

**Town of Highgate
Vermont**

**ZONING BYLAWS
&
MAP**



**Prepared by the Highgate Planning Commission
With assistance from the Northwest Regional Planning Commission
Approved by the Highgate Selectboard on December 20, 2007.**

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ARTICLE I GENERAL PROVISIONS

Section 100 Enactment

In accordance with the Vermont Planning and Development Act, herein referred to as the "Act", **24 V.S.A., Chapter 117, Sections 4403 and 4404**, there are hereby established the **Zoning Bylaws for the Town of Highgate**, Vermont which are set forth in the text and map which constitutes these regulations.

Section 110 Purpose

- (1) To implement the **Town of Highgate Municipal Development Plan** and the purposes as established in **24 V.S.A. Chapter 117, Section 4302**.
- (2) To promote the health, safety, moral, and general welfare of the inhabitants.
- (3) To provide orderly community growth and to maintain and enhance the natural beauty and environment of the Town.
- (4) To prevent the overcrowding of land and to preserve agricultural, forest and other open lands.
- (5) To encourage the provision of sufficient space in appropriate locations for forests and agricultural, residential, recreational, commercial and industrial development.

Section 120 Applicability

Hereafter, within the jurisdiction of the **Town of Highgate**, all development, structures, and uses shall be in compliance with the requirements and provisions of the **Town of Highgate Zoning Bylaws and Subdivision Regulations**.

Section 130 Interpretation

130.1 These **Bylaws** shall not repeal, abrogate, or impair any other land use controls including statutes, regulations, rules, ordinances, permits, easements, deed restrictions, covenants or similar devices. However, in their interpretation and application, the provisions of these **Bylaws** shall be held to be minimum requirements which shall take precedence over any concurrent and less restrictive controls.

130.2 Except where defined in these **Bylaws**, all words herein shall carry their customary meanings. Any interpretation of words or provisions in these **Bylaws** by the **Administrative Officer** may be appealed to the **Zoning Board of Adjustment** for declaratory ruling.

Section 140 Severability

If a **Court** of competent jurisdiction holds any portion of these **Bylaws** unconstitutional or invalid, the remainder of these **Bylaws** shall not be affected.

ARTICLE II AMENDMENTS

Section 200 Adoption, Amendments, or Repeal of Bylaws

These **Bylaws** may be adopted, amended, or repealed according to the requirements and procedures established in the "**Act**" by changing the zoning boundaries or other provisions whenever the public necessity, convenience, and general welfare of the inhabitants and good planning and zoning practices justify such an adoption, amendment or repeal of the Bylaws. Adoption, amendments or a repeal of the Bylaws by the **Board of Selectmen** are in accordance with the provisions of **24 V.S.A., Chapter 117 Section 4404**.

Section 210 Effective Date

The effective date of an adoption, amendment or repeal of the Bylaws shall be in accordance with the provisions of **24 V.S.A. Chapter 117, Section 4404**.

Section 220 Enactment

On the date these **zoning bylaws** become effective, they shall amend in their entirety the **zoning bylaws** of the **Town of Highgate** then in effect.

ARTICLE III ESTABLISHMENT OF ZONING MAP AND DISTRICTS

Section 300 Zoning Map Description

The location and boundaries of the **Zoning Districts** are established as shown on the

Official Zoning Map. The **Official Zoning Map** shall consist of the **Town of Highgate Zoning Map**, the latest **Federal Insurance Administration Flood Insurance Rate Map (FIRM)** and any explanatory matter. The **Official Zoning Map** shall be identified by the signatures of the **Board of Selectmen** of the **Town of Highgate** and attested by the **Town Clerk** under the following words: "This is to certify that this is the **Official Zoning Map** of the **Town of Highgate, Vermont** together with the date of adoption of these **Bylaws**". No amendment to these regulations which involves matter portrayed on the **Official Zoning Map** shall become effective until such change has been adopted and entry has been made on said **Map**, signed by the **Board of Selectmen** and attested to by the **Town Clerk**. No changes of any nature shall be made to the **Official Zoning Map** except in conformity with **Sections 4403 and 4404 of the Act**. The **Official Zoning Map** shall be kept on file at the office of the **Town Clerk** and shall be available for examination during normal office hours. A **duplicate copy** shall be kept by the **Administrative Officer**. The **Official Zoning Map** shall be the **final authority** as to the current zoning status of all land and water areas of the **Town of Highgate, Vermont**.

Section 310 Establishment of Districts

The **Town of Highgate, Vermont** is hereby divided into the following **Zoning Districts** as shown on the **Official Zoning Map**.

A.D.	AGRICULTURAL DISTRICT
H.D.	HIGH DENSITY RESIDENTIAL DISTRICT
M.D.	MEDIUM DENSITY DISTRICT
P.A.	PROTECTED AREA DISTRICT
I/C.	INDUSTRIAL COMMERCIAL DISTRICT
F.P.	FLOOD PLAIN DISTRICT
S.L.	SHORELINE DISTRICT
F.R.	FOREST RESERVE DISTRICT
A.O.	AIRPORT OVERLAY DISTRICT

Section 320 Purpose of Zoning Districts

The (A.D.) Agricultural District is designated for land best suited for and primarily used for agricultural purposes. This zone includes the prime tillage areas, pasture land and farm wood lots. Due to the soil conditions and this zone's location with respect to existing and anticipated land use patterns, much of this zone remains economically viable for agriculture and should to the extent possible be preserved for agricultural use. Agricultural businesses (agribusiness) and limited residential uses are permitted so as not to interfere with or materially alter the primary character and designated land use of the Agricultural District. Refer to **Article VIII** for Permitted, Conditional Uses and Dimensional Requirements.

The (H.D.) High Density Residential District consists of the locations within the Town where it is desired that development occur which can accommodate the majority of the population growth in Highgate. These districts have been selected because of existing settlements, anticipated patterns, existing and future public facilities and services, suitable soils and other physical characteristics. The development of these districts with urban uses affords the best opportunity for the existing and future provision of economically feasible public facilities and services while providing an orderly separation of these uses from other legitimate land uses within the Town. High Density Residential, commercial and many public and quasi-public facilities and services are intended to develop in these districts. Refer to **Article VIII** for Permitted and Conditional Uses and Dimensional Requirements.

The (M.D.) Medium Density District is intended as a medium density residential area to accommodate traditional country living characteristics. Due to the soil characteristics, terrain and highway access, the land in this zone must be put to a lower intensity of use than the high density zone. A medium density of development should manage to preserve the environment and character of this zone, even though Planned Unit Developments are permitted as a conditional use.

The (P.A.) Protected Area District represents the unique and irreplaceable areas of natural beauty, which, for the public good, should remain in their natural state for the generations to come. This area contains steep slopes, fragile soils and vegetation, headwaters of the Rock River, wetlands and similar features. It is the intent of these Bylaws, through the designation of this district, to preserve these areas from medium to high density and intensive development, therefore limited uses are allowed in the district.

The (I/C) Industrial/Commercial District provides for industrial enterprises which are consistent with the general well being of the town. This district contains the native site characteristics desired by industry and has the potential of being serviced by all essential public services. This district is intended to afford the opportunities of increased municipal tax base and employment for the citizens of Highgate and the entire region. Because of the unique favorable physical features of this district, it shall be protected from residential and other devaluating uses that would reduce its desirability as an industrial site.

The (F.P.) Flood Plain District is the area delineated on the **Flood Insurance Rate Map for the Town of Highgate** by the **Federal Emergency Management Agency**. The requirements of this district are promulgated to minimize and prevent the loss of life and property, the disruption of commerce, the impairment of the tax base and all extraordinary public expenditures required following flood disasters. Establishment of this zone is also meant to ensure that the design and construction of development in special flood hazard areas is accomplished in a manner that minimizes or eliminates the potential for flood damage. This district is to be administered according to the **National Flood Insurance Program (NFIP)**, which is required for community eligibility in the **NFIP** and thereby ensures availability of flood insurance to property owners. Therefore, a **conditional use review** shall be required for all development in this district.

The (S.L.) Shoreline District includes land adjacent to those bodies of water within the Town of Highgate with a total impoundment area of twenty (20) acres or more. The Shoreline District includes the shores of Lake Champlain and Cutler Pond. Pursuant to Section 4411 of the Act, this district is established to control and prevent water pollution, to protect spawning grounds, fish and aquatic life and to control building sites along the waters in the best interest of the citizens of Highgate.

The (F.R.) Forest Reserve District is to protect the natural resource value of lands which are essentially undeveloped, lack direct access to public roads, are important for wildlife and wildlife habitat, have potential for commercial forestry use or have one or more physical limitations to development. Residential and recreational development which is compatible with the district purposes and does not require additional facilities and services beyond what is being planned will be encouraged; other limited uses are allowed in the district.

The (A.O.) Airport Overlay District is to limit the height of objects in the vicinity of the **Franklin County Airport** to prevent their interference with the safe and efficient operations of the airport. In addition, the District is created to encourage and enhance the ability to establish associated industry and commercial uses as appropriate, and in conformance with the **Airport Master Plan** completed by the **State of Vermont**. Uses allowed in the District will be the same as the underlying District uses listed in the **Use Table** in **Article VIII**. Modified height requirements are contained in **Section 610** and modified dimensional requirements are contained in **Article VIII**.

Section 330 Interpretation of Zoning District Boundaries

Where uncertainty exists as to the boundaries of districts as shown on the **Official Zoning Map**, the following rules shall apply:

- (1) Boundaries indicated as approximately following the lines of the road, streams, transportation and utility rights of ways shall be deemed to follow the centerlines of aforesaid.
- (2) Boundaries indicated as approximately following lot lines shall be construed to follow such lot line
- (3) Boundaries indicated as following shorelines shall be construed as the normal mean water level.
- (4) Boundaries indicated as parallel to or extensions of features in one (1) through three (3) above shall be so construed.
- (5) **Where a district boundary line divides an existing lot of record in single ownership at the time of passage** of these **Bylaws** or amendments thereto, the district requirements applying to either portion of the lot may be extended into the remaining portion of the lot. Development within such portion of a divided parcel shall be subject to conditional use review by the **Zoning Board of Adjustment**. However, if

said existing lot is subdivided, or any new lot created, having its boundaries wholly within a single zoning district, it shall conform to all of the requirements of said district.

(6) When the **Administrative Officer** cannot definitely determine the location of such district boundaries by centerlines, by the map scale, dimensions or description or by the fact that it clearly coincides with a property line, he shall request an interpretation by the **Zoning Board of Adjustment**, which body shall interpret the location of the district boundary with reference to the scale of the **Zoning Map** and the purposes set forth in all relevant provisions of these **Bylaws**. The **Board of Adjustment** shall so **act within thirty (30) days of application**.

