)(3)(G) and 4414. This is a change from the current standards which requires Conditional Use Review for almost all development in the Floodplain Overlay District.

maps as Zones A, AE, or A1-30.

- b. Floodplain Overlay District Zones 0.2% B1 and B2. The boundaries of these Zones include those areas of special flood hazard designated in and on the above referenced studies and maps as Zone 0.2%. Floodplain Overlay District Zone 0.2% B1 is composed of areas of the 500-year floodplain that are already substantially developed and where additional opportunities for infill development is appropriate. Floodplain Overlay District Zone 0.2% B2 is composed of areas of the 500-year floodplain that are not developed and where future development is not appropriate.

**Commented [TN2]:** Review to confirm this is an accurate description or if more refinement is needed. Add to purpose statement for district if OK.

2. **Interpretation.** The information presented on any maps, or contained in any studies, adopted by reference, is presumed accurate. However, if uncertainty exists regarding the Floodplain Overlay District boundary, the following procedure shall be followed:

- a. If uncertainty exists with respect to the boundaries of the Floodplain Overlay District Zones A, AE, and A1-30 the location of the boundary shall be determined by the Administrative Officer. If the applicant disagrees with the determination made by the Administrative Officer, a Letter of Map Amendment from FEMA shall constitute proof that the property is not located within the Special Flood Hazard Area.
- b. If uncertainty exists with respect to the boundaries of the Floodplain Overlay District Zones 0.2% B1 and B2 the location of the boundary shall be determined by the Administrative Officer. If the applicant disagrees with the determination made by the Administrative Officer, the applicant may appeal the determination in accordance with Article 17.

**Commented [TN3]:** Is this appeal process appropriate?

3. **Base Flood Elevations and Floodway Limits.**

- a. Where available (i.e. zones A1-A30, AE, & AH), the base flood elevations and floodway limits (or data from which a community can designate regulatory 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.
- b. In the Floodplain Overlay District where base flood elevations and floodway limits have not been provided by the National Flood Insurance Program (i.e. Zone A) in the Flood Insurance Study and accompanying maps, it shall be the responsibility of the applicant to develop the base flood elevation at the site using data available from state or federal agencies or other sources.

**Commented [TN4]:** As written, this would not apply to Zone 0.2% B1 and Zone 0.2% B2 because BFE is not necessary in any of the applicable regulations.

4. **Warning of Disclaimer of Liability.** This bylaw does not imply that land outside of the areas covered by this overlay district will be free from flood damages. These regulations shall not create liability on the part of the City of South Burlington, or any municipal official or employee thereof, for any flood damages that result from reliance on these regulations, or any administrative decision lawfully made hereunder.

5. **Precedence of Bylaw.** The provisions of this Floodplain Overlay District shall not in any way impair or remove the necessity of compliance with any other local, state, or federal laws or regulations. Where these regulations imposes a greater restriction the provisions here shall take precedence.
6. **Exempted Development.** The following types of development are exempt from Floodplain Review. The following types of development may also still be subject to other standards in the South Burlington Land Development Regulations including Section 12.01 General Stream and Surface Water Protection Standards:
- a. The removal of a building or other improvement in whole or in part, so long as the ground elevations under and adjacent to the removed structure remain unchanged. Please be aware that for damaged structures where FEMA mitigation funds may be used, the damaged structure may be required to remain in place until funds are granted.
  - b. Routine maintenance of existing buildings in the usual course of business required or undertaken to conserve the original condition, while compensating for normal wear and tear.
  - c. Routine maintenance includes actions necessary for retaining or restoring a piece of equipment, machine, or system to the specified operable condition to achieve its maximum useful life and does not include expansions or improvements to development.
  - d. Interior improvements to existing buildings that cost less than five-hundred (500) dollars.
  - e. Maintenance of existing sidewalks, roads, parking areas, or stormwater drainage; this does not include expansions.
  - f. Maintenance of existing bridges, culverts, and channel stabilization activities; this does not include expansions.
  - g. Streambank armoring and stabilization, retaining walls, and abutment work that do not reduce the cross-sectional flow area of the river or stream channel and have coverage under a Stream Alteration Permit, if required, under 10 V.S.A. Chapter 41 and the rules adopted thereunder.
  - h. The following activities are exempt from Floodplain Review, but may require a permit under the State's "Vermont Flood Hazard Area and River Corridor Rule" (Environmental Protection Rule, Chapter 29):
    - i. State-owned and operated institutions and facilities.
    - ii. Forestry operations and silvicultural (forestry) activities conducted in accordance with the Vermont Department of Forests and Parks Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont or other

