

**Town of Highgate  
Vermont**

**Development  
Regulations**



**Prepared by the Highgate Planning Commission  
Adopted by the Highgate Selectboard:  
Effective Date: *October 9, 2025***

**Adopted  
SEPTEMBER 18, 2025  
In Effect October 9, 2025**

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Department of Economic, Housing, and Community Development*

*Includes Bylaws Effective 9/9/2024 plus a Zoning District mapping change Effective 10/9/2025.*

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## **ARTICLE 1: AUTHORITY & PURPOSE**

### **Section 1.1 Legal Authority**

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- A. The following Development Regulations for the Town of Highgate are hereby enacted based on the authority vested in the Town of Highgate by the State of Vermont in the Vermont Municipal and Regional Planning and Development Act (Title 24, Chapter 117 V.S.A), hereinafter referred to as the Act. This bylaw amends, by replacing in their entirety as of the date this bylaw takes effect, any and all pre-existing zoning bylaws and subdivision regulations for the Town of Highgate.

### **Section 1.2 Purpose**

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- A. These regulations are adopted for the following purposes:
1. To protect and provide for the public health, safety, and general welfare of the Town of Highgate.
  2. To guide the future growth and orderly development of the Town in accordance with the Municipal Plan, Town Zoning Map and the Act.
  3. To provide for adequate light, air, and privacy, to secure safely from fire, flood, and other danger, and to prevent over-crowding of the land and undue congestion of population.
  4. To guide public and private policy and action in order to provide adequate and efficient transportation, water, sewage, schools, parks, playgrounds, recreation, sidewalks, curbs, and other public requirements and facilities.
  5. To provide the most beneficial relationship between the uses of land and buildings, and the circulation of traffic throughout the Town, having particular regard to the avoidance of congestion in the streets and highways.
  6. To ensure that public facilities are available and will have sufficient capacity to serve any proposed subdivision.
  7. To prevent the pollution of air, streams, ponds, and Lake Champlain; to assure the adequacy of drainage facilities; to safeguard the water tables; and to encourage the wise use and management of natural resources throughout the town in order to preserve the integrity, stability and beauty of the community and the value of the land.
  8. To preserve the agricultural, forest and other open lands of the Town and to ensure appropriate development with regard to natural features.

## Section 1.3 Applicability

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### A. Land Development and Conformance with Regulations.

1. No land development, as defined in Article 10 (Definitions) of these Regulations, may continue or commence without required permits and approvals having been issued in conformance with these Regulations, except as exempted in Section 1.3(B) and (C) below. Within the Flood Hazard Area Overlay District, Article 8 shall take precedence.
2. Any use not permitted by these Bylaws shall be deemed to be prohibited. Conformance with Regulations shall be evidenced by securing applicable municipal land use approvals and/or permits.

### B. Statutory Exemptions and Limitations to Zoning Regulations.

1. The following uses and structures are specifically exempted from municipal land use and development regulations by Vermont State law. In accordance with the Act [§4413], no municipal Zoning Permit or approval under these Regulations shall be required for:
  - a. Accepted agricultural and best management practices (AAPs and BMPs), including farm structures, as defined by the Secretary of Agriculture, Food and Markets, in accordance with the Act. Written notification, including a sketch plan showing structure setback distance from road rights-of-way, property lines, and surface waters shall be submitted to the Zoning Administrator prior to any construction, as required for AAPs. Such structures shall meet all setback requirements under these regulations, unless specifically waived by the Secretary.
  - b. Accepted management practices (AMPs) for silviculture (forestry) as defined by the Commissioner of Forests, Parks, and Recreation, pursuant to the Act.
  - c. Power generation and transmission facilities that are regulated by the Vermont Public Service Board [under 30 V.S.A. §248]. Such facilities, however, should conform to policies and objectives specified for such development in the Town Plan.
  - d. Hunting, fishing, and trapping as specified under 24 V.S.A §2295 on private or public land. This does not include facilities supporting such activities, such as firing ranges or rod and gun clubs, which are subject to these regulations.
2. The following uses may be regulated through conditional use and/or site plan 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:
  - a. State- or community-owned and operated institutions and facilities.
  - b. Public and private schools and other educational institutions certified by the state department of education.
  - c. Churches and other places of worship, convents, and parish houses.
  - d. Public and private hospitals.

- e. Regional solid waste management facilities certified under 10 VSA Chapter 159.
- f. Hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. § 6606a.

**C. Exemptions from Regulations.**

1. The following activities are exempt from these Regulations unless they are located in a Flood Hazard Zone District where they require a zoning permit:
  - a. Development that 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 such new structures or alterations may not be located within the setback areas required by the bylaws.
  - b. Construction of driveways or other right-of-way improvements. Curb cuts shall be secured from the Road Commissioner or Agency of Transportation, and driveways and related right-of-way improvements shall meet State standards and the requirements of these regulations including Section 5.3, as applicable.
  - c. Interior and exterior alterations and normal maintenance and repair of an existing structure that does not result in, an increase in the number of bedrooms, the conversion of an outbuilding into a living area dwelling unit, or a change in use, or any change to the footprint or height of the structure or the creation of an accessory dwelling.
  - d. Routine excavation and fill associated with ornamental site landscaping, nursery operations, cemetery operations, and like applications, provided that the excavation and fill is not associated with basic site preparation for development.
  - e. Outdoor recreational trails (e.g., walking, hiking, cross-country skiing and snow mobile trails) which do not require the installation of structures or parking areas.
  - f. Small accessory buildings associated with residential uses that are less than 50 square feet of floor area and less than 10 feet in height.
  - g. Garage sales, yard sales, auctions, or similar activities that do not exceed 3 consecutive days, nor more than 12 total days in any calendar year.

## **Section 1.4 Rules of Interpretation**

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**A. Interpretations.**

1. These regulations shall not repeal, abrogate, or impair any other applicable land use controls (including statutes, regulations, rules, ordinances, permits, easements, deed restrictions, covenants or similar devices).
2. However, the provisions of these regulations shall be the minimum requirements that shall take precedence over any concurrent and less restrictive controls.

**B. Severability.**

1. The invalidity of any article or section of these regulations shall not invalidate any other article or section thereof.

**C. Rules**

- 1. Language.** For the purpose of these regulations, certain terms of words used herein shall be interpreted as follows:
  - a. The word “person” includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.
  - b. The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular, unless the context clearly indicates the contrary.
  - c. The words “shall”, “must”, “will”, “is to” and “are to” are always mandatory. “Should” is not mandatory but is strongly recommended and “may” is permissive.
  - d. The words “used” or “occupied” include the words intended, designed, or arranged or designed to be used or occupied.
  - e. The word lot includes the words plot or parcel.
  - f. The word building includes structure.
- 2. Definitions.**
  - a. Definitions contained in the Act shall be applicable throughout these regulations unless otherwise specifically defined in these regulations.
  - b. Unless otherwise specifically defined in this Article or the Act, and unless an applicable section of these regulations specifies a supplemental source for definitions, any interpretation of words or provisions in these regulations by the Zoning Administrator may be appealed to the DRB for a declaratory ruling.
  - c. Any regulatory language found in these definitions shall apply.
- 3. Time Limits.**
  - a. Whenever a number of days are specified in these Development Regulations, or in any permit, condition of approval, or notice provided in compliance with these Development Regulations, the number of days shall be construed as consecutive calendar days.

**Section 1.5 Amendments and Effective Date**

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- A. Amendments.** Zoning amendments shall be prepared and adopted in accordance with the requirements of the Act.
- B. Effective Date.** These Regulations shall become effective twenty-one (21) days after adoption by a majority of the members of the Town of Highgate Select Board and shall be published and recorded as provided by the Act.

## **ARTICLE 2: ZONING DISTRICTS, LAND USES, AND DIMENSIONAL STANDARDS**

### **Section 2.1 Establishment of Zoning Districts and Official Zoning Map**

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- A. For the purposes of this bylaw, the Town is divided into a number of zoning districts specifying types of uses and buildings and other structures that are allowed in each district as either “permitted” or “conditional.”
  
- B. The purpose and intent of this division of the Town into a number of zoning districts is:
  - 1. to ensure compatibility of land uses and promote efficient and economical use of land in development projects,
  
  - 2. to prevent development of areas subject to environmental hazards and constraints, and
  
  - 3. to encourage development projects that are functional and protect the Town’s agricultural lands, natural resources, and scenic beauty.

**The Zoning Districts in the Town of Highgate are:**

<b>Table 2.1 Zoning Districts in Highgate</b>	
<b>District Name</b>	<b>Abbreviation</b>
Agricultural District	AD
Town Center District	TC
Village District	VD
Medium Density Residential District	MD
Protected Area District	PA
Industrial Commercial District	I/C
Shoreline District	SL
Forest Reserve District	FR
Airport Overlay District	AO
Flood Hazard Overlay District	FH

- C. The boundaries of the zoning districts established in this Article are as shown upon the Official Zoning Map. The Town of Highgate’s Official Zoning Map shall be the final authority as to the current zoning status of the land and water areas, buildings and other structures in the Town.
  - 1. The signatures of the Board of Selectmen, attested by the Town Clerk, shall identify the Official Zoning Map, and it shall be located in the Town Clerk’s Office. No changes of any nature shall be made on the Official Zoning Map except in conformance with the zoning amendment procedures of the Act.