Section 340 Application of Regulations

340.1 Any use not permitted by these **Bylaws** shall be deemed to be prohibited.

340.2 No building or structure shall hereafter be erected, altered or extended, nor shall any land development or extension of the use of land commence without an approved **Zoning Permit** having been issued.

340.3 No lot existing at the time of approval of these **Bylaws** shall be reduced in dimension or area below the minimum requirements set forth in **Article VIII**.

ARTICLE IV ADMINISTRATION AND ENFORCEMENT

Section 400 Administrative Officer

400.1 An **Administrative Officer**, who may hold any other office in the municipality other than membership in the **Zoning Board of Adjustment**, shall be nominated by the **Planning Commission** and appointed by the **Selectboard** for a **term of three years** promptly after the adoption of these **Bylaws** or when a vacancy exists. An **Administrative Officer** may be removed for cause at any time by the **Board of Selectmen** after consultation with the **Planning Commission**.

400.2 The **Planning Commission** may nominate, with appointment by the **Board of Selectmen**, an **Acting Administrative Officer** who shall have the same duties and responsibilities as the **Administrative Officer** in his/her absence.

400.3 The **Administrative Officer** shall administer these **Bylaws** literally and shall not have the power to permit any land development which is not in conformance with such **Bylaws**.

400.4 The **Administrative Officer** shall have the authority to inspect and investigate at reasonable times upon private or public property for conditions relating to the enforcement of these **Bylaws** upon previous notification of the landowner.

Section 410 Duties and Responsibilities

410.1 The **Administrative Officer** shall administer these **Bylaws** and shall not have the authority to permit any land development which is not in conformance with these **Bylaws**.

410.2 The **Administrative Officer** shall make inspections, maintain records and perform all other tasks to carry out the provisions of these **Bylaws**.

410.3 The **Administrative Officer** shall deliver a copy of the approved **Zoning Permit** within three working days to the **Town Listers**. All permits shall be maintained on file at the **Town Clerk's Office**.

Section 420 Zoning Permits

420.1 No land development shall be undertaken without a **Zoning Permit** having been issued by the **Administrative Officer**. *A permit shall not be required where such development involves new construction of less than fifty (50) square feet.* Structures of less than 50 square feet may be constructed, moved or altered without a permit, *but may not be located within the setback areas required by the bylaws.*

420.2 No **Zoning Permit** shall be issued by the **Administrative Officer** for such action involving construction, buildings, uses and land development where such use requires conditional use review, variance review or site plan approval or involving any development subject to the **Subdivision Regulations** until such approval has been obtained.

420.3 Within **thirty (30) days** of receiving a **completed application and fee** for development on lands in accordance with these Bylaws, the **Administrative Officer** shall take action to either approve or disapprove the permit application, or refer the application to either the **Zoning Board of Adjustment** or the **Planning Commission**, and send written notice of such, including the reason(s), to the applicant. If the **Administrative Officer** fails to act within 30 days upon receipt of the permit, the application shall be deemed approved on the **31st day**.

420.4 Within thirty (30) days upon receiving an application for development on lands within a **flood plain**, as specified in **24 V.S.A. Chapter 117, Section 4424**, the **Administrative Officer** shall promptly send a copy of the application to the **Agency of Natural Resources** for review and a **permit** shall not be approved

until either 30 days after transmittal or the agency delivers comments on the application.

420.5 A Zoning Permit shall include a statement of the time within which appeals may be taken under **Section 460**; and shall require posting of a notice of permit by the applicant, on a form prescribed by the municipality, within view of the nearest public right-of-way until the time for appeal has expired.

420.6 The Administrative Officer, within three (3) days of the **date of issuance**, shall deliver a copy of the **Zoning Permit** to **the Listers**; and shall post a copy of the permit in the municipal offices for a period of **fifteen (15) days** from the **date of issuance**.

420.7 All permits shall run with the land, valid for the finding upon any heir, assign or successor who acquires an undivided, whole interest in the property.

420.8 An approved Zoning Permit is valid when the **15 day appeal period** has expired. In the event an **appeal** is filed, the permit validation date shall be delayed as per the **statutory appeal process (Section 460 of these Bylaws)**.

420.9 All development approved under the Bylaws shall be completed or established within **24 months** from the date of permit issuance, unless the **Zoning Board of Adjustment** approves a phased time period. ***Substantial progress must be continued in each succeeding 24 month period.***

420.10 Temporary permits may be issued and renewed by the **Administrative Officer** for a period not exceeding **six (6) months** for nonconforming uses and non-conforming structures incidental to construction projects. Such **permits** require agreement by the property owner to **remove the structure or use upon the expiration of the temporary permit**.

420.11 If public notice has been issued by the **Legislative Body** for their first **public hearing** on a proposed amendment to these regulations, for a period of **150 days** following that notice the **Administrative Officer** shall review any new application filed for compliance with the proposed amendment and applicable existing bylaws. If the new bylaw or amendment has not been adopted by the conclusion of the **150 day period**, or if the proposed bylaw or amendment is rejected, the **permit** shall be reviewed under all applicable provisions of this bylaw [**§4449(d)**].

Section 430 Application Forms

Application for Zoning Permits shall be completed and submitted to the **Administrative Officer**. The fee for such shall be paid to the **Town Treasurer**. Application forms are available from the **Administrative Officer** or the **Town Clerk**.

- 430.1** The **Administrative Officer** shall require that every application be accompanied by one (1) or more copies of a plan or plat drawn to scale and showing the following in sufficient detail to enable the **Administrative Officer** to ascertain whether the proposal is in conformance with these **Bylaws**.
- 430.2** The actual shape, proportion, and dimensions of the parcel to be built upon and satisfactory evidence that actual corners of the parcel are known and are established in proper location.
- 430.3** The shape, size and location of all buildings or other structures to be erected, altered or moved and of any buildings or other structures already existing on the parcel.
- 430.4** The dimensions of all yards and other information concerning the parcel or adjoining parcels as may be essential for determining whether the provisions of this **Bylaw** are being observed regarding yards, areas, off street parking, and other such requirements.
- 430.5** The existing and intended uses and areas of use of the land and all buildings and other structures.
- 430.6** Any other information as required by the **Administrative Officer**.

Section 440 Violations, Investigation and Penalties

- 440.1** Any person may file a **written complaint** to the **Administrative Officer** that they believe a violation of the **Zoning Bylaws** has occurred. The **Administrative Officer** shall record such complaint, immediately investigate and take the appropriate action in accordance with the provisions of the **Bylaws** and **24 V.S.A. Chapter 117, Section 4451 and 4452**.
- 440.2** Whenever any development is undertaken on land or buildings in violation of the provisions of these **Bylaws**, the **Administrative Officer** shall serve notice by **Certified Mail** to the landowner indicating the nature of the violation. The **notice of violation** shall provide **seven (7) days** for the offender to come into compliance with the **Bylaws**. The alleged offender will not be entitled to an additional warning for a violation occurring after the seven (7) day notice.
- 440.3** The **penalty** for violating any provision of the **Bylaws** shall be fines of not more than **\$100.00 for each offense** in accordance with the provisions of **24 V.S.A., Chapter 117, Section 4451 and 4452**. In **default of payment of the fine**, such person, the members of any partnership, or the principal officers of such corporation shall each pay **double the amount of the fine**. **Each day that a violation continues shall constitute a separate offense**.

Section 450 Zoning Board of Adjustment

450.1 A **Zoning Board of Adjustment** shall be established and empowered as provided in **24 V.S.A., Chapter 117, Sections 4460 et seq.** The **Zoning Board of Adjustment** shall elect its own **officers** and adopt **rules of procedures** and **ethics policies** with respect to conflicts of interest, subject to this section. Meetings of the **Board** shall be held at the call of the chairperson and at such times as the **Board** may determine. All meetings of the **Board** are subject to the provisions of **1 V.S.A., Chapter 5, Section 312.**

450.2 The **officers** of the **Board** may administer **oaths**; may compel the attendance of **witnesses** and the **production of** materials, records, books or maps; and may **examine** or cause to be examined any property germane to any issue under appeal.

450.3 The **Board of Adjustment** may **employ** or contract for secretaries, clerks, legal counsel, consultants or other technical and clerical services. All members of the **Board** may be **compensated** for the performance of their duties and may be reimbursed by the **Town** for necessary and reasonable expenses.

450.4 The **Board** shall have all **powers and duties** as set forth in the **Act** to administer the provisions of these regulations, **including but not limited to the power to hear and act upon:**

- **Review of proposed conditional uses as provided in Section 502 herein.**
- **Appeals from a decision of the administrative officer as provided in Section 460 herein.**
- **Review of requests for variances as provided in Section 503 herein.**
- **Any other reviews required by these bylaws.**

450.5 The **Zoning Board of Adjustment** may conduct a **Conditional Use Pre-Hearing Conference** upon due **notice** and by request of an applicant seeking a **Conditional Use Permit**. The purpose of such conference shall be to clarify any issues in controversy and to identify documents, plans, detailed data and information to be submitted at the hearing.

Section 460 Powers and Duties of Planning Commission

460.1 The **Planning Commission** shall be established and empowered as provided in **24 V.S.A., Chapter 117, Sections 4460 et seq.** The **Planning Commission** shall elect its own **officers** and adopt **rules of procedures** and **ethics policies** with respect to conflicts of interest, subject to this section. Meetings of the **Commission** shall be held at the call of the chairperson and at such times as the

Commission may determine. All meetings of the **Commission** are subject to the provisions of **1 V.S.A., Chapter 5, Section 312.**

460.2 The powers and duties of the Planning Commission shall be to:

- (1) Prepare a **Municipal Plan** and amendments thereof for consideration by the **Board of Selectmen** and to review any amendments initiated by others as set forth in **24 V.S.A. Chapter 117, subchapter 5, Section 4325.**
- (2) Prepare and present to the **Board of Selectmen** proposed **Zoning Bylaws** and make recommendations to the **Board of Selectmen** on proposed amendments to such **Bylaws.**
- (3) **Administer Bylaws** adopted by the **Board of Selectmen.**
- (4) Undertake **capacity studies** and make recommendations on matters of land development, urban renewal, transportation, economic and social development, urban beautification and design improvements, historic and scenic preservation, conservation of energy, development of renewable energy resources and wetland protection. Information gathered that is relevant to the **Geographic Information System (GIS)** shall be compatible with, useful to and shared with **GIS.**
- (5) Prepare and present to the **Board of Selectmen** recommended building, plumbing, fire, electrical, housing, and related **codes and enforcement procedures**, and construction specifications for streets and related public improvements.
- (6) Prepare and present to the **Board of Selectmen** a recommended **annual capital budget** for a period of not less than **five years.**
- (7) Hold **public hearings** and act on **site plan, planned unit development, and subdivision regulations.**
- (8) Act on requests for **rights of way or easements** for development lacking frontage.
- (9) Require from **other departments and agencies of the municipality** such **available information** as relates to the work of the **Planning Commission.**
- (10) **Enter upon land** to make examinations and surveys in the performance of its functions.
- (11) Participate in a **regional planning** program.