**Commented [PC5]:** This section is new and clarifies activities that are exempt from review under FloodPlain Standards.

**Commented [TN6]:** Made clear that the list is only exemptions from the receiving Floodplain Review.

- accepted silvicultural practices, as defined by the Commissioner of Forests, Parks and Recreation.
  - iii. Agricultural activities conducted in accordance with the Vermont Agency of Agriculture Food and Market's Required Agricultural Practices (RAPs).
  - iv. Public utility power generating plants and transmission facilities regulated under 30 V.S.A. § 248.
  - v. Telecommunications facilities regulated under 30 V.S.A. § 248a
- i. Planting projects which do not include any construction or grading activities in accordance with 24 V.S.A. § 4424(c).

#### **E. Floodplain Review Application Requirements**

1. **Application Submission Requirements.** All applications for Floodplain Review shall include:
  - a. **Floodplain Development Plan.** A Floodplain Development Plan that depicts the proposed development, property boundaries, all water bodies, all boundaries (Floodplain Overlay District boundaries – all zones), the shortest horizontal distance from the proposed development to the top of bank of any river, any existing and proposed drainage, any proposed fill, pre- and post-development grades, and the elevation of the proposed lowest floor as referenced to the same vertical datum as the elevation on the current Flood Insurance Rate Maps; and
  - b. **Project Review Sheet.** A completed Vermont Agency of Natural Resources Project Review Sheet. The Project Review Sheet shall identify all State and Federal agencies from which permit approval is required for the proposal, and shall be filed as a required attachment to the municipal permit application. The identified permits, or letters indicating that such permits are not required, shall be submitted to the Administrative Officer and attached to the permit before work can begin.
2. **Supplemental Application Requirements.** Some applications may require additional information based on the location and type of the development. The following information shall be developed and provided with an application, as required below:
  - a. **Base Flood Elevation (BFE).** BFE information is required for applications that include the following development:
    - i. Replacement, substantially improved, or substantially damaged structures located within the Floodplain Overlay District, including Zone A, where no BFEs have been provided;
    - ii. Projects requiring elevation or dry-floodproofing above BFE;
    - iii. Additions to existing historic structures; and

**Commented [TN7]:** Changed from "Site Plan" in the last draft to avoid confusion with actual "Site Plan Review."

**Commented [TN8]:** Does not apply to B1 or B2 based on current draft.

- iv. Any accessory structure proposed to have building utility systems that will need to be protected from flood waters through elevation above the BFE.
  - b. **Floodway Data.** The following information is required for development proposed to be located in the floodway. All floodway data shall be certified by a registered professional engineer. All submitted proposals shall include electronic input/output files mapping showing cross-section locations and the following information:
    - i. Hydraulic calculations demonstrating no rise in BFE or velocity for proposed new or expanded encroachments within the floodway.
    - ii. In accordance with 44 C.F.R. § 60.3(c)(10), where BFE data has been provided by FEMA, but no floodway areas have been designated, the applicant shall provide a floodway delineation that demonstrates that the proposed development, when combined with all existing and anticipated future development, will not increase the water surface elevation of the base flood by more than one foot at any point within the community.
3. **Waivers.** Upon written request from the applicant, the Development Review Board may waive specific application requirements when the data or information is not needed to comply with these regulations.