- D. The Flood Hazard Overlay District and Airport Overlay District are superimposed on the other districts and uses are as allowed in the underlying district unless explicitly noted.
  1. The location of the Flood Hazard Overlay District is identified as special flood hazard areas or 100-year flood zone on the latest National Flood Insurance Program Insurance Rate Maps (FIRM) which are hereby adopted by reference and are on file in the Town Clerk's office. The location and boundaries of the Flood Hazard Overlay District are shown on the Flood Zone Map; however, the FIRM maps are the final authority as to boundary locations.

## **Section 2.2 Interpretation of Zoning District Boundaries**

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- A. Where uncertainty exists as to the boundaries of districts as shown on the 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 parallel to or extensions of features in one (1) and two (2) above shall be so construed.
  4. Boundaries indicated as following shorelines shall be construed as the normal mean water level.
  5. When the Zoning Administrator cannot definitely determine the location of a district boundary by centerlines, by the scale or dimensions stated on the zoning map, or by the fact that it clearly coincides with a property line, the applicant shall be referred to the Development Review Board before taking any action. The DRB 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 Regulations.

## **Section 2.3 Intent of Zoning Districts**

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- A. **The (AD) 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.
- B. **The (TC) Town Center District** consists of the historic village center of Highgate Center and surrounding neighborhoods and land intended to accommodate future growth. Highgate Center is the village hub of commerce and civic life in the town with the school, municipal offices, arena, post offices, many businesses and adjacent residential neighborhoods. The Town Center District is intended to allow for a greater density of mixed uses and residential neighborhoods to afford the best opportunity for the existing and future provision of economically feasible public facilities and services and to support concentrated growth of this vibrant village hub.

- C. **The (VD) Village District** consists of the historic village areas at Highgate Springs, Highgate Falls and East Highgate where it is desired that commercial, public and residential development is concentrated at a greater density than in the surrounding rural areas. Allowing for mixed uses and denser development in and around these historic villages 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 the working landscape.
- D. **The (MD) 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 Village District. A medium density of development will preserve the environment and character of this zone.
- E. **The (PA) 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. To conserve large tracts of land any major subdivision in this district must be designated as a PUD.
- F. **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 uses that would reduce its desirability as an industrial site.
- G. **The (SL) 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.
- H. **The (FR) 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.

# ZONING MAP Town of Highgate

ZONING DISTRICTS*	ACRES
Town Center District	319.81
Village District	787.96
Medium Density Residential District	5,904.58
Industrial/Commercial District	1,525.13
Agricultural District	15,641.04
Shoreline District	390.71
Forest Reserve District	3,655.37
Protected District	4,939.55

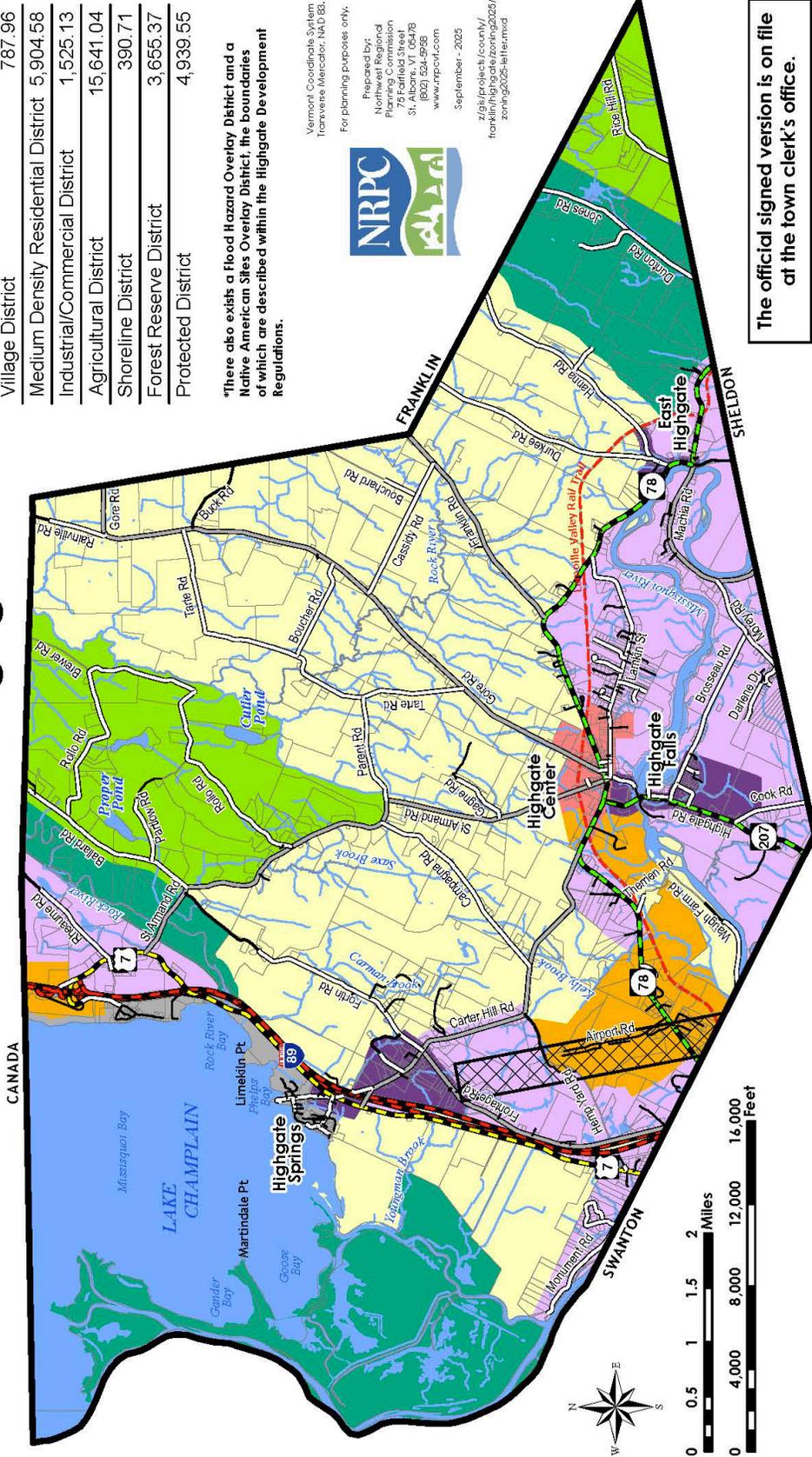
\*There also exists a Flood Hazard Overlay District and a Native American Sites Overlay District, the boundaries of which are described within the Highgate Development Regulations.

Vermont Coordinate System  
Transverse Mercator, NAD 83.  
For planning purposes only.



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September - 2005  
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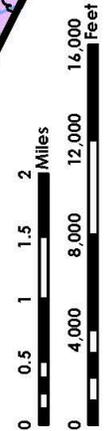
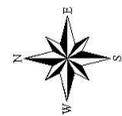
The official signed version is on file at the town clerk's office.

## LEGEND

- Zoning Districts\***
- Town Center District
  - Village District
  - Medium Density Residential District
  - Industrial/Commercial District
  - Agricultural District
  - Shoreline District
  - Forest Reserve District
  - Protected District
  - Airport Overlay District

- Transportation Features**
- Interstate Highway
  - Federal Highway
  - State Highway
  - Class 2 Town Highway
  - Class 3 Town Highway
  - Class 4 Town Highway
  - Private Road
  - Lamaille Valley Rail Trail

- Surface Water Features**
- River, Stream or Brook
  - Lake, Pond or River
- Other Features**
- Town Boundary
  - Parcel Boundary



## Section 2.4 Intent of Overlay Districts

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- A. **The (AO) 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 Section 2.5. Modified height requirements are contained in Article 5 and modified dimensional requirements are contained in Section 2.6.
  
- B. **The (FH) Flood Hazard Overlay District** is the area delineated on the Flood Insurance Rate Map for the Town of Highgate by the Federal Emergency Management Agency as the Special Flood Hazard Area (SFHA) or 100-year floodplain. 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.
  
- C. **The (NASO) Native American Sites Overlay District** is an area that includes all parcels along Monument Road in the Town of Highgate. Allowed uses and permit requirements are contained in Section 5.8.