- (12) Retain **staff and consultant assistance** in carrying out its **duties and powers**.
- (13) Undertake **comprehensive planning**, including related preliminary planning and engineering studies.
- (14) Perform such **other acts or functions** as it may deem necessary or appropriate to fulfill the duties and obligations imposed by the intent of this chapter.

Section 470 Appeal Process

471 Decisions of the Zoning Administrator

- 471.1** Any interested person as defined in **24 V.S.A., Chapter 117, Section 4465(b)** may appeal any decision taken by the **Administrative Officer** by filing a **notice of appeal** with the **Secretary of the Zoning Board of Adjustment** or with the **Town Clerk** if no such secretary has been elected **within fifteen (15) days** of the act or decision.
- 471.2** A **notice of appeal** filed under this section shall be in writing and include the following information, in accordance with the **Act [§4466]**: the name and address of the appellant; a brief description of the property with respect to which the appeal is taken; a reference to applicable provisions of these regulations; the relief requested by the appellant, and the alleged grounds why such relief is believed proper under the circumstances.
- 471.3** The **Board** shall hold a **public hearing** on a **notice of appeal** within **60 days** of its filing, as required under the **Act [§4468]**. The **Board** shall give public **notice** of the hearing as provided in **Section 480** herein, and mail a copy of the hearing notice to the appellant not less **than 15 days prior** to the **hearing date**.
- 471.4** The **Board** may reject an appeal or request for reconsideration without hearing, and render a decision which shall include findings of fact within **10 days** of the filing of a **notice of appeal**, if the **Board** determines that the issues raised by the appellant have been decided in an earlier appeal or are based on substantially or materially the same facts by or on behalf of the appellant **[§4470]**.
- 471.5** A **decision on appeal** shall be rendered within **45 days after the final adjournment** of the hearing, as required under the **Act [§4464(b)]** and provided in **Section 490** herein.

472 Decisions of the Planning Commission or Zoning Board of Adjustment

472.1 An **interested person** as defined in **24 V.S.A., Chapter 117, Section 4465(b)** who has participated in a regulatory proceeding may appeal any decision of the **Zoning Board of Adjustment** or the **Planning Commission** within **thirty (30) days** of such decision to the **Vermont Environmental Court**.

472.2 Appeals to Environmental Court shall also meet the following requirements:

- (1) **“Participation” in a Planning Commission or Zoning Board of Adjustment proceeding** shall consist of offering, through oral or written testimony, evidence of a statement of concern related to the subject of the proceeding.
- (2) The **notice of appeal** shall be filed by **certified mailing**, with **fees**, to the **Environmental Court** and by mailing a copy to the **Administrative Officer**, 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 480 Public Hearings

481 Public Notice

481.1 In accordance with the **Act [§4464]**, a warned **public hearing** shall be required for **conditional use review (Section 502 herein)**, **appeals of decisions of the administrative officer Section 460 herein)**, and **variances (Section 503 herein)**. Any **public notice** for a warned public hearing shall be given not less than **15 days prior** to the date of the **public hearing** by all of the following:

- (1) **Publication** of the date, place and purpose of the hearing in a **newspaper** of general circulation in the municipality;
- (2) **Posting** of the same information in **three (3) or more public places** within the municipality, including the posting of a notice within view from the public right-of-way nearest to the property for which the application is being made;
- (3) **Written notification** to the applicant and to owners of all properties adjoining the property subject to development, without regard to public rights-of-way, which includes a description of the proposed project, 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

480.2 Public notice of all other types of **development review hearings**, including **site plan review (Section 520 herein)**, shall be given **not less than seven (7) days prior to the date of the public hearing, and shall at minimum include the following:**

- (1) **Posting** of the date, place and purpose of the hearing in **three (3) or more public places within the municipality, and**
- (2) **Written notification** to the applicant and to owners of all properties adjoining the property subject to development, without regard to public rights-of-way, which includes a description of the proposed project, 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.

480.3 The **applicant** shall be required to bear the cost of **public warning and the cost and responsibility of notifying** adjoining landowners as required above, as determined from the current municipal grand list. The **applicant** may be required to demonstrate proof of delivery to adjoining landowners either by certified mail, return receipt requested, or by written notice hand delivered or mailed to the last known address supported by a sworn certificate of service.

480.4 No defect in the form or substance of any required **public notice** under this section shall invalidate the action of the **Planning Commission** or **Zoning Board of Adjustment** where reasonable efforts have been made to provide adequate posting and notice. However, the action shall be invalid when the defective posting or notice was materially misleading in content. If an action is ruled to be invalid by the **Board of Adjustment** or the **Environmental Court**, the action shall be remanded to the **Board** to provide new posting and notice, hold a new hearing, and take a new action.

480.5 In accordance with the **Act [§4461]**, all **meetings and hearings** of the **Planning Commission** and the **Zoning Board of Adjustment**, except for **deliberative sessions**, shall be **open to the public**. For the conduct of any hearing, and the taking of any action, a **quorum** shall be not less than the majority of members of the **Planning Commission** or the **Zoning Board of Adjustment**.

480.6 The **Planning Commission** and the **Zoning Board of Adjustment**, in conjunction with any hearing under this **bylaw**, **may:**

- (1) examine or caused to be examined any property, maps, books, or records bearing upon the matters concerned in that proceeding;
- (2) require the attendance of any person having knowledge in the premises;
- (3) take testimony and require proof material for its information; and
- (4) administer oaths or take acknowledgement in respect of those matters.

480.7 In any **public hearing** there shall be an opportunity for each person wishing to achieve status as an **interested person** to demonstrate that the criteria set forth in the **Act [§4465(b)]** are met. The **Planning Commission** or the **Zoning Board of Adjustment** shall keep a record of the name, address, and participation of each of these persons.

482 Decisions

482.1 Any **action or decision** of the **Planning Commission** or the **Zoning Board of Adjustment** shall be taken by the concurrence of a majority of the members. In accordance with the **Act [§4464(b)]**, the **Planning Commission or the Zoning Board of Adjustment** shall issue a **decision within 45 days** after the **adjournment of the hearing**. Failure to issue a decision within the 45-day period shall be **deemed approval** and shall be effective the 46th day.

482.2 All **decisions** shall be **issued in writing** and shall separately **state findings of fact and conclusions of law**. Findings of fact shall explicitly and concisely restate the underlying facts that support the decision, based exclusively on evidence of the record. Conclusions shall be based on the findings of fact. The **decision** shall **also include a statement of the time within which appeals may be taken under Section 470**. The minutes of a meeting may suffice, provided that the factual basis and conclusions relating to the review standards are provided in accordance with these requirements.

482.3 In rendering a decision in favor of the applicant, the **Planning Commission or Zoning Board of Adjustment** may attach **additional reasonable conditions and safeguards** as it deems necessary to implement the purposes of the **Act**, these regulations, and the **Municipal Plan** currently in effect. This may include, as a **condition of approval**:

- (1) the submission of a three-year performance bond, escrow account, or other form or surety acceptable to the **Highgate Legislative Body**, which may be extended for an additional three-year period with the consent of the owner, to assure the completion of a project, adequate stabilization, or protection of public facilities that may be affected by a project; and/or
- (2) a requirement that no **zoning permit** be issued for an approved development until required improvements have been satisfactorily installed in accordance with the conditions of approval.

482.4 All **decisions** of the **Planning Commission or the Zoning Board of Adjustment** shall be sent **by certified mail**, within the **required 45-day period**, to the applicant or the appellant on matters of appeal. Copies of the **decision** also shall be mailed to every person or body appearing and having been heard at the hearing, and filed with the **Zoning Administrator and Clerk** as part of the **public record** of the municipality.

483 Combined Review

In accordance with **Section 4462 of the Act**, in cases where development proposals require conditional use and site plan, and/or access by right-of-way or easement, and/or requests for variances, and/or any other reviews as provided by these or other municipal regulations, the **Planning Commission** and/or **Board of Adjustment** may warn and hold a joint hearing for the purpose of reviewing and acting on the proposal. In cases where a **joint hearing** cannot be conducted to address each necessary review, the proceedings for each review shall occur concurrently or semi-concurrently (initiating one review process while the preceding process is nearing completion).

To the extent feasible, the review process shall be conducted in the following order, as applicable:

- A. **Subdivision or Site Plan**; then
- B. **Access** by right-of-way; then
- C. **Conditional Use Review**; then
- D. Requests for **Variances**; then
- E. any other reviews required by these **bylaws**

All **notice requirements** and provisions applicable to each purpose of the hearing shall be complied with. Notice for combined review, to the extent feasible, shall be made in the same **public notice**. In the case of differing notice requirements, the process which provides more notice, by amount of time or by other means, shall apply.

All decision requirements and deadlines applicable to each purpose of the proceedings shall apply. Separate **written decisions** shall be issued for each review conducted as part of the combined review, but shall be coordinated where applicable.

Section 490 Limitations

The following uses may be regulated through **conditional use review** and only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping, and screening requirements, and only to the extent that regulations do not have the effect of interfering with the intended functional use:

- **State- or community-owned** and operated institutions and facilities.
- **Public and private schools** and other educational institutions certified by the state department of education.
- **Churches and other places of worship**, convents, and parish houses.
- **Public and private hospitals**.
- **Regional solid waste management facilities certified under 10 V.S.A. Chapter 159**.
- **Hazardous waste management facilities** for which a notice of intent to construct

has been received **under 10 V.S.A. § 6606a.**

ARTICLE V GENERAL ZONING DISTRICT REQUIREMENTS

Section 500 Permitted Uses, Conditional Uses and Dimensional Variances

501 Permitted Uses

The **Administrative Officer** may issue permits for permitted uses providing all of the provisions of the **Bylaws** are met.