**F. Development Review Process.** All applications for development in the Floodplain Overlay District shall be reviewed according to the following procedures:

**1. Referrals.**

- a. **NFIP Coordinator.** Upon receipt of a complete Floodplain Review application for a substantial improvement or new construction the Administrative Officer shall forward a copy of the application and supporting information to the State National Flood Insurance Program Coordinator at the Vermont Agency of Natural Resources, in accordance with 24 V.S.A. 4424. A permit may be issued only following receipt of comments from the Agency, or the expiration of 30 days from the date the application was mailed to the Agency, whichever is sooner. The Administrative Officer, and/or Development Review Board shall consider all comments from ANR.
- b. **Stream Alteration Engineer.** 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.

## 2. Review Process.

- a. **Administrative Review.** Floodplain Review may be completed administratively by the Administrative Officer for the following types of development in the Floodplain Overlay District provided that the application is complete and the proposed development can be approved administratively under all other sections of the South Burlington Land Development Regulations:
- i. Changes from a permitted land use to another permitted land use provided that any other changes to the site may also be administratively reviewed.
  - ii. Above grade development, which has not been elevated by the placement of fill, that is two feet above base flood elevation and documented with field-surveyed topographic information certified by a registered professional engineer or licensed land surveyor (Elevation Certificate).
  - iii. Open fencing and signs elevated on poles or posts that create minimal resistance to the movement of floodwater.
  - iv. Municipal transportation infrastructure improvements designed and constructed by the Vermont Agency of Transportation that have written confirmation from the ANR Regional Floodplain Manager that the project is designed to meet or exceed the applicable standards in these regulations.
  - v. River and floodplain restoration projects, including dam removal, that restore natural and beneficial floodplain functions and include written confirmation from the ANR Regional Floodplain Manager that the project is designed to meet or exceed the applicable standards in these regulations.
  - vi. Improvements or repairs of damage to structures that do not expand the existing footprint and do not meet the definition of “substantial improvement” or “substantial damage.”
  - vii. Accessory structures less than 500 square feet in size in the Floodplain Overlay District Zones 0.2% B1.
  - viii. Building utilities.
  - ix. Recreational vehicles. See Section 3.08 Temporary Structures and Uses for additional applicable standards.
- b. **Development Review.** All development in the Floodplain Overlay District that cannot be approved through administrative Floodplain Review shall require Floodplain Review by the Development Review Board.

**Commented [TN9]:** This list is from the model bylaw. It can be edited to meet the community's needs and comfort with admin review.

3. **Permits.** A permit is required from the Administrative Officer for all development, as defined in Section 2.03 (Floodplain Definitions), in the Floodplain Overlay District. A permit shall only be issued for development meeting the standards in Section 10.01(G) and the following the review process outlined in Section 10.01(F) and Article 17.

- a. Within 30 days of receipt of a complete application per Section 10.01(E), including all application materials and fees, the Administrative Officer shall act to either issue or deny a permit in writing, or to refer the application to the Development Review Board. If the Administrative Officer fails to act with regard to a complete application for a permit within

the 30-day period, a permit shall be deemed issued on the 31st day, unless the permit is for new construction or substantial improvement, in which case a permit shall not be issued until the Administrative Officer has complied with the requirements of Section 10.01(F)(1)).

- b. No zoning permit shall be issued by the Administrative Officer for any use or structure which requires the approval of the Development Review Board until such approval has been obtained. For permit applications that must be referred to a state agency for review, no permit shall be issued until a response has been received from the State, or the expiration of 30 days following the submission of the application to the State, whichever is sooner.

