



Planning & Zoning Office  
Town of Richmond  
P.O. Box 285  
Richmond, VT 05477  
(802) 434-2430

---

Dear Kyle and Ned,

January 22, 2025

Thanks for your assistance with our FHOD amendments. As you mentioned, you are here to assist municipalities in this work, and the assistance we need at the moment is for you to support the effort that we are making to communicate to FEMA that we are still complying with NFIP requirements even if our language varies slightly from theirs (or yours). We are also mindful of the statement in the NFIP (FEMA-480) guidelines (p. 5-7) "As noted, communities are encouraged to enact regulatory standards that exceed these minimums and that are more appropriate for local conditions".

**Our "local conditions" involve the following:**

- The Winooski River Floodway runs through the center of Richmond Village
- For decades our existing FHOD has protected this area from development
- Our community's village park ("Volunteers Green") occupies this Floodway, with baseball and soccer fields with a restroom building, a canoe access, a playground and a bandshell – all pre-existing to floodplain regulations – in the summer, there is a once-a-week half-day Farmers' Market and other one-time community events (4<sup>th</sup> of July, Halloween on the Green etc.)
- Although it is all Floodway, a portion of the area is at a higher BFE than the rest – the bandshell is located on this "plateau"
- We now wish to relocate our other permanent pre-existing structures (the restroom and the playground equipment) from their current location in the main channel of the flood water up onto the "plateau" where there is less flow and depth of flood water, and we would incur less expense from the frequent repairing that we are currently experiencing – we feel this is an improvement to the functioning of the Floodway as well as to our resiliency
- Because of the way our FHOD is interpreted by our Zoning Administrator, we have chosen to enable this relocation by regulating this activity through the currently existing "Nonconforming Structures and Uses" section of our FHOD regulation as these are all pre-existing "structures" (in our broader sense) which requires CUR and approval by the DRB and adherence to the development standards of §6.8.16 of our ordinance. The only "structure" that would count as a building is the small restroom structure.
- Based on your previous comments, we have made some changes to our proposed amendments and feel that we are in full compliance.

We have also considered the following statements from the NFIP Management Requirements (FEMA-480):

- "You have some discretion to exempt obviously insignificant activities from the permit requirement" (p.5-18)
- "The key is whether the project will present a **new** obstruction to flood flows, alter drainage or have the potential to be a substantial improvement" (p.5-18). We are talking about already existing, not new structures, and **reducing** the potential for damage by relocating the structures to a higher BFE. We are also adding a permit.
- "Some communities specifically exempt small projects in their ordinances. This is the recommended approach, as it avoids challenges that the permit official arbitrarily decides what permits need to be issued". (Top of p.5-19).
- "Minor projects. Some projects are too small to warrant an engineering study and the [No-Rise] certification. Many of these can be determined using logic and common sense. (p. 5-23)

We have examined the NFIP checklist. Back in 2023, our current FHOD ordinance was examined by Dan Albrecht of CCRPC and was considered to align with the NFIP checklist, and we have been working with this “approved” document as the baseline for our amendments. This week we compared our proposed draft with the NFIP checklist. We were only able to identify 2 items, #16 and #17 out of 46 items, that would conceivably be problematic for compliance and have revised to remove any potential questions.

**We have made the following changes to our proposed amendments:**

- The first is the removal of the category/definition “**Incidental structures,**” designed to allow for small park accessory items such as trash cans and picnic tables to be allowed without permitting. Kyle Medash mentioned this as a “red flag” that would invite FEMA scrutiny, although small project exemptions are recommended under the NFIP. To make this more compliant with the checklist language and Kyle’s comments, we have folded these “structures that are not buildings” into the existing “insignificant activities” category of our current FHOD ordinance and, in addition, require that they be permitted by the Zoning Administrator, which should satisfy the permitting aspect of #16 and #17 of the NFIP Checklist. We have removed any mention of size, and let the examples govern the permitting. We have explicitly stated that these items shall meet the development standards of §6.8.16(b) in order to receive a Zoning Administrator issued permit.
- Note that we are retaining **our** use of the word “structure” (broader than just “building”), but we are careful to indicate here and in other parts of the document, whether or not we are referring to buildings when we use the word “structure,” or “structures that are not buildings.”
- We require that a **non-residential building** (including the restroom building that we wish to relocate to a higher BFE in the Floodway) to be floodproofed or elevated as per the development standards of §6.8.16. A CUR by the DRB is also required, as well as design and certification by a professional engineer, architect etc.
- We are utilizing the existing category of “**temporary structures**” to permit such non-permanent, easily removable structures such as the seasonal tents of the Farmers’ Market and the 4<sup>th</sup> of July Celebration, and the portable toilets and food trucks as well as soccer goals that are brought in for sports activities. These will require a permit from the Zoning Administrator and will not include any “structures that are buildings”. Permit must contain contact information of the responsible party in order to facilitate rapid removal of any temporary structures in case of an impending flood event.

We are sending you a **new** amended red-line version (**revisions in green**) of our current FHOD regulations. We hope you will look it over carefully. We are certainly open to reconsidering particular items that you feel would be noncompliant, but not a general feeling that this is different from the newly developed model ordinance. We feel that the language of our current ordinance has worked well for us for over 20 years, and we would like to keep it as the basis for our amendments. We have worked with residents of the non-floodway SFHA to ensure that their rights are not compromised by our proposed changes and have considered the other areas of the Floodway outside of the park area to make sure they are not negatively impacted.

Thank you for your help,

Virginia Clarke  
Chair, Richmond Planning Commission

Keith Osborne  
Richmond Director of Planning and Zoning