501.1 The **Table of Permitted Uses** is located in **ARTICLE VIII**. Permitted uses are identified with the letter "P".

501.2 The **Administrative Officer** may permit the **alteration or expansion of a pre-existing non-conforming structure**, providing such alteration or expansion does not increase the degree or aspect of non-compliance. Under no circumstances may alteration or expansion of a structure with known **zoning violations** be permitted.

502 Conditional Uses

The **Administrative Officer** may not issue a **permit for a Conditional Use** until the **Zoning Board of Adjustment** has approved such application. Applications for **conditional use** shall contain, but may not be limited to: specific standards under these Bylaws, streets, roads, highways, rights-of-way and easements, land use and deed restrictions, and construction time schedule. The **Zoning Board of Adjustment** may approve an application and attach such reasonable conditions and safeguards as it deems necessary to implement the purposes of these regulations and the Act. **Conditional Use Review** is subject to **Section 480, Public Hearings**.

502.1 Applications for conditional use approval shall not have an undue adverse affect on:

- (A) **Capacity** of existing or planned community facilities;
- (B) The **character of the area** affected, as defined by the purposes of the **zoning district** within which the project is located, and specifically stated policies and standards of the municipal plan;
- (C) **Traffic** on roads and highways in the vicinity;
- (D) **Bylaws** then in effect; or
- (E) **Utilization** of renewable energy resources.

502.2 Specific standards may include requirements with respect to:

- (A) Minimum lot size;
- (B) Distance from adjacent or nearby uses;
- (C) Performance standards, as under **24 V.S.A., Ch. 117, Section 4414 (5)**;
- (D) Minimum off street parking and loading facilities;
- (E) Landscaping, fencing and lighting;
- (F) Design and location of structures and service areas;
- (G) Size, location, and design of signs;
- (H) Hours and days of operation;
- (I) Such other factors as the **Zoning Bylaws** may include.

502.3 Conditional Use Tables are located in **ARTICLE VIII** and are identified by the letter C.

502.4 Any alteration, expansion or accessory structure to a **conditional use** shall require **conditional use review** by the **Zoning Board of Adjustment**.

503 Variances

The **Administrative Officer** may not issue a permit requiring a variance from the requirements of these bylaws until the **Zoning Board of Adjustment** has approved such application. **Requests for Variances are subject to Section 480, Public Hearings.**

503.1 As per **24 V.S.A., Chapter 117, Section 4469**, the **Zoning Board of Adjustment**, upon appeal in accordance with the provisions of **24 V.S.A., Chapter 117, Sections 4465 and 4471**, may grant a **variance** from the provisions of the **Bylaws** for a structure which is not primarily a renewable energy resource structure. **The Board shall render a decision in favor of the appellant if all of the following facts are found and the finding is specified in the decision:**

(A) That there are unique physical circumstance or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topography or other physical conditions, peculiar to the property, and that unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the Zoning Bylaws in the neighborhood or district in which the property is located.

(B) That because of such physical circumstance or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Bylaws and that the authorization for a

variance is therefore necessary to enable the reasonable use of the property.

(C) That the unnecessary hardship has not been created by the appellant.

(D) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, nor be detrimental to the public welfare.

(E) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the Zoning Bylaws and from the Plan.

503.2 When a request for a **variance** from the provisions of these **bylaws** is for a **structure that is primarily a renewable energy resource structure**, the **Zoning Board** may grant the **variance** and render a **decision** in favor of the appellant if all the following facts are found and the finding is specified in its **decision**:

(A) That it is unusually difficult or unduly expensive for the appellant to build a suitable renewable energy resource structure in conformance with the **Bylaws**; and

(B) That the hardship was not created by the appellant; and

(C) That the **variance**, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, nor be detrimental to the public welfare; and

(D) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the Zoning Bylaws and from the Plan.

503.3 In rendering a decision in favor of an appellant under this section, a **Board of Adjustment** or the **Environmental Court** may attach such conditions to such variances as it may consider necessary and appropriate under the circumstances to implement the purposes of this chapter and the **Town Plan**.

Dimensional requirements are located in **Article VIII**.

Section 510 Non-Conforming Uses and Non-Conforming Structures

510.1 Non-Conforming Uses

The use of any building, structure or land which is made **non-conforming** by reason of the adoption of these **Bylaws** or subsequent amendments thereto may be continued indefinitely subject to the following provisions:

(A) **A non-conforming use** shall not be resumed if such use has been **abandoned or discontinued** for a period of **two (2) years** or has been changed to, or replaced by, a conforming use. **Intent to resume** a non-conforming use shall not confer the right to do so and shall not be resumed after damage from any cause, **unless reconstruction begins within two (2) years** from the day of damage or destruction and is carried on without interruption. If the reconstruction has not begun within two (2) years of damage or destruction, the non conforming use of such land, building or structure shall be deemed to have been discontinued, unless such non-conforming use is carried on without interruption in an undamaged part of the building.

(B) A non-conforming use of a part of the building or structure shall not extend to other parts of a building or structure without the approval from the zoning board of adjustment.

(C) Exterior signs constituting a non-conforming use shall be replaced only by signs which conform to the provisions of these Bylaws.

(D) Non-conforming uses may be resumed following fire or replacement as long as the new structure will not exceed the original size and the use remains the same. The new structure shall not be made more non--conforming than the previous structure.

(E) A non-conforming use may be changed to another non-conforming use only upon review by the **Zoning Board of Adjustment** and a finding that the new non-conforming use will have the same or less impact on the neighborhood in which the use is located.

510.2 Non-Conforming Structures

(A) Nothing in this section shall be deemed to prevent the normal maintenance and repair of pre-existing non--conforming structures. Pre-existing , nonconforming structures shall be exempt from the dimensional requirements of these bylaws providing **that any replacement structure will have setback distances equal to or greater than the existing structure.** All other setbacks will be

subject to these **zoning bylaws**. **Pre-existing** shall mean structures existing prior to **Zoning Bylaws of 1984**.

(B) If a **non-conforming single family dwelling** is to be replaced by another non-conforming single family dwelling, the replacement home **cannot be more than 35% larger than the original home**. Such replacement home **may not increase the degree of non-conformance of the original home with regard to the dimensional requirements of these bylaws**.

Section 520 Site Plan Approval

520.1 Applicability

Some uses, as noted on the use table in **Article VIII** shall require **site plan review** by the **Planning Commission** before the **Administrative Officer** issues a **zoning permit**. **Site Plan Review** will not be required for **change of use applications** which do not propose or require an alteration to an existing, permitted site design.

520.2 Application Procedures

The **application for site plan approval** shall be prepared in a professional manner and include the following information:

- A. Name and address of the owner of record and adjoining land ownership. Name and address of person or firm preparing the map. Site location map, scale of map, north arrow, and date;
- B. Features of the existing site including contours, vegetation and natural features, structures, access points, easements, and property and zoning boundaries, existing structures and access points to adjacent properties;
- C. Proposed improvements including any structures, parking areas, access points, sidewalks and other walkways, loading docks, outside storage areas, sewage disposal areas, landscaping, screening and site grading;
- D. Detailed specifications of the planting and landscaping materials to be used;
- E. Construction sequence and timing schedule for completion of each phase for buildings, parking spaces, landscaped areas and other site improvements;
- F. Estimate of daily and peak hour traffic generation;
- G. A site location map showing the location of the project in relation to nearby town highways, adjacent lands, and developed areas; and
- H. Any other information or data that the **Planning Commission** may reasonably require.

520.3 Review Procedure

Site Plan Approval is subject to **Section 480, Public Hearings**.

520.4 Standards

In reviewing site plans the **Commission** may impose appropriate conditions and safeguards with respect to the following:

- A. **Maximum safety of vehicular and pedestrian circulation between the site and the street network;** particular attention shall be given to visibility at intersections, to traffic flow and control, to pedestrian safety and convenience, and to access in case of emergency.
- B. **Adequacy of circulation, parking, and loading facilities;** particular consideration shall be given to the effect of noise, glare or odors on adjoining properties and state and town highways. Adequacy of provisions for erosion control, runoff, refuse removal, service areas, and snow removal shall be considered.
- C. **Adequacy of landscaping and screening;** particular consideration shall be given to preservation of existing vegetation and important features of the site, including trees and tree lines, views and vistas, fences, stone walls, and shrubs; visibility of unsightly or incompatible areas from the road and adjoining properties; and the adequacy of landscaping materials to meet seasonal conditions, soil conditions and erosion control.
- D. **Compatibility with the character of the area and neighborhood.** The planning commission may impose conditions to ensure that the proposed use does not negatively impact the character of the area or neighborhood. This may include, but not be limited to: limits on the days and hours of operation, and requirements for or limits to lighting on the site. The planning commission may require that the developer provide a suitable performance bond with a term not to exceed three years to guarantee the completion of landscaping, public improvements or other necessary site modifications.

Section 530 Waste Water Disposal

The **Zoning Administrator** shall not issue a **zoning permit** for any use or structure, the occupancy of which requires a **sewage disposal system**, until the owner of such property has received a **Sewage Disposal System Construction Permit** according to the **Town of Highgate Sewage Ordinance**, and any **related State of Vermont wastewater permits**.

Section 540 Planned Unit Development (PUD)

540.1 Applicability

In accordance with **24 V.S.A., Chapter 117, Section 4417, the Planning Commission** may modify the **Zoning Bylaws** simultaneously with the subdivision plat for a **Planned Unit Development (PUD)**. The purposes of such authorization shall be to enable and encourage flexibility of design and development of land in such a manner as to promote the most appropriate use of land, to facilitate the adequate and economical provision of streets and utilities and to preserve the natural and scenic qualities of the open land.

To qualify as a **PUD**, the project shall be an **allowed use** for the district in which it is to be located, and be consistent with the **Town Plan**. All major subdivisions (4 or more lots) in the **Protected Area Districts** shall be reviewed as a **PUD** and designed to meet the requirements of this section.

540.2 Application Procedures

Application for a **PUD** must include all requirements for **Subdivision or Site Plan Approval**, which ever applies, accompanied by a statement setting forth the nature of all modifications, changes, or supplementations of existing **zoning bylaws**.

540.3 Review Procedures

As designated in **Article VIII: Use Table and Dimensional Requirements** of the **Highgate Zoning Bylaws**, **PUDs** are subject to **Conditional Use Review** and either **Subdivision Review**, if the PUD involves the subdivision of land, or **Site Plan Review**. **PUDs** are also subject to any other reviews required by the **Highgate Zoning Bylaws** or **Subdivision Regulations**. **Review** shall be **conducted in the order** described in **Section 483 Combined Review**.