## Section 2.5 Zoning District Uses

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- A. **Types of Land Uses and Land Use Standards.** Table 2.2 establishes the review standards for each type of land use in each district. Within each district land uses are designated as:
- permitted (P);
  - permitted with site plan review (P/S);
  - conditionally permitted (C);
  - conditionally permitted with site plan review (C/S);
  - prohibited (left blank).
1. **Permitted Uses.** Permitted uses are marked in Table 2.2 by the letter ‘P’ or ‘P/S’. In districts where they are allowed, permitted uses require a zoning permit and may be approved by the Zoning Administrator subject to Article 3. Permitted uses may also require site plan review by the Development Review Board.
  2. **Conditional Uses.** Conditional uses are marked in Table 2.2 by the letter ‘C’ or ‘C/S’. Conditional uses require approval by the Development Review Board according to the conditional use provisions in Section 3.3 as a prerequisite to the Zoning Administrator issuing a zoning permit. Conditional uses may also require site plan review by the Development Review Board.
  3. **Prohibited Uses.** Where a use listed in Table 2.2 is not designated as permitted or conditional, such use is prohibited and shall not be allowed in that zoning district.
  4. **Exempt Uses.** Exempt uses are identified in Section 1.3(B). These uses and land development are exempt and do not require a zoning permit.
  5. **Uses Not Identified.** Uses not specifically listed under any zoning district as permitted or conditional uses in Table 4.1 shall be prohibited unless such use is approved by the Development Review Board as a conditional use according to Section 3.3 and the standards and procedures below:
    - a. The Development Review Board must find that the use is of the same general character as one or more uses permitted or allowed as conditional uses in the zoning district in which the use is proposed. The burden of proof to show that the proposed use is of the same general character as allowed uses in the area shall be on the applicant.

<b>Table 2.2 Land Uses</b>								
<b>Districts:</b> Agricultural (AD), Medium Density Residential (MD), Village District (VD), Town Center (TC), Shoreline (SL), Protected Area (PA), Forest Reserve (FR), Industrial/Commercial (I/C)								
<b>P (Permitted Use), C (Conditional Use), E (Exempt from Permits), S (Site Plan Review)</b>								
	AD	MD	VD	TC	SL	PA	FR	I/C
<b>Primary Residential Uses</b>								
Dwelling, Single Unit	P	P	P	P	P	P	P	C
Dwelling, Two Unit	P	P	P	P	P	C	P	C
Dwelling, Multi-Unit	C/S	C/S	P/S	P/S				C/S
Dwelling, Seasonal	P	P	P	P	P	P	P	
Conversion of a Seasonal Dwelling to a Single Unit Dwelling	C	C	C	C	C	C	C	
<b>Accessory Residential Uses</b>								
Home Business	E	E	E	E	E	E	E	E
Home Occupation	P	P	P	P	P	P	C	P
Home Industry	C/S	C/S						
<b>Commercial Uses</b>								
Agribusiness	P/S	C/S	C/S	C/S			C/S	C/S
Boat Sales/Repair		C/S		C/S				P/S
Commercial Storage Bldgs	C/S	C/S					C/S	P/S
Lodging								
Lodging Establishment		C/S	C/S	P/S	C/S			C/S
Boarding House/Bed and Breakfast	C	C	C	P/S	C		C	
Marina					C			
Mixed/Multiple Uses Per Lot	S	S	S	S	S	S	S	S
Mobile Home Sales/Repair	C/S	C/S						C/S
Night Club/Bar/Lounge			C/S	C/S				C/S
Vehicle Services								
Motor Vehicle Body and Repair Shop	C/S	C/S	C/S	C/S				C/S
Motor Vehicle Sales		C/S	C/S	C/S				C/S
Motor Vehicle Service Station		C/S	C/S	C/S				C/S
Office/Office Building		C/S	C/S	P/S	C/S		C/S	C/S
Personal/Professional Services	C/S	C/S	C/S	P/S				C/S
Restaurant	C/S	C/S	C/S	P/S	C/S		C (2)	C/S
Research or Testing								P/S
Retail Sales	C/S	C/S	C/S	P/S	C/S			C
<b>Manufacturing &amp; Processing of Goods, Merchandise and Equipment</b>								
Contractor Yards	C/S	C/S					C/S	P/S

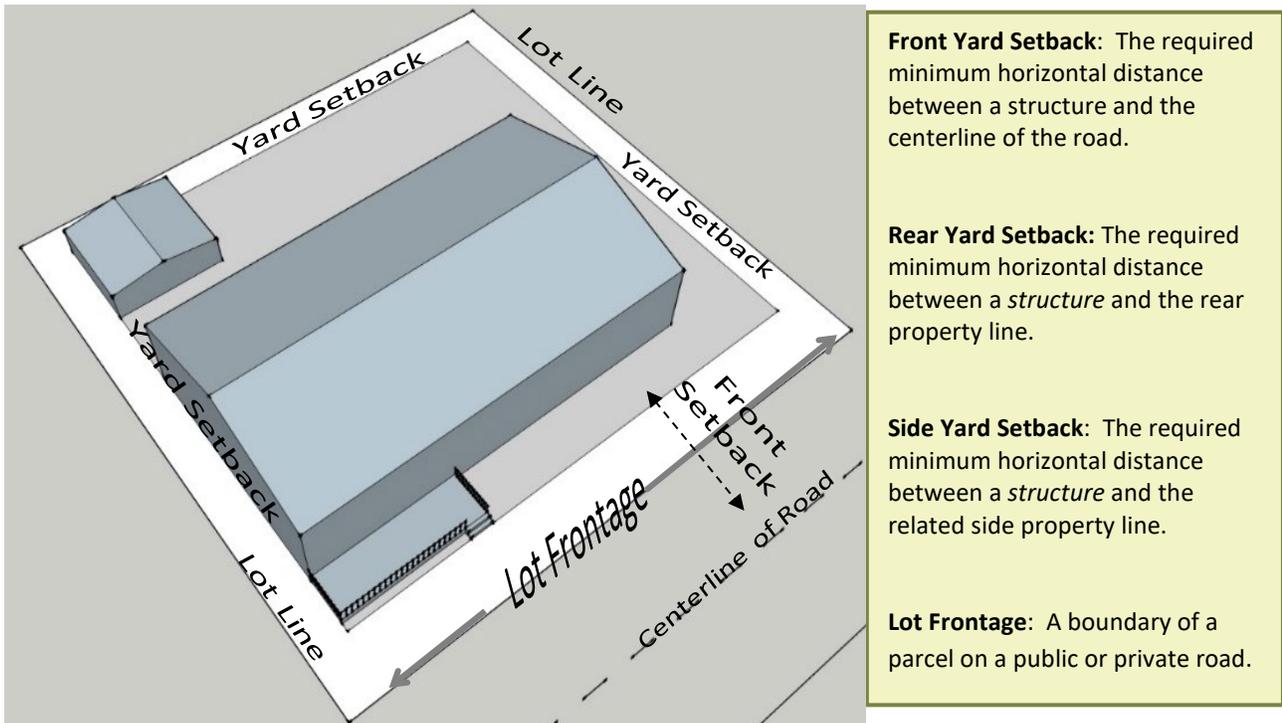
<b>Table 2.2 Land Uses</b>								
<b>Districts:</b> Agricultural (AD), Medium Density Residential (MD), Village District (VD), Town Center (TC), Shoreline (SL), Protected Area (PA), Forest Reserve (FR), Industrial/Commercial (I/C)								
<b>P (Permitted Use), C (Conditional Use), E (Exempt from Permits), S (Site Plan Review)</b>								
	AD	MD	VD	TC	SL	PA	FR	I/C
Manufacturing								C/S
Slaughter House	C/S							C/S
<b>Public Uses</b>								
Public Facilities	C/S	C/S	C/S	P/S	C/S	C/S	C/S	P/S
Transfer/Recycling Station								C/S
<b>Recreation Uses</b>								
Campground	C/S	C/S			C/S		C/S	
Recreation, Indoor Facility	C/S	C/S	C/S	P/S	C/S			P/S
Recreation, Outdoor	C/S	C/S	C/S	P/S	C/S	C/S	C/S	C/S
<b>Other Uses</b>								
Aircraft Hanger								P/S
Accessory (1)	P	P	P	P	P	P	P	P
Boarding School	C/S							
Club, Non-Profit	C/S							
Excavation of Sand and Gravel	C/S	C/S						C/S
Fences Over 6 Feet (See Section 5.13)	C	C	C	C	C	C	C	C
Junkyard								C/S
Renewable Energy Facilities (See Section 6.6)	P/C/S							
Swimming Pool	P	P	P	P	P	P	P	P
Trucking Terminal	C/S	C/S	C/S	C/S		C/S	C/S	C/S
Warehouse	C/S	C/S						P/S
Wireless Telecommunication Facility	C/S							
Youth Camp	C/S							
<b>Notes:</b>								
(1) Except for accessory structures on conditional uses (Article 3) (2) As accessory to outdoor recreation - <i>The Flood Hazard Overlay and Airport Overlay districts are superimposed on the other districts and uses are as allowed in the underlying district unless explicitly noted. All uses in the Flood Hazard Overlay are conditional.</i> - <i>Certain uses have limited review or are exempt from review (See Section 1.3).</i>								

## Section 2.6 Dimensional Requirements

- A.** All structures and lots must meet the dimensional standards listed in Table 2.3. Exceptions to this may only be granted by the DRB as a waiver of setback distances, variance or a PUD as contained in Article 3.
- B. Structure Placement in the Town Center District.**
- Accessory Structures.** Detached accessory structures (e.g. sheds, garages) shall be located to the side or rear of principal structures (e.g. single unit dwelling).
  - Garages.** Attached garages shall not be located closer to the front lot line than the façade of the dwelling.