**G. Development Review Standards.** Development in the Floodplain Overlay District shall be reviewed to ensure that it complies with the following standards:

1. **Prohibited Development.** In addition to any uses not specifically listed in this section, the following types of development are specifically prohibited in the Floodplain Overlay District:

- a. New principal structures, both residential or non-residential (including the placement of manufactured homes), except within Zone 0.2% B1 of the Floodway Overlay District;
- b. New accessory structures except within the Zone 0.2% B1 of the Floodplain Overlay District.
- c. New critical facilities;
- d. Excavation of earth products shall be prohibited in such cases where it is anticipated that such excavation will lower the level of the water table, interfere with natural flow patterns, or reduce flood storage capacity;
- e. Storage or junk yards;
- f. New fill except as necessary to elevate structures above the base flood elevation.
- g. Within the floodway: new encroachments, except for minor improvements to existing structures or relating to bridges, culverts, roads, stabilization projects, public utilities, river and/or floodplain restoration projects, or health and safety measures. Minor improvements are those that would not affect base flood elevations, consistent with the provisions of FEMA P-480; Desk Reference for Local Officials.

2. **Development in the Floodway.** Within the floodway, the following standards apply to all development:

- a. New encroachments are prohibited within the floodway, except for the following, which also shall comply with subsection (b) below:
  - i. New encroachments relating to bridges, culverts, roads, stabilization projects, public utilities, functionally dependent uses, and river or floodplain restoration projects; and

**Commented [PC10]:** Updated from current bylaw to reflect Commission direction for 500-year floodplain. Current bylaw only prohibits critical facilities within the 500-year floodplain.

**Commented [TN11]:** Is this clear enough?

**Commented [TN12]:** Moved from another place in the existing bylaw. This is a more appropriate place.

- ii. New encroachments relating to health and safety measures, such as replacement of preexisting on-site septic and water supply systems, if no other practicable alternative is available.
- b. For all proposed new encroachments and above-grade development, a hydraulic analysis is required to be provided for review. The analysis should be performed in accordance with standard engineering practice, by a registered professional engineer, and shall certify that the proposed development will:
- i. Not result in any increase in flood levels during the occurrence of the base flood;
  - ii. Not increase base flood velocities; and
  - iii. Not increase any risk to surrounding properties, facilities, or structures from erosion or flooding.
- c. For development that is either below grade or will not result in any change in grade, the hydrologic & hydraulic analyses may be waived, where the applicant will provide pre and post-development elevations demonstrating that there will be no change in grade, and that the development will be adequately protected from scour.
- d. For any new encroachment that is proposed within the Floodway where a hydraulic analysis is required, the applicant may provide a FEMA Conditional Letter of Map Revision (CLOMR) in lieu of a hydraulic analysis, to demonstrate that the proposed activity will not have an adverse impact.
3. **Development in the Floodplain Overlay District.** All development in the Floodplain Overlay District shall comply with the following standards:
- a. All development shall be reasonably safe from flooding, as determined by compliance with the specific standards of this subsection.
  - b. All development shall be designed (I) to minimize flood damage to the proposed development and to public facilities and utilities, and (II) to provide adequate drainage to reduce exposure to flood hazards.
  - c. All development shall be (I) designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure 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.
  - d. **Water Supply and Wastewater.** New and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and

**Commented [TN13]:** Standards (a) through (g) are all existing standards that have been moved.



discharges from the systems into flood waters. On site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

- e. **Stream Alteration.** The flood carrying capacity within any portion of an altered or relocated watercourse shall be maintained.
- f. **Manufactured Homes.** Replacement manufactured homes shall be elevated on properly compacted fill such that the top of the fill (pad) under the entire manufactured home is above the base flood elevation.

g. **Structures.**

i. **Residential Structures**

- a) Residential structures to be substantially improved in Floodplain Overlay District Zones A, A1-30, AE, and AH shall be located such that the lowest floor is at least two (2) feet above base flood elevation; this must be documented, in the proposed and as-built condition, with a FEMA Elevation Certificate.
- b) Residential structures to be substantially improved in Floodplain Overlay District 0.2% Zones B1 & B2, and new structures in Floodplain Overlay District Zone 0.2% B1, shall be located such that the lowest floor is at least two (2) feet above the average grade level on-site; this must be documented, in the proposed and as-built condition, with a FEMA Elevation Certificate. Average grade level means the average of the natural or exiting topography at center of all exterior walls of a building or structure to be placed on site.