540.4 Provisions

- (A) **The density of a PUD may vary with the development. However, in any PUD, the number of structures shall not exceed the number which could be permitted in the Planning Commission's judgment if the land were subdivided into lots in conformance with the applicable district requirements of the zoning bylaws.**
- (B) **Permitted uses** in a **PUD** may include and shall be limited to:
 - 1. dwelling units in detached, semidetached, or multistoried structures, or any combination thereof;
 - 2. any nonresidential use allowed as a permitted or conditional use in the district in which the **PUD** is located;
- (C) The **PUD** shall be subject to the requirements and standards of the **Subdivision Regulations, including Article VII and XIII**, unless otherwise stated in this section of the Bylaws.
- (D) The dwelling units permitted may, at the discretion of the **Planning Commission**, be varied types including one family, two -family, or multifamily construction.
- (E) If the application of this procedure results in lands available for park, recreation, open space or other municipal purposes, the **Planning Commission**, as a

condition of its approval, may establish such conditions on the ownership, use and maintenance of such lands as it deems necessary to assure the preservation of such lands for their intended purposes.

(F) **Planned Unit Developments** shall be designed to incorporate **open space**. Open space lots shall not be counted as building lots when determining maximum density in a particular **PUD**. The location, size and shape of lands set aside to be preserved for open space shall be approved by the **Planning Commission**, in accordance with the following:

1. The location, shape, size and character of the open space shall be suitable for its context and intended use. Areas preserved for agricultural and forestry use should be of a size that retains their eligibility for available tax abatement programs.
2. Open space shall be located so as to conform with and extend existing areas sharing similar characteristics, natural features, or uses of adjacent parcels.
3. Open space may be held under common or separate ownership from contiguous parcels.
4. Open space shall be subject to deed restrictions stipulating the permitted and restricted use of such lot, and establishing the person or entity responsible for maintenance and long term stewardship. All costs associated with administering and maintaining open space shall be the responsibility of the applicant and subsequent land owners.

540.5 Additional Provisions for the Protected Area Districts

(A) Lots within a **PUD in the Protected Area Districts** should be no smaller than **one acre**.

Section 550 Mixed Uses

In districts designated in the use table in **Article VIII**, more than one use may be permitted within a single building or in multiple buildings on a single lot, subject to site **plan review** by the **Planning Commission**. If any of the mixed uses proposed require **conditional use review** as shown in **Article VIII**, then **conditional use review** by the **Zoning Board of Adjustment** will also be required. In addition, the following conditions must be met:

- (A) Each of the proposed uses is otherwise allowed as a **permitted or conditional use** in the district in which the **mixed use** is proposed.
- (B) The combined uses meet all applicable standards for the district in which the **mixed use** is proposed.
- (C) The combined uses meet all general standards contained in these bylaws.

Mixed Uses located in multiple buildings on a single lot may be subdivided only if all applicable **subdivision and zoning regulations** can be met, including but not limited to setbacks, minimum lot size, frontage, parking and wastewater requirements.

Section 560 Performance Standards

The following performance standards shall be met by all uses in all districts and shall not;

- (A) Emit noise which is considered offensive;
- (B) Emit any odor which is considered offensive;
- (C) Emit dust or dirt which is considered offensive;
- (D) Emit smoke in excess of Ringleman Chart No. 2;
- (E) Emit any noxious gases which endanger the health, comfort, safety, or welfare of any person, or which will have a tendency to cause injury or damage to property, business or vegetation.
- (F) Contain lighting which creates glare which could impair the vision of a driver of any motor vehicle, or which extends beyond the boundaries of the property.
- (G) Cause harmful wastes to be discharged into a sewer system, streams or other bodies of water. **Waste disposal shall conform to the requirements of the Sewage Ordinance adopted by the Town of Highgate.**

Section 570 Mobile Homes, Campers and Campgrounds

Mobile homes, travel trailers and campgrounds are permitted in the districts so specified in these **Bylaws**, subject to the provisions of this section.

571 Mobile Homes

571.1 A mobile home shall be considered a single family dwelling in accordance with 24 V.S.A., Chapter 117, 4412 (1) and shall conform to the requirements of these Bylaws for the district in which it is located. A concrete pad will be provided for each mobile home.

571.2 A mobile home or travel trailer may be utilized for storage of tools or as an office or laboratory at a construction site or municipal facility for a period of one year. An extension of one (1) year may be granted by the Board of Adjustment for construction sites.

572 Campers

No camper shall be parked on any public or private property except in conformance with the following:

- (A) In an approved camper and/or tenting campground;

(B) In an approved camper sales lot.

(C) The owner of a camper may park it on his/her own property providing that the parking location conforms with setback requirements or is located a minimum of twenty (20) feet from a boundary line, whichever is the lesser, and further that said parking location does not constitute a safety hazard. A camper so parked shall not be used as living quarters and shall not be connected to any utilities. Said camper may be used as a sleeping facility on a temporary basis for family visits for a period not to exceed two (2) months.

573 Campground

A campground is a **Conditional Use** in those districts in which it is allowed and requires approval by the **Planning Commission** for **site plan review**.

573.1 Campgrounds shall be at **least 5 contiguous acres** and shall provide for individual camper and tenting spaces, access driveways, parking facilities and common recreational areas.

573.2 A campground is to conform to the dimensional requirements (setback distances) of the district in which it is located.

573.3 A **buffer zone** of at least **fifty (50) feet** shall be maintained as a landscaped area abutting all property lines. No camper, tent or service building shall be located in the buffer zone. The **Planning Commission** may reduce or eliminate this landscaped area if such a waiver or modification will preserve a scenic view from the campground and maintain privacy of the adjacent property owners.

573.4 All campgrounds shall provide waste water disposal for each camper or tenting space within the campground that meets all state regulations **and conforms to the requirements of the Town's Sewage Ordinance**. Adequate provision for proper disposal of solid waste shall be provided on site.

573.5 Service buildings containing toilet and shower facilities shall be erected in compliance with all state regulations **and the Town's Sewage Ordinance**.

Section 580 Principle Uses Per Lot and Access to Lots

581 Dwellings Per Lot

There shall be **only one primary residential building per lot** except as provided in Sections 540 and 550.

582 Rights-of-Way

No land development may be permitted which does not have adequate **means of access**

either from frontage on a Class 1, 2, or 3 highway or navigable public waters, or with the approval of the **Planning Commission**, access by way of a deeded right-of-way. Access must be a permanent easement or right-of-way of no less than **twenty (20) feet** for a private right of way **and fifty (50) feet** for a public right-of-way.

582.1 Private Right-of-way shall be defined as a "driveway" and is not part of the town highway system. It shall be **at least 20 feet wide** and may serve as access to property for the purposes of development of **not more than two (2) lots** or for sale, lease or transfer of ownership of land.

582.2 Public Right-of-way shall be defined as a "development road" which **serves more than two (2) lots** and/or provides access for sale, lease or transfer of ownership of lots. A Public Right-of-way shall be **at least 50 feet wide** and shall be constructed and maintained by the owner or developer according to the ***Town Highway Road Acceptance Policy*** and **State of Vermont Agency of Transportation standards**. "Development roads" may be considered for acceptance as **Town Highways by petition** to the **Selectboard** as provided in the ***Town Highway Road Acceptance Policy***.

582.3 If **subdivision** approval is required, application and approval under this section shall be coincidental with **subdivision review** and approval; all procedures and standards in the ***Highgate Subdivision Regulations*** shall apply. If **site plan** approval is required, application and approval under this section shall be coincidental with **site plan** approval under **Section 520 of this bylaw**; all procedures and standards shall apply. If neither subdivision nor site plan approval is required, application shall be made to the **Planning Commission** on an application provided by the Town and shall be subject to **Section 480, Public Hearings**.

ARTICLE VI SPECIFIC ZONING DISTRICT REQUIREMENTS

Section 600 Excavation of Sand and Gravel

In accordance with **24 V.S.A., Chapter 117, Section 4414 (3)**, in any district, the removal of soil, sand and gravel for sale, except when incidental to construction of a building on the same premises, may be permitted as a **Conditional Use** following approval by the **Planning Commission of a plan for the rehabilitation of the site, site plan approval or subdivision**. The following provisions shall apply in addition to **State of Vermont** requirements.

600.1 Before approval of any new or extension to a sand or gravel operation, a **performance bond** shall be secured from the applicant sufficient to ensure that, upon completion of the operation, the site will be restored for other development

uses. **Bonding** shall be required, sufficient to cover the completion of the reclamation and maintenance of such improvements for a **period of two (2) years** after completion. The amount of bond shall be established by the **Planning Commission** based upon the operator's estimate, bids or other information deemed necessary by the **Planning Commission**, but shall not exceed one hundred fifty **(150) percent** of the projected improvement and maintenance cost.

600.2 The removal of all material shall be conducted so as to result in the improvement of the land having due regard to the topography of the area. **The digging or creating of pits or steep slopes is prohibited.**

600.3 All **surface drainage** affected by excavation operations shall be controlled by the owner to prevent erosion debris and other loose materials from filling any drainage course, street, or private property. All provisions of control natural drainage water shall meet with the approval of the **Board of Adjustment.**

600.4 No excavation, blasting or stock piling of materials shall be located within one hundred fifty **(150) feet** of any street or other property line.

600.5 No power activated sorting machinery or equipment shall be located within **three hundred feet** of any street or other property line, and all such machinery shall be equipped with satisfactory dust control devices.

600.6 All excavation slopes in residential districts in excess of a one to two pitch shall be adequately fenced as determined by the **Board of Adjustment.**

Section 610 Height Limits

No structure except those intended for the storage of crops (such as silos) shall exceed thirty five **(35) feet** in height above the average ground level, except as provided below.

610.1 Ornamental and symbolic features of buildings and structures, including spires, towers, cupolas, belfries and domes, are exempt from height regulations provided they are not used for human occupancy or commercial advertisement and do not take up more **than 10%** of the total roof area.

610.2 The **Zoning Board of Adjustment** may approve as a **conditional use** a higher height providing the structure shall be unoccupied and used for normal maintenance, communication, health and safety or essential manufacturing processes.

610.3 In the **Airport Overlay District**, no structure, except those used for airport operations, may be higher than thirty-five **(35) feet**. Exceptions to this may only be granted by approval of the **Board of Adjustment** after determination by the **Federal Aviation Administration** that the structure would not be an obstruction in the airspace or a hazard to air navigation.