Table 2.3 Dimensional Standards by Zoning District								
Districts: Agricultural (AD), Medium Density Residential (MD), Village District (VD), Town Center (TC), Shoreline (SL), Protected Area (PA), Forest Reserve (FR), Industrial/Commercial (I/C)								
	AD	MD	VD	TC	SL	PA	FR	I/C
Lot size, minimum	1 acre	1 acre	1/2 acre	1/4 acre	1 acre	1 acre	1 acre	1 acre
Lot width, minimum	200 ft	200 ft	100 ft	70 ft	1 ac or more: 150 ft <1ac: 125 ft	200 ft	200 ft	200 ft
Minimum Setbacks								
Front	65 ft	65 ft	40 ft	40 ft	40 ft	65 ft	65 ft	85ft <sup>1</sup> 45 ft <sup>2</sup>
Side & Rear								
Principal Structures and all other structures greater than 200 square feet	30 ft	30 ft	10 ft	10 ft	10 ft	30 ft	30 ft	30 ft
Structures 200 square feet or less	10 ft	10 ft	5 ft	5 ft	5 ft	10 ft	10 ft	30 ft
<ul style="list-style-type: none"> <li>For the Flood Hazard Overlay District the area and dimensional requirements are as set by the underlying zoning district unless superseded by other requirements of these bylaws.</li> <li>For the Airport Overlay district specific lot sizes and width requirements may be established during site plan and/or conditional use review. Setback requirements apply only to the periphery of overlay district.</li> <li>The DRB may modify dimensional requirements during review of a PUD, in accordance with Sections 6.10 (PUD). Also see Section 7.8, Lot Layout for New Lots.</li> </ul>								
<sup>1</sup> Required 85 ft from setback distance from the centerline of state highways. <sup>2</sup> Required 45 ft Front setback distance from the centerline of Town roads and private roads.								

Figure 2.1 Lot Dimensions and Terminology.



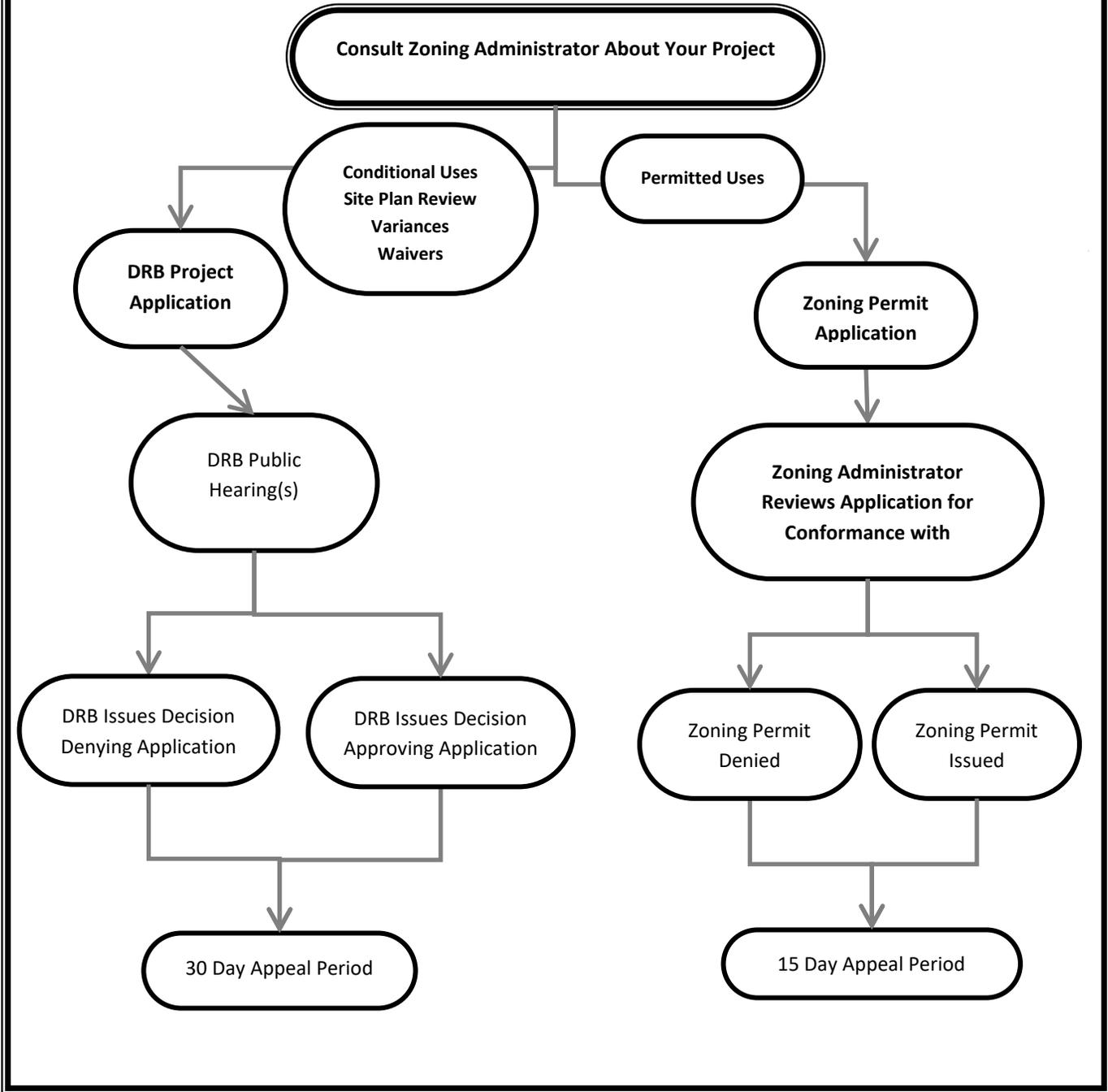
## **ARTICLE 3: PERMIT REVIEW PROCEDURES AND STANDARDS**

### **Section 3.1 Permitting Process**

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- A. No land development, as defined in Article 10 (Definitions) of these Regulations, may continue or commence without required permits and approvals having been issued in conformance with these Regulations, except as exempted in Section 1.3(B) and (C)
- B. No Zoning Permit shall be issued by the Zoning Administrator for construction, buildings, uses and land development where such use requires conditional use review, variance review, site plan approval or subdivision review until approval has been obtained from the DRB.
- C. When an application for a municipal zoning permit seeks approval of a structure, the ZA shall provide the applicant with a copy of the applicable building energy standards under 21 VSA §266 (residential building energy standards) and §268 (commercial building energy standards). However, the ZA need not provide a copy of the standards if the applicant certifies that the structure will not be heated or cooled. The ZA may provide a copy of the Vermont Residential Building Energy Code Book published by the Department of Public Service in lieu of the full text of the residential building energy standards.
- D. A Certificate of Occupancy shall be issued by the Zoning Administrator for any zoning permit involving new principal structures, additions to principal structures, new accessory dwelling units. A Certificate of Occupancy must be issued before such structures and/or uses may be occupied for their intended use according to Section 3.2 (E.).

Figure 3.1 How to Get a Zoning Permit: At a Glance



## Section 3.2 Zoning Permits

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**A. Application Requirements.** An application for a zoning permit shall be completed and submitted to the Zoning Administrator along with a permit, fee, a written request for any waiver of required application materials, and all other approvals required by these regulations. The fee for such shall be paid to the Town Treasurer. A complete application for a zoning permit or board approval must be on an application form provided by the Town of Highgate and must contain all applicable application requirements listed below. The following additional information will be required as applicable:

1. **For permitted uses.** The Zoning Administrator 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 Zoning Administrator to ascertain whether the proposal is in conformance with these Bylaws:
  - a. 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.
  - b. 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.
  - c. The dimensions of all yard setbacks 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.
  - d. The existing and intended uses and areas of use of the land and all buildings and other structures.
  - e. Any other information as required by the Zoning Administrator in order to determine if the proposal meets the requirements of these regulations.
  