ii. **Non-residential Structures.** Non-residential structures to be substantially improved, and new non-residential structures in the Floodplain Overlay District 0.2% Zone B1, shall meet the following standards:

- a) Meet the standards in Section 10.01(G)(3)(g)(i) Residential Structures; or,
- b) Have the lowest floor, including basement, together with attendant utility and sanitary facilities be designed so that two (2) feet above the base flood elevation (for structures in Zones A, A1-30, AE, and AH), or two (2) feet above the average grade level on-site (for structures in Zones 0.2% B1 and B2), the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A permit for flood proofing shall not be issued until a licensed professional engineer or architect has reviewed the structural design, specifications and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection. An occupancy permit for the structure shall not be issued until an "as-built" plan has been submitted and a licensed professional engineer or architect has certified that the structure has been constructed in accordance with accepted standards of practice for meeting the provisions of this subsection.

**Commented [PC14]:** Amended from current regulations per PC direction to add 500 year floodplain B1 and B2 standards

**Commented [TN15]:** Increasing requirement from one (1) foot above base flood elevation.

**Commented [TN16]:** Above grade instead of BFE. Note calculation. "Average grade level" should be added to the floodplain definitions if the term is OK with the Planning Commission.

- h. **Basements.** For all new construction and substantial improvements, fully enclosed areas below grade on all sides (including below grade crawlspaces and basements) shall be prohibited.
- i. **Areas Below Base Flood Elevation.** For all new construction and substantial improvements, fully enclosed areas that are above grade, below the lowest floor, below Base Flood Elevation and subject to flooding, shall be (i) solely used for parking of vehicles, storage, or access, and such a condition shall clearly be stated on any permits; and, (ii) designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Such designs must be certified by a licensed professional engineer or architect, or meet or exceed the following minimum criteria: A minimum of two openings on two walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- j. **Impact to Base Flood Elevation.** In the AE Zone, where base flood elevations and/or floodway limits have not been determined, development shall not be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated encroachment, will not increase the base flood elevation more than one (1) foot at any point within the community. The demonstration must be supported by technical data that conforms to standard hydraulic engineering principles and certified by a licensed professional engineer.
- k. **Recreational Vehicle.** All recreational vehicles shall be fully licensed and ready for highway use.
- l. **Accessory Structures.** In Floodplain Overlay District 0.2% Zone B1, a small accessory structure of 500 square feet or less in gross floor area that represents a minimal investment need not be elevated to the base flood elevation in this area, provided the structure is placed on a site so as to offer the minimum resistance to the flow of floodwaters and shall meet the criteria of 10.01(G)(3)(i). Accessory structures are prohibited in all other parts of the Floodplain Overlay District.
- m. **Critical Facilities.** Critical facilities that are to be replaced, substantially improved, or meet the definition of substantial damage shall be constructed so that the lowest floor, including basement, shall be elevated or dry-floodproofed at least two (2) feet above the average grade level in Floodplain Overlay District 0.2% Zone B1 and Floodplain Overlay District 0.2% Zone B2, or three (3) feet above base flood elevation in Floodplain Overlay District Zones A, AE, and A1-30. A critical facility shall have at least one access road connected to land outside the 0.2% annual chance floodplain that is capable of accommodating emergency services vehicles. The top of the access road shall be no lower than the elevation of the 0.2% annual chance flood event.