610.4 In the runway approach areas located within the **Airport Overlay District**, no structure shall be of a height greater than that determined to be safe by **Federal Aviation Regulations**.

Section 620 Off-Street Parking

Off Street Parking spaces shall be provided in accordance with the specifications in this section in any district whenever any new use is established or when the present use is enlarged or changed.

Section 620.1 Parking Requirements

Parking requirements for uses not listed below will be determined by the **Planning Commission** during **site plan review** or by the **Zoning Board of Adjustment** during **conditional use review**.

USE

PARKING SPACES

Lodging Establishment	1 per lodging unit
Residential	2 per dwelling unit
Church and School	1 per 3 seats in main room
Clubs	1 per 4 members
Industrial	1 for 1.5 employees per shift
Theater	1 per 6 seats
Hospital/Nursing Home	1 per 3 beds and 1 per
employee	
Funeral Home	15 per visitation area
Office and Business	1 per 250 sq. ft. of leasable
area	
Retail Stores/Group Service	1 per 200 sq. ft. of gross sales
area	
Restaurants	1 per 4 seats

620.2 Parking Area Performance Standards

At the determination of the **Zoning Board of Adjustment** or the **Planning Commission**, the following parking area performance standards may be required.

(A) Parking areas may be required to be landscaped or screened from adjacent uses.

(B) Parking should be located in the side or rear of the development unless, upon the judgment of the **Planning Commission** or **Zoning Board of Adjustment**, some or all parking in the front is more appropriate.

(C) Parking may be prohibited from the front, side and rear yard setback areas unless, in the judgment of the zoning board of adjustment or planning commission, some or all parking in the setback areas is more appropriate.

(D) The size and location of any paved area may be limited.

(E) The amount of parking may be limited or shared parking among compatible uses may be required where appropriate.

Section 630 Outdoor Signs

Outdoor signs shall be deemed separate commercial structures and shall require a **zoning permit** before being erected, constructed, or replaced. Signs are prohibited except as in herein provided.

630.1 Signs for Home Occupation

One sign of not more than eight **(8) square feet** and not to exceed **six (6) feet in height** is permitted announcing the name, address, profession or occupation of the current occupant of the premises in any district. Such sign must be **at least 25 feet** from the center of the road.

630.3 Commercial/Business Signs

Two (2) signs shall be permitted for any legally established business on the premises. Attached signs are not to extend above the roof or **parapet** of the building and may not extend more than **three (3) feet** beyond the face of the building. The height of a free-standing sign shall not exceed **twenty (20) feet**. The maximum area per sign is **fifty (50) square feet**. A business sign shall not be placed within **thirty (30) feet** from the center of the road or within one hundred fifty **(150) feet** of an intersection.

630.4 Temporary Signs

One temporary sign of not more than eight **(8) square feet** and not more than **six (6) feet** in height is permitted on the property. Said sign shall be removed when the property is sold, leased, or developed. A roadside stand sign may remain in place when the stand is not in business. Temporary signs for agricultural products sold at roadside stands are permitted providing that the sign is erected **twenty five (25) feet** back from the center of the road.

631 Sign Lighting

A sign may be illuminated only by a continuous, non flashing light. Such lighting must be effectively focused and shielded so that it does not cause undue glare, impair the vision of drivers or illuminate neighboring properties.

Section 640 Fences

A fence in any zoning district that is greater than six **(6) feet** in height and obstructs the view of a neighbor or of a highway shall require conditional use approval of the zoning board of adjustment.

Section 650 Junkyards, Recycling Centers, and Landfills

The operation or presence of a junkyard as defined by **state statute** is prohibited except as provided in this section.

651 Junkyards and Recycling Centers

The operation of a junkyard or recycling center is a **Conditional Use** only in the district in which it is allowed. The operation of a junkyard or recycling center also requires **Site Plan** approval from the **Planning Commission** and approval from the **Board of Selectmen**. A **State of Vermont** permit for the operation of a junkyard or recycling center is mandatory.

652 Landfills

The operation or presence of a landfill or land used to bury, discard, store or cover mixed solid waste is **prohibited in all districts**.

653 Exemptions

The outdoor storage of tractors and other forms of operating and non-operating farming equipment on farms is allowed except in the **High Density** and **Shoreline Districts**.

Section 660 Storage of Flammable Liquids

The above ground and below ground storage of flammable liquids in tanks of five hundred and fifty **(550) gallons** or more is prohibited unless provided for in this section.

660.1 Underground and above grounds tanks as defined in this section shall require a permit from the **State of Vermont** unless otherwise specified.

660.2 An underground or above-ground tank used in conjunction with a non-residential use requires a **zoning permit** from the **Administrative Officer**.

Section 670 Reduction of Lot Area

No lot shall be so reduced in area that the lot does not meet the dimensional requirements of the district in which it is located, except as provided in **Sections 540 and 550**. These provisions shall not apply when part of the lot is taken for a public use or purpose.

Section 680 Sensitive Resource Lands

Development shall be designed appropriately to limit impact on valuable resource lands. Any use which is identified as “**Permitted**” in any district, but would be located on or impact **Sensitive Resource Lands**, shall be subject to **conditional use review** and this section. The **Zoning Administrator**, in cooperation with the applicant, will use appropriate data and maps to determine whether a proposed project is located on or impacts **Sensitive Resource Lands**. The **Zoning Board of Adjustment** may impose conditions as necessary to ensure that the development does not adversely impact these resource lands. Resource lands to be considered during the review process include those noted in the **Highgate Town Plan**, and the following:

680.1 Deer Yards and Other Significant Wildlife Habitat

These areas, as identified in the **Town Plan, State of Vermont** documents, or on-site inspection, shall be avoided. Destruction or imperilment of habitat will require review by a **professional biologist**.

680.2 Designated Wetlands

Wetlands under permit authority of **state and federal agencies** shall be shown on plans or plats, and development shall be designed to follow applicable regulations. Other wetlands deemed important by the **Town of Highgate** may also be considered for conservation through the development review process.

680.3 Steep Slopes of 20%

Development on slopes equal to or in excess of 20%, or which results in such slopes, shall be subject to **conditional use review**, and the following provisions:

(A) The **site development plan** submitted under **conditional use review** shall include contour lines at 5 foot intervals, slope profiles showing existing gradients and proposed cut and fill sections, and a stormwater management and erosion control plan covering all phases of development (site preparation, construction, post construction) prepared by a **professional engineer licensed by the state**.

(B) Development shall be sited and constructed, and slopes stabilized in accordance with accepted **engineering and best management practices** for stormwater management and erosion control to:

1. prevent runoff, erosion, slumps, and other down slope movements of material, and
2. minimize associated risks to surface and ground waters, public facilities and roads, and neighboring properties.

(C) Development, including road and utility corridors, shall be sited and designed to minimize visual impacts from public vantage points. The use of landscaping and natural materials is encouraged, and may be required to screen or lessen the visual impact of such development.

680.4 Human Remains

Areas of **archeological sensitivity** shall be reviewed as required by the **Native American Sites Protocol**.

Section 690 Miscellaneous Requirements

691.0 Abandonment of Structures

Within eighteen **(18) months** after work on an excavation for a building has begun or within eighteen **(18) months** after a permanent building has been destroyed, demolished, or abandoned, all structural materials shall be removed from the site and the excavation thus remaining shall be covered over or filled to the normal grade by the landowner. An abandoned dwelling must be destroyed, demolished or removed within **30 days of occupancy** of a new or replacement dwelling.

692.0 Abandonment of Uses

Following the abandonment of any use, as outlined in and subject to the bylaw regulations herein, the owner shall apply for all necessary zoning permits according to these bylaw regulations prior to resuming any prior use or development activities on the property. Abandonment shall be defined as:

- (A) The cessation of use of a **residential structure** for such purposes for the period of **five (5) years** or more;
- (B) The cessation of use of a **mobile home** or the utilities and/or concrete foundation or pad which serves a mobile home for a period of five **(5) years** or more; and
- (C) The cessation of a **land use on a parcel**, including but not limited to land filling and excavation; and commercial, retail and industrial businesses for a period of five **(5) years** or more.

ARTICLE VII MANDATORY REQUIREMENTS OF THE ACT

In accordance with the provisions of **24 V.S.A., Chapter 117, Section 4412** the following are provided for in the Bylaws.

Section 700 Existing Small Lots

Any lot in individual and separate and non-affiliated ownership from surrounding properties in existence on the effective date of any zoning regulation, including an interim zoning regulation, may be developed for the purposes permitted in the district in which it is located, even though not conforming to minimum lot size requirements, if such lot is not less than **one-eighth acre** in area with a minimum width or depth dimension of **forty feet**.

(A) If such lot subsequently comes under **common ownership** with one or more contiguous lots, the lot shall not be deemed merged with the contiguous lot for purposes of this chapter. However, if such lot that is less than **one-eighth acre** in area with a width or depth dimension less than **forty feet**, comes under **common ownership** with one or more contiguous lots, the lot shall be deemed **merged** with the contiguous lot for purposes of this chapter.

Section 710 Home Occupations

No provision of this Bylaw shall infringe upon the right of any resident to use a minor portion of a dwelling for a home occupation that is customary in residential areas which does not change the character thereof, providing the following standards are met:

- (A) Business shall be conducted entirely within the principal or accessory buildings. Any goods, products or materials displayed or stored outside of these buildings must be shielded from the road and from neighboring properties. Signs are permitted under **Section 630**;
- (B) No more than one person outside of the family shall be employed or conduct business from the premises;
- (C) Noise, odor, vibrations and other factors shall not be a nuisance to the adjoining property owners;
- (D) Employee and customer parking must be off town highways and traffic levels must be consistent with neighborhood levels.

Section 720 Equal Treatment of Housing

(A) No zoning regulation shall have the effect of excluding **mobile homes, modular homes, or other forms of prefabricated housing** from the municipality, except upon the same terms and conditions as conventional housing is excluded.

(B) No zoning regulation shall have the effect of excluding from the municipality housing to meet the needs of the population as determined in **Section 4382 (c) of the title**.

(C) No provision of these bylaws shall be construed to prevent the establishment of **mobile home parks** pursuant to **Chapter 153 of Title 10**.

Section 730 Accessory Apartments

In accordance with **24 V.S.A. Section 4412**, an **accessory dwelling unit** means an efficiency or one-bedroom apartment that is clearly **subordinate** to a single-family dwelling, which has facilities and provisions for independent living including sleeping, food preparation and sanitation. An accessory dwelling unit, located within or appurtenant to a single-family dwelling and where the **owner occupies** either the primary dwelling or the accessory dwelling, shall be considered to constitute a single-family residential use of property, provided there is compliance with all the following:

1. the property has sufficient wastewater capacity.
2. the unit does not exceed **30 percent** of the total habitable floor area of the single-family dwelling or **600 square feet**, which ever is greater.
3. applicable setback, coverage and parking requirements specified in the bylaws are met.