2. **For Uses Subject to both Conditional Use and Site Plan Review.** Every permit application shall be prepared by a licensed professional (surveyor, landscape architect, or engineer) and include the following plans and supporting information:
  - a. Name and address of the owner of record and adjoining land ownership. Name and address of person or firm preparing the map;
  - b. A site location map showing the location of the project in relation to nearby roads and highways, adjacent land uses, and developed areas;
  - c. A site plan, drawn at an appropriate scale, illustrating the proposed site development in enough detail to allow the reviewing board to assess the relationship of the proposed development to the site's natural features. The site plan should include:
    - i. The location of proposed improvements including any structures in and adjacent to the site, parking areas, access points, paths, walkways, sidewalks, loading docks, outside storage areas, sewage disposal areas, landscaping, screening and site grading;
    - ii. 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;
  - d. Maps should include scale of map, north arrow, and date;

- e. Landscaping plan including detailed specifications of the planting and landscaping materials to be used;
- f. Construction sequence and timing schedule for completion of each phase for buildings, parking spaces, landscaped areas and other site improvements;
- g. Grading and drainage plan including any proposed stormwater infrastructure or low impact development design features.
- h. Traffic plan including traffic circulation patterns and an estimate of daily and peak hour traffic generation;
- i. If work in a State ROW is required, a letter from the Agency of Transportation confirming that the Agency has reviewed the proposed site plan and determined whether a permit is required under 19 V.S.A. § 1111, and
- j. Any other information or data that the DRB may reasonably require.

3. **For Flood Hazard Area Review.** Any application for development within the Flood Hazard Area Overlay District shall include copies of application information as required for referral to the Vermont Agency of Natural Resources, in accordance with the Act.

4. **For all uses requiring a new curb cut.** A curb cut application for access onto public highways is required. For local roads, the application must be approved by the Road Commissioner; for state routes the application must be approved by the State of Vermont in accordance with 24 VSA.

**B. Issuance.** A zoning permit shall be issued by the Zoning Administrator only in accordance with the Act and the following provisions:

1. Within thirty (30) days of receiving a completed application and fee for development on lands in accordance with these Bylaws, the Zoning Administrator shall take action to either approve or disapprove the permit application, or refer the application to the DRB, and send written notice of such, including the reason(s), to the applicant. If the Zoning Administrator fails to act within 30 days upon receipt of the permit, the application shall be deemed approved on the 31st day.
2. Within thirty (30) days upon receiving an application for development on lands within a flood plain, as specified in 24 VSA §4424, the Zoning Administrator 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.
3. A Zoning Permit shall include a statement of the time within which appeals may be taken under Section 9.6; 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.
4. The Zoning Administrator, 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.

5. 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.
6. 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 Zoning Administrator 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)].

**C. Effective Date**

1. 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 9.6 of these Bylaws).
2. All development approved under the Bylaws shall be completed or established within 24 months from the date of permit issuance, unless the Development Review Board approves a phased time period. *Substantial progress must be continued in each succeeding 24-month period.*

**D. Initiation of Construction, Water and Wastewater Permits.**

1. All structures and uses that generate wastewater or require access to potable water may be required to obtain a Wastewater and Potable Water Supply Permit from the Vermont Department of Environmental Conservation (DEC) in accordance with 10 VSA Chapter 64 and the Wastewater System and Potable Water Supply Rules (dated September 29, 2007 or as periodically revised by the DEC). Applicants proposing land development that generates wastewater or requires access to potable water must contact the Agency of Natural Resources District Permit Specialist to determine if such a permit is required.
  - a. If, according to the DEC, a Wastewater System and Potable Water Supply Permit is not required, the property owner/applicant shall provide written proof from the DEC of such to the Zoning Administrator.
  - b. No construction can take place until copies of the State permits or proof that a permit is not needed have been filed with the Zoning Administrator.

**E. Certificates of Occupancy.**

1. All new principal structures, additions to principal structures, and accessory dwelling units that have been issued a zoning permit shall receive a Certificate of Occupancy from the Zoning Administrator before such structures may be used or occupied for their intended use. A Certificate of Occupancy shall be issued by the Zoning Administrator if the following criteria have been met:
  - a. The structure and the use of the property conform to the applicable zoning permit and the provisions of these regulations.
  - b. The structure and/or use has a Wastewater and Potable Water Supply Permit from the State of Vermont, if required (see Section D above).

- c. The structure and/or use complies with all other applicable Town ordinances and regulations.
- d. If the property is subject to regulation under Article 8 Flood Hazard Regulations the standards in Section 8.4 Certificate of Occupancy shall be met before the Certificate of Occupancy is issued.

- 2. It shall be unlawful to use or occupy or permit the use or occupancy of any premises for which a Certificate of Occupancy has not been issued if one is required as outlined in this section.

**F. Temporary Permits.** Temporary permits may be issued and renewed by the Zoning Administrator for a period not exceeding six (6) months for uses and 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.

### Section 3.3 Conditional Uses

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**A. Purpose.**

- 1. Conditional uses are uses of land or of structures that have potential for causing adverse impacts on other uses because of such factors as location, method of operation, scale or intensity of activity, or traffic generated. As a consequence, they require special review in which conditions may be imposed to ensure compatibility.
- 2. Uses listed as conditional uses in any zoning district may be allowed with the approval of the DRB after public notice and public hearing, but only if they meet general and specific standards and if the DRB determines that they conform to such standards. Conditional Use Approval is subject to Section 9.3, Public Hearings.

**B. Applicability.** Approval from the DRB is required for all land development requiring Conditional Use Approval before applying to the Zoning Administrator for a Zoning Permit. The following require Conditional Use Approval:

- 1. Initiating a new use that is listed in Table 2.2 as Conditional (C) or Conditional with Site Plan Approval (C/S).
- 2. An expansion or relocation of a conditional use that does not have a permit as it existed prior to the adoption of regulations.
- 3. Changing an existing use to a different use that is listed as Conditional (C) or Conditional with Site Plan Approval (C/S) in Table 2.2.
- 4. Any alteration, expansion or accessory structure to a conditional use so that it no longer conforms to its existing Conditional Use Approval.
- 5. Nonconformities (in some cases, see Section 5.4).
- 6. Waivers (see Section 3.4)

**C. Conditional Use Review Standards.** When determining the appropriateness of a proposed conditional use, the DRB shall determine that the development or use shall not have an undue adverse impact on any of the following:

1. **Capacity of existing or planned community facilities.** The Board shall consider the demand for community services and facilities resulting from the proposed development and determine whether that demand will exceed the capacity of existing facilities and services (including school capacity, emergency services, recreation fields, etc.). Conditions may be imposed regarding the timing and phasing of development to minimize the impact on community facilities and services, including requiring the applicant to contribute funds and/or physical improvements toward the provision of new or expanded facilities to mitigate the impacts of the proposed development.
2. **The character of the area affected, as determined by the purposes of the zoning district within which the project is located, and specifically stated policies and standards of the municipal plan.** The Board shall review the design, location, scale, and intensity of the proposed development and/or use, relative to the surrounding area. For the purposes of conditional use review, “surrounding area” is defined as that area likely to be affected by the proposed use, including but not limited to properties within sight or sound of the proposed conditional use. “Character of the area” refers to the distinctive traits, qualities, attributes, appearances, pattern of use, sense of community and factors that define its identity. The existence of one conditional use in a district will not necessarily be interpreted as justification for another similar conditional use to be located there. When considering the impact of a proposed conditional use on the character of the area affected, the Board shall consider the proposal’s compatibility with the purpose and character of the affected zoning district as defined in Article 2 of this Bylaw, the Municipal Plan, and the testimony of the interested parties.
3. **Traffic on roads and highways in the vicinity.** The Board shall consider the projected impact of traffic resulting from the proposed development on the capacity, safety, efficiency, and use of affected public roads, bridges, and intersections. The Board will rely on accepted transportation standards, in evaluating traffic impacts, and shall not approve a project that would result in the creation of unsafe conditions for pedestrians or motorists, or unacceptable levels of service for local roads, highways, and intersections. The Board shall consider the projected impact of traffic resulting from the proposed development on the capacity, safety, efficiency, and use of affected public roads, bridges, and intersections (for example - a reduction in existing level of service below “C”).
4. **Bylaws or ordinances then in effect.** Proposed conditional uses must conform to all municipal bylaws and regulations in effect at the time of submission of the application, including conformance with the policies of the Municipal Plan and compliance with conditions of prior permits or approvals subject to the development application, including subdivision approval.
5. **Utilization of renewable energy resources.** The Board will consider whether the proposed development will interfere with the sustainable use of renewable energy resources by diminishing the future availability of such resources or by eliminating nearby property owners’ access to such resources.

**D. Conditions of Approval.** In permitting a conditional use, the DRB may impose conditions deemed necessary to meet the five conditional use criteria outlined above, the district standards, or any other provisions of this regulation. The DRB may impose appropriate conditions, modifications, and safeguards to ensure adherence to Article 5 General Regulations and Article 7 Planning and Design Standards, as applicable. These conditions may include, but are not limited to, the standards listed below; however, conditions for housing developments or the housing portion of a mixed-use development shall not be more restrictive than any specific minimum standard set by these regulations unless justified according to 24 VSA 4464(b)(7)(A).