**Commented [TN17]:** Note the prohibition on all basements. Would apply to 500-year floodplain as well.

**Commented [PC18]:** New section for 500-year floodplain.

**Commented [PC19]:** Newly added based on state model 11/3/2020

**Commented [PC20]:** Modified from 1 foot in state model to 2 feet 11/3/2020

**Commented [PC21]:** Modified from "no lower than 6 inches below", in state model, to "no lower than" 11/3/2020

- n. **Historic Structures.** For historic structures that would meet the definition of substantial improvement or substantial damage if not for their historic structure designation, the improved or repaired building shall meet the following mitigation performance standards for areas below the base flood elevation:
- i. Utility connections (e.g., electricity, water, sewer, natural gas) shall be protected from inundation and scour or be easily repaired;
  - ii. The building foundation shall be structurally sound and reinforced to withstand a base flood event;
  - iii. The structure's historic designation shall not be precluded;
  - iv. The likelihood of flood waters entering the structure during the base flood is reduced; and
  - v. There shall be no expansion of uses below base flood elevation except for parking, storage, building access, or, in the case of non-residential buildings, where the space is dry floodproofed.
- o. **No Rise Requirement.** No encroachment, including fill, new construction, substantial improvement, or other development, that would result in any increase in flood levels within the regulatory floodway during the occurrence of the base flood discharge, shall be permitted unless hydrologic and hydraulic analyses are performed in accordance with standard engineering practice, by a licensed professional engineer, certifying that the proposed development will: a) Not result in any increase in flood levels (0.00 feet) during the occurrence of the base flood; and b) Not increase any risk to surrounding properties, facilities, or structures from erosion or flooding.
4. **Other Applicable Standards.** Development in the Floodplain Overlay District may be subject to these additional standards:
- a. All land lying within a River Corridor as defined in these regulations is subject to the standards of Section 10.07 in addition to the standards of this section.
  - b. All land lying within a stream or surface water buffer, and all land within the 0.2% A Zone, is subject to the standards of Section 12.02 in addition to the standards of this section.

**H. Nonconforming Structures.**

1. A nonconforming structure in the Floodplain Overlay District that has been substantially damaged or destroyed may be reconstructed in its original location only if it is rebuilt to comply with all requirements of the National Flood Insurance Program and these regulations;
2. Nonconforming structures and uses shall be considered abandoned where the structures or uses are discontinued for more than 6 months. An abandoned structure shall not be permitted for re-occupancy unless brought into compliance with these regulations and Section 3.11(G). An abandoned use shall not be permitted unless brought into compliance with these regulations.

**I. Variances.**

**Commented [TN22]:** New standards for historic structures from state model bylaw.

1. A variance for development in the Floodplain Overlay District may be granted by the Development Review Board only in accordance with Title 24, Vermont Statutes Annotated and 44 CFR Section 60.6.
  2. Any variance issued in the Special Flood Hazard Area shall not increase flood heights, and shall inform the applicant in writing over the signature of a community official that the issuance of a variance to construct a structure below the base flood elevation increases risk to life and property and will result in increased flood insurance premiums up to amounts as high as \$25 for \$100 of coverage. Such notification shall be maintained with a record of all variance actions.
- J. Certificate of Occupancy.** A Certificate of Occupancy shall be required for all new structures or substantial improvements to structures in the Floodplain Overlay District.
1. Upon receipt of the application for a certificate of occupancy, the Administrative Officer shall review the permit conditions and inspect the premises to ensure that:
    - i. All required state and federal permits that have been obtained by the applicant;
    - ii. All work has been completed in conformance with the zoning permit and associated approvals; and
    - iii. All required as-built documentation has been submitted to the Administrative Officer (e.g. updated FEMA Elevation Certificate, dry floodproofing certificate, as-built volumetric analysis, or as-built floodway encroachment analysis).
- K. Enforcement.** Enforcement shall be conducted by the Administrative Officer. All enforcement action related to property in the Floodplain Overlay District shall be performed in compliance with Article 17 and the following procedures:
1. The State NFIP Coordinator shall be provided a copy of all notices of violation issued by the Administrative Officer for development that is not in conformance with this section.
  2. If any appeals have been resolved, but the violation remains, the Administrative Officer shall submit a declaration to the Administrator of the National Flood Insurance Program requesting a denial of flood insurance to the property pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.