At time of sale or transfer of title the accessory residential use shall continue provided that one of the dwelling units is and remains **owner-occupied**.

Section 740 Agricultural Uses and Structures

Except as provided in **Section 4413 of Title 24 VSA**, no bylaw shall restrict accepted agricultural or farming practices or silvicultural practices. Accordingly, no permit shall be required for the construction of **farm structures**. Any person intending to build a **farm structure** shall notify the town of the intent to build and **shall abide by setbacks approved by the Commissioner of Agriculture, Food and Markets**.

ARTICLE VIII USE TABLE AND DIMENSIONAL REQUIREMENTS
Section 800 Permitted uses, Conditional Uses and Site Plan Approval

Permitted & Conditional Uses	Zoning Districts							
	AD	FP	FR	HD	I/C	MD	PA	SL
AIRCRAFT HANGER					P/S			
AGRIBUSINESS	P/S		C	C	C	C		
ACCESSORY STRUCTURES ¹	P	P	P	P	P	P	P	P
BOAT SALES/REPAIR					P/S	C		
BOARDING HOUSE	C	C	C	C		C		C
BUSINESS SERVICE	C			C	C	C		
CAMPGROUND	C/S		C/S			C/S		C/S
CLUB, NON-PROFIT				C	C	C		C
COMMERCIAL STORAGE BUILDINGS	C		C		P/S	C		
CONTRACTORS YARD	C		C		P/S	C		
DWELLING, MULTI-FAMILY				P/S		C		
DWELLING, SINGLE FAMILY	P	C	P	P		P	P	P
DWELLING, SEASONAL	P	C	P	P		P	P	P
DWELLING, TWO FAMILY	P		P	P		P		P
EXCAVATION OF SAND AND GRAVEL	C				C	C/S		
FENCES OVER 6 FEET (See Section 640)	C	C	C	C	C	C	C	C
HOME OCCUPATIONS	P	P	P	P	P	P	P	P
INDOOR RECREATION FACILITY	C			C	P/S	C		C
JUNKYARD					C/S			
LODGING ESTABLISHMENT				C	C	C		C
MANUFACTURING					C			
MARINA		C						C
MOBILE HOME SALES/REPAIR					C			
MOTOR VEHICLE REPAIR	C				C	C		
MOTOR VEHICLE SALES					C			
NIGHT CLUB/BAR/LOUNGE				C	C			
OFFICE/OFFICE BUILDING	C		C	C	C	C		C
OUTDOOR RECREATION FACILITIES	C	C	C	C	C	C	C	C
PLANNED UNIT DEVELOPMENT	C/S Sub		C/S Sub	C/S Sub	C/S Sub ³	C/S Sub	C/S Sub	C/S Sub
PUBLIC FACILITIES	C	C	C	C	P/S	C	C	C
RESEARCH/TESTING					P/S			
RESTAURANTS	C		C ²	C	C	C		C
RETAIL SALES				C	C	C		
SERVICE STATION				C	C	C		
SLAUGHTER HOUSE	C				C			
SWIMMING POOLS	P		P	P	P	P	P	P
TRANSFER/RECYCLING STATION					C			
TRUCKING TERMINAL	C				C	C		
WAREHOUSING	C				P/S	C		

¹ ***Except for accessory structures on conditional uses- Section 502.***

² ***As accessory to outdoor recreation***

³ ***non-residential only***

P: PERMITTED USE

P/S: PERMITTED WITH SITE
PLAN REVIEW

C: CONDITIONAL USE

C/S: CONDITIONAL USE WITH
SITE PLAN REVIEW

AD: AGRICULTURAL DISTRICT

C/S/Sub: COND. USE WITH SITE
PLAN OR SUBDIVISION REVIEW

FR: FOREST RESERVE DISTRICT

I/C: INDUSTRIAL COMMERCIAL
DISTRICT

HD: HIGH DENSITY DISTRICT

PA: PROTECTED AREA

MD: MEDIUM DENSITY DISTRICT

FP: FLOODPLAIN DISTRICT

SL: SHORELINE DISTRICT

Section 810 Dimensional Requirements

Zoning District	Lot Size	Lot Size with Community or Municipal Water or Sewer	Yard and PUD Setbacks- Principal Structures	Yard Setbacks- Structures 200 square feet or less	Front Setbacks	Lot Width
AGRICULTURAL	1 Acre	1 Acre	30 Feet	10 Feet	65 Feet	200 Feet
FLOODPLAIN		1 Acre	30 Feet	10 Feet	65 Feet	200 Feet
FOREST RESERVE	1 Acre	1 Acre	30 Feet	10 Feet	65 Feet	200 Feet
HIGH DENSITY	1 Acre	½ Acre	10 Feet	5 Feet	40 Feet	1 Acre: 150 Feet ½ Acre:125 Feet
INDUSTRIAL/COMMERCIAL	1 Acre	1 Acre	30 Feet	30 Feet	85 Feet	200 Feet
MEDIUM DENSITY	1 Acre	1 Acre	30 Feet	10 Feet	65 Feet	200 Feet
PROTECTED AREA Through a PUD	1 Acre 1 Acre	1 Acre 1 Acre	30 Feet	10 Feet	65 Feet	200 Feet
SHORELINE	1 Acre	½ Acre	10 Feet	5 Feet	40 Feet	1 Acre: 150 Feet ½ Acre:100 Feet
AIRPORT OVERLAY	None ¹		<i>Setback Requirements apply only to the periphery of the District.</i>			None ¹

¹ Specific lot sizes and width requirements in the **Airport Overlay District** may be established during **site plan** and/or **conditional use review**.

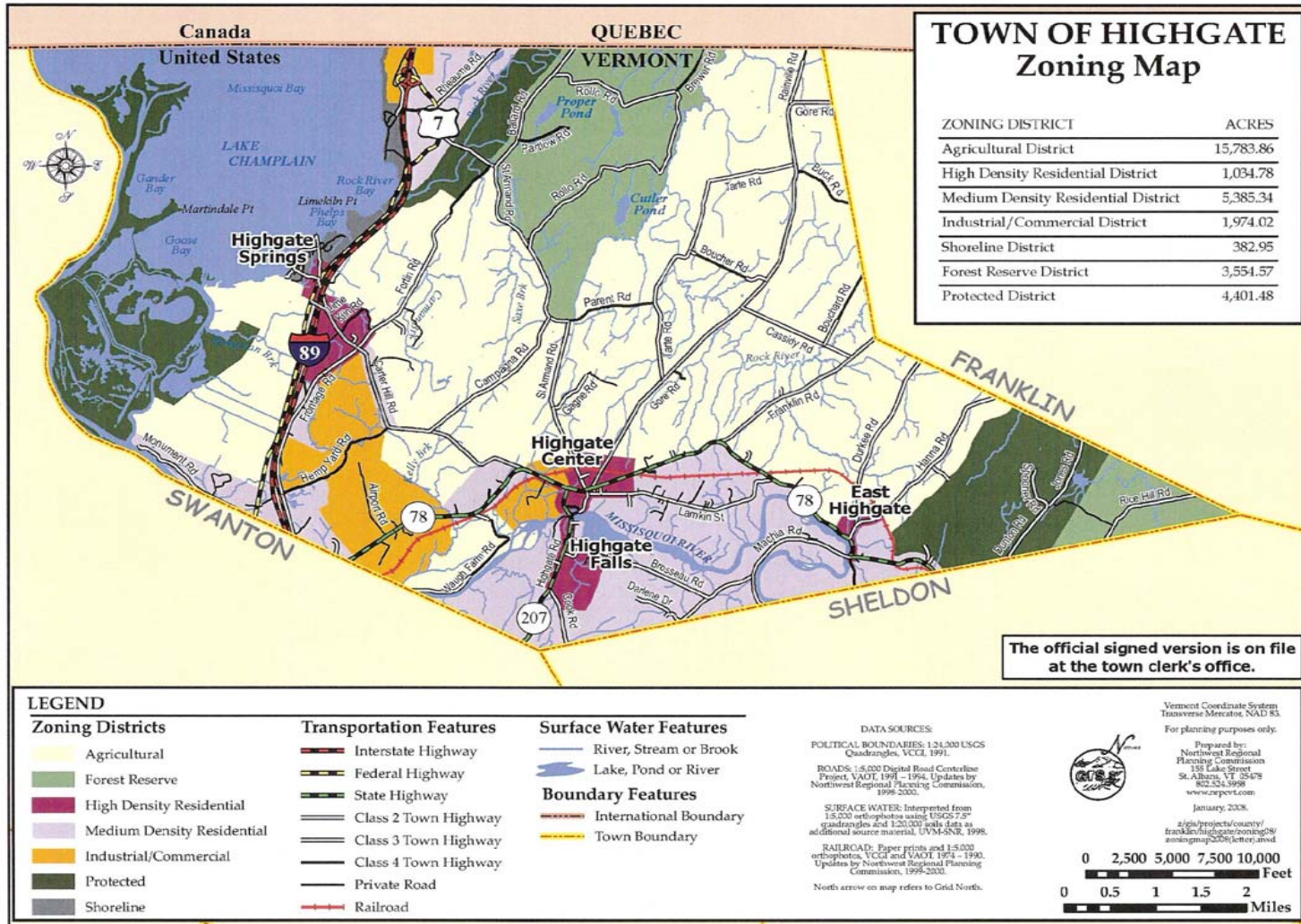
Front Setbacks are measured from the centerline of the road.

Yard Setbacks include side and rear yards.

Lot Width is measured from side to side, generally parallel to the road or right-of-way.

The **Planning Commission** may modify dimensional requirements during review of a **Planned Unit Development**, in accordance with **Sections 540 and 550 of these bylaws**.

The amendments to the Zoning Map became effective on January 10, 2008.



ARTICLE IX DEFINITIONS

Except where specifically defined herein, all words used in these regulations shall carry their customary meanings. The word "**shall**" is **mandatory** and the word "**may**" is **permissive**. When a use or structure is defined by more than one definition, the more precise definition shall apply. Interpretation as to the precise meaning of any word or words used in these regulations shall be as determined by the **Board of Adjustment**.

THE ACT: 24 V.S.A., Chapter 117, The Vermont Planning and Development Act, and all future amendments thereto.