- Increased or decreased lot size or yard dimensions (resulting lots must still meet minimum district standards).
  - Limitations on the coverage or height of buildings because of obstructions to view, the reduction of light and air to adjacent property, or to prevent adverse impacts to water quality or other identified natural features.
  - Limitations on the location and number of vehicular access points to the property.
  - Increased or decreased street width requirements, creation of paths or sidewalks, or other modifications to street design to ensure vehicular and pedestrian safety.
  - Limitations on the hours of operation or levels of daily truck traffic permissible.
  - Requiring measures to minimize the adverse effects of land alterations on soil erosion, water quality, and scenic beauty as may be recommended by the County Forester, Natural Resource Conservation Service, district highway engineer, or other experts.
  - Requirements for suitable landscaping where necessary to reduce noise and glare and to maintain the property in keeping with the surrounding area.
  - Specifying a time limit for construction of improvements to land or structures, including conditions to phase residential developments to minimize the impact on schools and other community facilities and services.
  - Requiring a performance bond from the applicant to ensure that the project is constructed and maintained in compliance with the permit and these regulations.
1. The DRB may request additional information that it deems necessary, and impose appropriate conditions and safeguards to implement the Act, the Municipal Plan or these bylaws. The applicant shall have the burden of proof that the project meets all criteria.
  2. The DRB, where it deems necessary and with the consent of the Selectboard, may retain legal or engineering professionals to review aspects of a conditional use applications requiring a more in-depth technical review. Cost associated with professional review shall be the responsibility of the applicant.
  3. If the DRB determines that the general standards and criteria set forth above have not been met or cannot be met with conditions, it shall deny the application.

### **Section 3.4 Waiver of Required Setback Distances**

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- A. Purpose.** The purpose of this section is to provide a fair and equitable means for a property owner to enjoy the peaceful use of his or her land by allowing for a reasonable adjustment of required setback distances for the placement of principal and accessory structures in all zoning districts while maintaining the character of the area.
- B. Permissible Waivers.** A required setback distance may be reduced to a distance down to 10 feet from any side or rear property line and down to 55 feet from the front setback provided that the DRB find that the request complies with all conditional use review standards set forth in Section 3.3.
- C. Criteria for Approval.** The principal or accessory structure for which the waiver of a required setback distance is being applied for:
1. Shall otherwise be permissible under this Bylaw;
  2. Shall be compatible with the scale of other structures in the vicinity;
  3. Shall not interfere with the reasonable use and peaceful enjoyment of any adjoining property;
  4. Shall not intrude into sight lines for accessing any public or private road from any driveway;
  5. Shall not create a fire hazard for an existing building on an adjoining lot; and
  6. Shall not interfere with or intrude into an existing public or private easement on the lot for which the waiver is being sought.
- D. Conditions of Approval.** The DRB may require conditions including:
1. Landscaping, fencing or other design features to mitigate impacts of any waiver.
  2. Outdoor storage of materials and equipment outside of setback areas only.
  3. Relocation of proposed land development to achieve the least possible reduction in setback.

### **Section 3.5 Site Plan Approval**

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- A. Purpose.** Site Plan review ensures that a project be of high quality, attractive and functional site design, and that overall building and site design be consistent with the purpose and character of the district within which it is located. Standards and conditions emphasize those considerations related to internal layout of the site, its physical design and appearance as viewed from off-site, and the functional integration of the site with surrounding properties and uses.
- B. Applicability.** As noted in the Use Table 2.2, certain uses shall require site plan review by the DRB before the Zoning Administrator 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. *Site Plan Approval is subject to Section 9.3, Public Hearings.*
- C. Site Plan Review Standards.** When reviewing a site plan, the DRB may impose appropriate conditions, modifications, and safeguards to ensure adherence to Article 5 General Regulations and Article 7 Planning and Design Standards, as applicable in order to assure compliance with the following standards:

1. *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 and bicycle safety and convenience, and to access in case of emergency. All modes of transportation shall be taken into account, including pedestrian, bicycle, handicapped, delivery and emergency vehicles and public transportation. Included in this evaluation shall be lighting of walks and entrances, design and placement of walks and crosswalks, pick-up points for public transportation and provision of bicycle racks.
  2. *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 also be considered.
  3. *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.
  4. *Compatibility with the character of the area and neighborhood*. The DRB 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 limited to: limits on the days and hours of operation, and requirements for or limits to lighting on the site.
  5. *Independent Technical Review*. The DRB, where it deems necessary and with the consent of the Selectboard, may retain legal or engineering professionals to review aspects of the site plan application requiring a more in-depth technical review. Cost associated with professional review shall be the responsibility of the applicant.
  6. *Performance Bonds*. The DRB 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. Bond amounts are at the discretion of the DRB; but are based upon the size and complexity of the project and the project use; but shall not exceed 150% of the projected cost of the project and/or maintenance.
- D. District and Specific Use Standards.** In addition to the Site Plan Review Standards above, a proposal must meet the district dimensional standards identified in Article 2 and, as applicable, the specific use standards under Article 6 of this Bylaw.

## Section 3.6 Variance Review

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- A. Purpose.** An applicant may apply for a variance from the provisions of these regulations from the DRB for any structure. Application will be made on a form provided by the Town of Highgate. Renewable energy structures are reviewed under separate criteria than general structures.
- B. Applicability.** The Zoning Administrator may not issue a permit requiring a variance from the requirements of these bylaws until the DRB has approved such application. *Requests for Variances are subject to Section 9.3, Public Hearings.*
- C. Standards.** In accordance with the Act [§4469], the DRB may grant a variance from the provisions of the Bylaws for a structure only if all five facts listed below are found, and the findings are specified in its written decision.
1. 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 these conditions, and not the circumstances or conditions generally created by the provisions of the Bylaw in the neighborhood or district in which the property is located.
  2. 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 Bylaw, and that the authorization for a variance is therefore necessary to enable the reasonable use of the property.
  3. That unnecessary hardship has not been created by the appellant.
  4. 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, or be detrimental to the public welfare.
  5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the Bylaw and from the Plan.
- D. Flood Hazard Overlay.** Variances for structures located in the Flood Hazard Overlay District shall only be granted as outlined in Article 8.
- E. Renewable Energy Structures.** Where a variance is requested for a structure that is primarily a renewable energy resource structure, in accordance with the Act, the DRB may grant such variance only if all of the following facts are found in the affirmative and specified in its written decision:
1. That it is unusually difficult or unduly expensive for the appellant to build a suitable renewable energy resource structure in conformance with this Bylaw;
  2. That the hardship was not created by the appellant;
  3. 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

4. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the Bylaw and from the Municipal Plan.

In making a decision in favor of the applicant for a variance, the DRB may attach conditions that are necessary to implement the Act and/or the Municipal Plan. In no case shall the DRB grant a variance for a use that is not permitted or conditionally permitted within the zoning district.

## ARTICLE 4: SUBDIVISION REVIEW

### Section 4.1 Applicability

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- A.** Any land developed for agricultural, residential, commercial, recreational, or industrial purposes that would involve the subdivision of any tract into two or more lots for the purpose of development, transfer of ownership, or lease of a lot shall be subject to the subdivision regulations according to this Article.
- B. Minor and Major Subdivisions.** For the purposes of these regulations, subdivisions shall be classified as minor subdivisions or major subdivisions in accordance with the following:
1. Minor Subdivisions shall include any subdivision containing less than four (4) lots.
  2. Major Subdivisions shall include any subdivision that divides an existing lot into four (4) or more lots.

### Section 4.2 Application Requirements

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- A. Submission Requirements.** For all subdivisions, one (1) original set of application materials is required for submission under this Section and 7 copies. The ZA or DRB may request additional copies. A set of application materials includes:
1. A complete Town of Highgate Application Form;
  2. The application fee according to the fee schedule adopted by the Highgate Selectboard;
  3. A set of site plans that include all the information required in Table 4.1;
  4. Adjoiner Information Form (abutting property owner information); and
  5. Any additional materials that may be required according to Table 4.1 or by the DRB.
- B. Application Material Waivers.** The DRB may waive or vary application submission requirements it judges are not requisite in the interest of the public health, safety, and general welfare, are not necessary in order to develop findings on the standards and criteria, or which are inappropriate both in the short and long term. No such waiver shall be granted if it would have the effect of nullifying the intent and purpose of the Municipal Plan or the Highgate Development Regulations.

#### Plan and Survey Plat Specifications

**Sketch Plans.** An **informal sketch** of the proposed subdivision, the purpose of which is to enable the applicant to save time and expense in reaching general agreement with the DRB on the design of the subdivision and objectives and requirements of these regulations. Sketch plans shall include basic information as required in Table 4.1 and may be hand drawn.

*Size and number of copies:* No size requirement. One original copy is required; the Zoning Administrator may require additional copies.

**Plot Plans.** A plot plan is a detailed illustration of the proposed subdivision, which may be one sheet or many sheets as necessary to make the information clear and legible. Plot plans shall be drawn to scale and include detailed information as required in Table 4.1.

*Size and number of copies:* One original 18 inches by 24 inches or larger, additional copies may be required and may be reduced as specified by the DRB during Sketch Plan Review, or by the Zoning Administrator.

**Survey Plat.** A map surveyed to scale on Mylar by a licensed land surveyor for filing in the Town's land records. It shall clearly depict one or more parcels, tracts or subdivisions of land, showing, but not limited to, boundaries, corners, markers, monuments, easements and other rights. Survey Plats shall be prepared according to Section 4.3 and 27 VSA Chapter 17.

<b>Table 4.1 Subdivision Sketch Plan/Plat Requirements</b>				
<b>✓ – the item is required NA – the item is not required</b>	<b>Sketch Plan</b>	<b>Boundary Adjustment</b>	<b>Preliminary Plat</b>	<b>Final Plat</b>
<i>Note: Information required in this Table may be prepared on 1 or more sheets, as necessary to make the information clear and legible.</i>				
<i>1- For approval of a Boundary Adjustment, the applicant may submit a Survey Plat for review by the DRB, rather than a Plot Plan. All other subdivisions require final approval of a plot plan by the DRB before a Survey Plat is required for filing in the land records.</i>				
<b>Required Form (see Text Box 4.1)</b>	<b>Sketch Plan</b>	<b>Survey Plat<sup>1</sup></b>	<b>Plot Plan</b>	<b>Plot Plan</b>
<b>Title Block</b> – including the following information:	✓	✓	✓	✓
Project Title	✓	✓	✓	✓
Plan Title (Overall site plan, utilities, stormwater, etc)	✓	✓	✓	✓
Location Description	✓	✓	✓	✓
Site Address	✓	✓	✓	✓
Name of Landowner (record owner)	✓	✓	✓	✓
Name of Developer/Client (If different than landowner)	✓	✓	✓	✓
Scale: 1inch = 100 feet	✓ Approximate	✓	✓	✓
Name, Title, License Number, and Stamp of Surveyor, VT Licensed Engineer, Architect, or Landscape Architect who prepared the plan (if applicable)	NA	✓	✓	✓
<b>Site Context Map</b> – showing the project location in the context of the surrounding area	✓		✓	✓
<b>North Arrow</b>	✓	✓	✓	✓
<b>Date</b> of preparation and record of any revisions	✓	✓	✓	✓
<b>Relevant Planning and Zoning Information</b> , including zoning district, density analysis (how many lots/units allowed according to zoning standards), setbacks, parking standards, etc.	✓	✓	✓	✓
<b>Area of land</b> in square feet or acres for each tract, lot, structure, and large feature.	✓ Approximate	✓	✓	✓
<b>Contour lines</b> at intervals of 5 feet for existing grades and for proposed finished grades where change of existing ground elevation will be 5 feet or more.	NA	✓	✓	✓
<b>Lot and tract identification</b> – boundaries for entire tract, lot lines for each existing and proposed lot, and for any involved land (access roads, easements, rights-of-way, and any open space or mitigation land). Existing and proposed lots should be differentiated. Each lot should be given a number for reference. Lots will be displayed in sequential numerical order on all documents.	✓ Approximate	✓	✓	✓

<b>Table 4.1 Subdivision Sketch Plan/Plat Requirements</b>				
✓ – the item is required NA – the item is not required	Sketch Plan	Boundary Adjustment	Preliminary Plat	Final Plat
<b>Property Boundary Survey Signed and Stamped by Licensed Land Surveyor</b> – Property boundary surveys are required for all new subdivided lots. Property boundary surveys are required for the entire parent parcel (original lot from which lots are subdivided) when: - it is 10 acres or less in size, and/or - greater than 50% is subdivided into lots	NA	✓	✓	✓
<b>Survey monument locations</b> , as required by DRB.				
<b>Adjacent property and owners</b> – all adjacent lands should be labeled with the name of the property owner(s).	✓	✓	✓	✓
<b>Existing Site Analysis</b> – <i>man-made features (i.e. non-portable features of the landscape)</i> – public land; conservation easements; utility infrastructure (including sewers and water mains) and power lines; farm roads; logging roads, sidewalks and trails; streets and private roads and driveways; existing structures; historic structures including cellar holes, stone walls, earthworks and graves; culverts and drains on property to be subdivided; foundations, walls and wells; easements and other encumbrances; and any other existing features.	✓ Approximate	✓	✓	✓
	<ul style="list-style-type: none"> <li>• For sites less than 100 acres in area include features within 1,000 feet of the site.</li> <li>• For sites of 100 acres or more, include features within 2,000 feet of the site.</li> </ul>			
<b>Existing Resources</b> - <i>natural features (i.e. non-portable features of the landscape)</i> – Streams, ponds, and wetlands; forest boundaries, fields, large trees, and rock outcroppings; ridge lines; prime agricultural soils; watershed boundaries; geological formations including rock outcroppings, cliffs and sinkholes; slopes between 15-25 %; slopes greater than 25%; meadow, pasture and hedgerows; and any other existing features.	✓ Approximate	✓	✓	✓
	<ul style="list-style-type: none"> <li>• For sites less than 100 acres in area include features within 1,000 feet of the site.</li> <li>• For sites of 100 acres or more, include features within 2,000 feet of the site.</li> </ul>			
<b>The proposed project</b> – ( <i>i.e. all improvements planned for one or more related sites and which fall under the purview of these Regulations</i> ) – All proposed buildings, roads, driveways and parking areas, landscaping, utilities, signs, dumpsters, tanks, lights, water supplies, and septic systems.	✓ Approximate	NA	✓	✓
<b>Building envelopes, reserve areas, and open space.</b> “Building envelopes” delineate the general area development is proposed. “Reserve areas” are those set aside for future development or expansion. “Open space” is any area set aside to satisfy the open space requirement for PUD approval. The conditions should be stated for all parcels of land proposed to be dedicated to public use.	✓ Approximate	NA	✓	✓