ACCESSORY: A use or structure incidental and subordinate to the principal use or structure and located on the same lot.

AGRIBUSINESS: Any individual, partnership, corporation or organization supplying goods (such as equipment, feed or supplies) or services to producers of marketable agricultural products or providing marketing outlets for agricultural products.

AIRCRAFT HANGAR: A structure used for the repair or sheltering of aircraft.

AREA: The area of a building, lot or site shall be calculated from dimensions taken on a horizontal plane at the average grade level.

BOARDING HOUSE: A building occupied by the owner or operator where more than two persons are supplied with and charged for meals and/or sleeping accommodations for a fixed period of time. **Includes Bed and Breakfast.**

BUILDING: A permanent structure designed to be in place for more than six months, which is designed, built or used as a shelter for persons, animals or property.

BUSINESS SERVICE: An establishment, other than a home occupation, which provides **personal or professional services** (not goods or manufacturing).

CAMPER: Any vehicle used as temporary sleeping, camping or living quarters which is mounted on wheels or towed by a motor vehicle. This shall include recreational vehicles such as motor homes and travel trailers, but specifically excludes mobile homes.

CAMPGROUND: An area whose purpose is to provide tenting and camper accommodations. **(See Sec. 583)**

CLUB (Non-Profit): A building or use catering exclusively to members and their guests for recreational, educational, civic, religious, fraternal or other social purposes.

COMMERCIAL STORAGE BUILDINGS: A structure containing separate, individual, and private storage spaces of varying sizes leased or rented on individual leases for varying periods of time.

COMMUNITY WATER AND SEWER: Any water system or sewage disposal system that serves two or more parcels or users.

DAY CARE: A home or facility where the owner or operator provides child care. **A home or facility serving six or fewer children shall be considered by right to constitute a single family residential use of property, and requires no permit.** A home or facility serving no more than six full-time children and four part-time children, as defined in **33 V.S.A. § 4902(3)(A)**, shall be considered a **permitted use** of property, but shall require a **zoning permit**. A home or facility serving more than six full-time and four part-time children is considered a **Business Service**, and will need to follow all applicable regulations for that use as per **Article VIII of this bylaw**.

DWELLING: A building designed or used as the living quarters for one or more families.

DWELLING, DUPLEX: One building designed or used to have separate permanent living quarters for two families.

DWELLING, MULTIFAMILY: One building designed or used as the permanent living quarters for more than two separate families.

DWELLING, SEASONAL: A dwelling unit which is not the primary residence of the owner or occupant and is occupied only on a part time, seasonal basis for no more than six (6) months per year.

DWELLING, SINGLE FAMILY: A building designed or used as the permanent living quarters for one family.

EDUCATIONAL FACILITY: Public and private schools.

ESTABLISHED: A structure or use that has been created, and recognized or accepted by the **Zoning Administrator** to satisfy the zoning permit. A completed foundation with sub-floor shall be considered as established.

FAMILY: One or more persons living as a separate household unit, but not including individuals or groups occupying rooming and boarding houses, clubs, motels, or hotels.

FRONTAGE: The boundary of a lot on an improved street, road or other approved access.

GROSS SALES AREA: Total floor area, including basements, ground floor, and upper floors designed or occupied for the principal use of a building (e.g.: for an office building, the office and reception areas or for a retail store, the sales area).

GROUP OR COMMUNITY CARE HOME: A group or community care home serving persons who have a handicap or disability as defined in **9 V.S.A. §4501** or who are, aged (55+). **Group or Community Care Homes serving not more than 8 persons,**

shall be considered a single family dwelling (and shall be a permitted use wherever single family dwellings are permitted use), except that no such home shall be so considered if it locates within one thousand (1,000) feet of another such home.

INDOOR RECREATION FACILITY: Places of indoor commercial recreation.

INTERESTED PARTY: A person, partnership, corporation, or organization included in **Section 4454 (b) of the Act.**

LAND DEVELOPMENT: The division of a parcel into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure, or of any mining, excavation or landfill; and any change in the use of any structure or land or extension of the use of land. **Section 4303 of the Act.**

LIVING AREA: Total floor area, including finished basements, ground floor, and upper floors designed or occupied for habitation. Does not include garages or accessory structures.

LODGING ESTABLISHMENT: A building or buildings containing two or more rooms which are rented for money or other compensation as sleeping units for transients, each sleeping unit consisting of, at the least, a bedroom and a bathroom. **Included are hotels, motels, tourist courts, cabins, motor lodges, and the like.**

LOT: A parcel of land of at least sufficient size to meet the minimum zoning requirements. **A parcel divided by a public road, highway or street shall be considered as separate lots under zoning.**

LOT OF RECORD: Any lot which individually, or as part of a subdivision, has been recorded in the office of the **Highgate Town Clerk.**

LOT, EXISTING: Any lot of record which was recorded prior to the enactment of this bylaw in accordance with any and all applicable local regulations.

MANUFACTURING: Assembling, converting, altering, finishing, cleaning, or any other processing of products where goods are produced or processed to be sold.

MARINA: A facility providing dockage, supplies, and services for small pleasure crafts.

MOBILE HOME SALES/REPAIRS: Establishments for the display, sale and repair of new and used mobile homes.

MOBILE HOME: A prefabricated dwelling unit which: 1) is designed for continuous residential occupancy; 2) is designed to be moved on wheels as a whole or in sections; 3) on arrival at the site, is complete and ready for occupancy except for incidental unpacking, assembly and placing on supports or a permanent foundation, or installation as a unit on a previously prepared structure; and 4) contains the same water supply and wastewater disposal systems as immovable housing.

MOTOR VEHICLE REPAIR SHOP: An enclosed establishment providing major servicing, repair or alterations of automobiles, trucks, farm and construction equipment and other vehicles.

MOTOR VEHICLE SALES: Establishments for the display and sale of new and used motor vehicles, and trailers.

NIGHT CLUB/BAR: Building or use, primarily for public and private entertainment such as weddings, banquets, public dances, and misc. entertainment where **alcoholic beverages** are served.

NON-CONFORMING STRUCTURES: A structure which does not conform to the dimensional requirements of these bylaws where such structure conformed to all applicable laws ordinances and regulations prior to the enactment of these regulations, including a structure improperly authorized as a result of error by the **administrative officer**.

NON-CONFORMING USE: A use of land or of a structure which does not comply with all the provisions of these bylaws, where such use conformed to all applicable laws, ordinances, and regulations prior to the enactment of these regulations, including a use improperly authorized as a result of error by the administrative officer..

OFFICE: A place in which services, clerical work or professional duties are carried out.

OFFICE BUILDING: A building built or converted to accommodate a number of personal, private or business services.

OUTDOOR RECREATION: Public or private, non or for profit, recreation, interpretive, and/or nature centers, clubs, or other organizations that may support hiking, biking, horseback riding, hunting, fishing, cross country skiing, bird watching, and other similar nature based, low impact, recreation activities, including any appropriate trails and structures that support such activities.

PLACES OF WORSHIP: A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose. Includes synagogue, temple, mosque, or other such place for worship and religious activities.

PARKING SPACE: An off street area other than a loading space of not less than 200 square feet exclusive of access and maneuvering area, ramps, landscaped areas etc., to be used exclusively as a temporary storage space for one motor vehicle at a time.

PLANNED UNIT DEVELOPMENT: One or more lots, tracts, or parcels of land to be developed as a single entity, the plan for which **may propose any authorized combination of density** or intensity transfers or increases, as well as the mixing of uses.

This plan, as authorized, **may deviate from bylaw requirements that are otherwise applicable to the area in which it is located with respect to lot size, bulk, or type of dwelling or building, use, density, intensity, lot coverage, parking, required common open space, or other standards.**

PLOT PLAN: A development plan map showing, at an appropriate and consistent scale, all existing physical and man-made features, all property, easement, and right-of-way lines, all proposed structure locations and land use alterations, and any other information as may be required to determine compliance with the provisions of these bylaws.

PRINCIPAL STRUCTURE/USE: A structure and/or use directly involved with the primary purpose of ownership on a particular lot, which, together with its accessory structures/uses, constitutes all structures and uses of said lot.

PUBLIC FACILITIES: State- or community-owned and operated institutions and facilities; public and private schools and other educational institutions certified by the state department of education; churches and other places of worship, convents, and parish houses; public and private hospitals; regional solid waste management facilities certified under **10 V.S.A. Chapter 159**; and hazardous waste management facilities for which a notice of intent to construct has been received under **10 V.S.A. § 6606a**.

PUBLIC NOTICE: Procedure conducted in conformance with **Section 4464 of the Act**, which is designed to notify all interested person of a proposed action, and to afford them reasonable opportunity to present facts and arguments, either in support or protest of the action proposed.

RESEARCH/TESTING: Any facility in which testing and research may be conducted. This could be in association with production or manufacturing or independent thereof.

RETAIL SALES: Premises where goods or merchandise are offered for retail sale to the general public for personal, business or household consumption.

RESTAURANT: A commercial establishment serving meals or refreshments to be consumed either on or off the property.

RIGHT OF WAY: The dedicated strip of land over which facilities such as roads, driveways, railroads or utilities can be accessed or built.

SENSITIVE RESOURCE LANDS: Natural and ecological areas, such as wetlands, fragile soils, steep slopes, human remains, and wildlife habitats, which are sensitive and therefore susceptible to negative impacts from development.

SERVICE STATION: Any lot, including the buildings thereon, which is used for the sale of any motor vehicle fuel or lubricant, or which has facilities for lubricating, washing or servicing motor vehicles for commercial purposes.

SETBACK: The nearest distance between a structure and a right of way or a property line. For the purpose of this definition, a structure shall include porches and patios, whether enclosed or unenclosed, but does not include steps.

SIGN: Any device displayed to convey information or direction. Public highway signs are exempt from the provisions of these regulations.

SLAUGHTER HOUSE: A place that butchers and processes animals for food.

STRUCTURE: Anything constructed, erected or placed **for more than six months** which requires a fixed location on the ground in order to be used.

TRUCKING TERMINAL: Any structure or parcel of land in which or upon which a business, service or industry involving the maintenance, servicing, storage, repair and dispatching of commercial vehicles is located.

WAREHOUSE: A structure used primarily for the storage and wholesale distribution of goods and materials.

**ADOPTED AS AMENDED by the Town of Highgate Selectboard on
December 20, 2007.**

Stephen Bushey, Chair

Henry Rainville, Vice Chair

Brian Rowell, Member

Effective Date: January 10, 2008