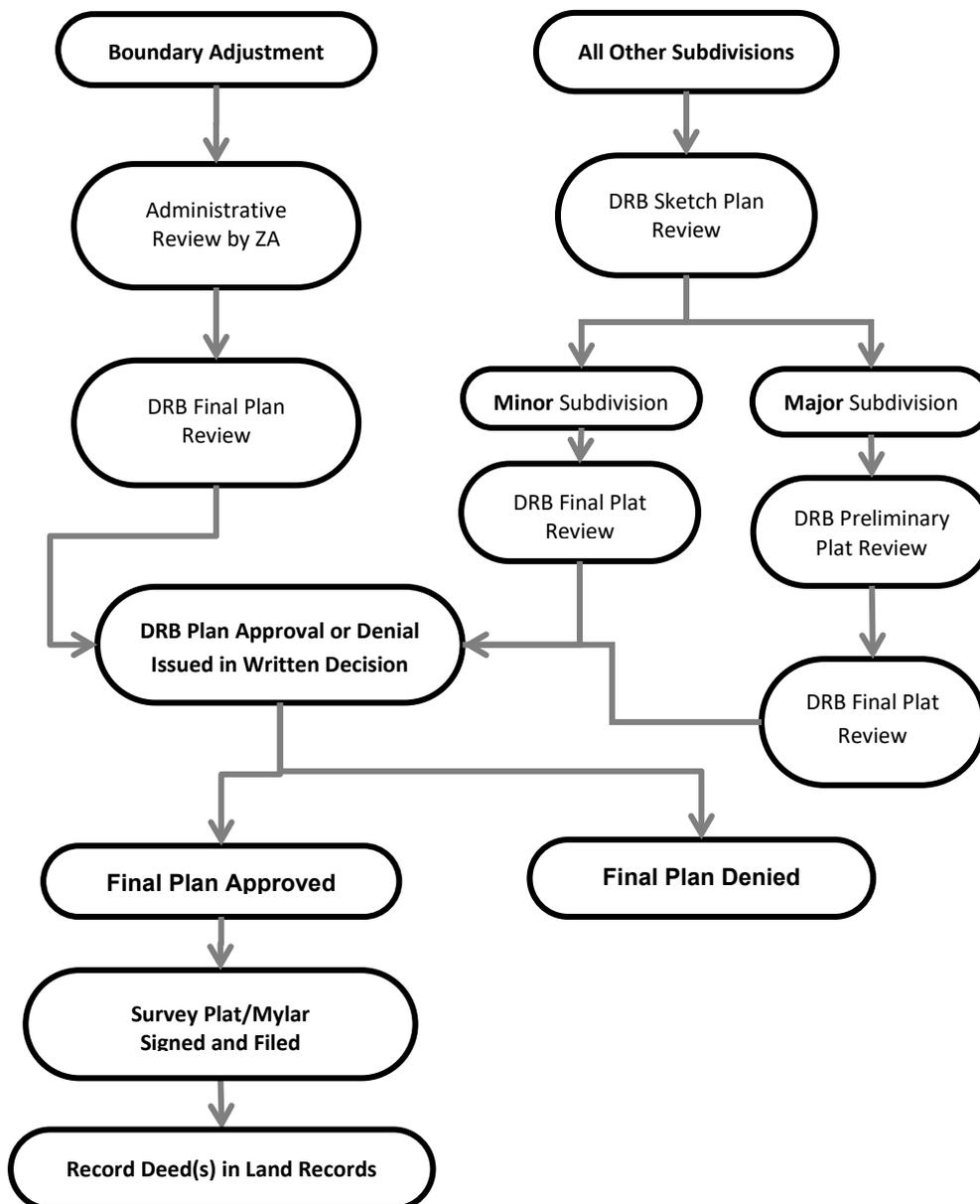
<b>Table 4.1 Subdivision Sketch Plan/Plat Requirements</b>				
<b>✓ – the item is required NA – the item is not required</b>	<b>Sketch Plan</b>	<b>Boundary Adjustment</b>	<b>Preliminary Plat</b>	<b>Final Plat</b>
<b>Public rights-of-way and easements</b>	✓ Approximate	✓	✓	✓
<b>Deed reference-tax map reference</b>	✓	✓	✓	✓
<b>Typical cross section of the proposed grading and roadways and sidewalks.</b>	NA	NA	✓	✓
Provisions for collecting and discharging <b>storm drainage</b> , in the form of a <b>drainage plan</b> .	NA	NA	✓	✓
Preliminary designs of any <b>bridges or culverts</b> which may be required.	NA	NA	✓	✓
<b>Mitigation measures</b> – Any stream or wetland buffers, or agricultural or wildlife habitat easements, or other areas required to be set aside for preservation/conservation.	✓ Approximate	NA	✓	✓
<b>Off-site Improvements</b> that may be required locally or by the state, such as improvements that mitigate traffic impacts like a turning lane, or construction, buffers, landscaping or other mitigation within an adjacent easement or leased area.	✓ Approximate	NA	✓	✓
<b>Specialized Plans/Plats</b>				
<b>Utility Plan</b> – Location of water and sewer improvements and easements, including force-mains, pump stations, and underground electric and telephone lines.	NA	NA	✓	✓
<b>Grading and Erosion Control Plan</b> – Locations where sediment must be trapped before entering a watercourse and the devices used to impede erosion (i.e. silt fencing, hay-bale or stone dams around catch basins and at intervals in swales and ditches).	NA	NA	✓	✓
<b>Stormwater Management Plan</b> – Detail on collection, retention, and treatment of stormwater. Should show site grades, direction of drainage flow, and design of any detention basins, low impact development practices to be employed and green infrastructure.	NA	NA	✓	✓
<b>Road and Bike/Pedestrian Plan</b> – Current and proposed grades for the installation of roads, driveways, sidewalks, bike lanes, and other pedestrian amenities. Should show cross sections of proposed roads and sidewalks.	NA	NA	✓	✓
<b>Landscaping Plan</b> – Locations for existing and proposed vegetation, as well as structures, features, and other topographical information. Scientific and common names for proposed species should be identified. Areas proposed for clearing and no-cut zones should be identified.	NA	NA	✓	✓

<b>Table 4.1 Subdivision Sketch Plan/Plat Requirements</b>				
✓ – the item is required NA – the item is not required	Sketch Plan	Boundary Adjustment	Preliminary Plat	Final Plat
<b>Lighting and Signage Plan</b> – Locations and illumination of exterior lights. Location and dimensions of all exterior signs.	NA	NA	✓	✓
<b>Garbage Collection Plan</b> – Location for garbage collection and method for containing garbage put out for pick-up.	NA	NA	✓	✓
<b>Architectural elevations</b> for commercial and multi-unit residential buildings – Renderings of the project’s physical appearance as seen from the east, west, north, and south viewpoints.	NA	NA	✓	✓
<b>Transportation Impact Study</b> – A report analyzing anticipated roadway conditions with and without the proposed project. The report may include an analysis of mitigation measures and a calculation of fair share financial contributions.	NA	NA	NA	As Required
<b>Master Plan</b> - an indication of proposed roads, driveways or streets, the future probable lot lines and building envelopes of the remaining portion of the tract, and a description of the probable uses (drawn in sketch plan format).	NA	NA	As Required	As Required
<b>Legal Documents</b> – A draft of all newly created or revised deeds, covenants, homeowner's association articles and/or bylaws or other legal documents associated with the proposed development.	NA	✓	As Required	✓
<b>Resource Impact and Conservation Plan:</b> Categorize the impacts of the proposed subdivision and land development on resources shown in the Existing Site Analysis and Existing Resources Analysis. This plan shall clearly demonstrate the applicant has minimized site disturbance to the greatest extent practicable. Impact areas shall be mapped according to the following categories: (1) primary impact areas, i.e., areas directly impacted by the proposed subdivision, (2) secondary impact areas, i.e., areas in proximity to primary areas which may be impacted, and (3) designated protected areas.	NA	NA	✓ Preliminary	✓ Include measures taken to minimize and control impacts during and after construction and qualifications of preparer
<b>Common Area Ownership and Management Plan</b> - detailing the entities responsible for maintaining any commonly held infrastructure, land or other elements of the property and describing management objectives and techniques.	NA	NA	As Required	As Required

### Section 4.3 Review Process

- A. Overview.** Detailed review process requirements for boundary adjustments, minor subdivisions, and major subdivisions are included in this Section. The Subdivision Review process differs by subdivision type. See Figure 4.1 below for an overview.
- B. Legal and/or Professional Consultation.** The DRB, where it deems necessary and with the consent of the Selectboard, may retain legal or engineering professionals to review aspects of a Sketch, Preliminary or Final Plat application requiring a more in-depth technical review. Cost associated with professional review shall be the responsibility of the applicant.

**Figure 4.1 Subdivision Review Process**



**C. Boundary Adjustments.** A Boundary Line Adjustment is the adjustment of property lines between adjacent lots, which:

- i. Does not create any new lots;
- ii. Does not create any non-conforming lots; and
- iii. Does not impede access to any parcel.

1. **Administrative Review Standards.** Upon submission of a complete application for a Boundary Adjustment between two or more properties, proper payment of fees, and submission of all required supporting documentation; the following actions will take place:

- a. The Zoning Administrator shall conduct an Administrative Review of the proposed Boundary Adjustment and, if finding that the proposal meets all the applicable requirements of these Regulations, shall submit a written recommendation and draft decision to the DRB for approval of the Boundary Adjustment Survey Plat.
- b. The DRB will hold a public hearing, warned in accordance with the Act, to consider the Zoning Administrator's recommendation and either approve and sign the written decision and Boundary Adjustment Survey Plat, make amendments, or deny the boundary adjustment. When amendments are required, the written decision shall be issued within forty-five (45) days in accordance with Section 9.3. The applicant shall file the Survey Plat in accordance with Section 4.3.

**D. Sketch Plan Review.** All subdivisions, except Boundary Adjustments eligible for Administrative Review under (B) above, require Sketch Plan Review by the DRB according to this Section.

1. **DRB Review.** When the ZA has received all necessary application materials, as described in Table 4.1 and determined that the sketch plan application is complete, the ZA shall refer the application to the DRB for sketch plan review. Complete applications should be submitted to the ZA at least ten (10) days prior to a regularly scheduled meeting.

The applicant, or duly authorized representative, shall attend the DRB Review to discuss the requirements of these regulations.

2. **Sketch Plan Review Criteria.** In completing sketch plan review, the DRB shall complete the following:

- a. Classify the sketch plan as either a minor subdivision or a major subdivision.
- b. Discuss any request for modification
- c. Make a preliminary determination on whether the proposal generally conforms to the planning and design standards in Article 7, the Municipal Plan, and any other municipal ordinances or bylaws in effect.
- d. If deemed necessary, make specific requirements or recommendations for changes in subsequent submissions, including any requests for additional studies or supporting documentation.

- e. Should the DRB deem it necessary to employ an engineer to review any plans provided by the applicant, the cost of such engineer shall be borne solely by the applicant.
  - f. The DRB shall require that all major subdivisions in the Protected Districts be reviewed as Planned Unit Developments and meet the requirements of Section 6.10.
  - g. The DRB may require where necessary for the protection of the public health, safety, and welfare, that a Minor Subdivision comply with all or some of the requirements for Major Subdivisions specified in these Regulations.
  - h. The DRB may require the applicant to submit a description of the potential build-out of the entire parcel and adjacent parcels in a Master Plan when part of a larger parcel is proposed for development. The Master Plan may be drawn in a sketch plan format and shall include an indicate of proposed roads, driveway or other streets, the future probable lot lines and building envelopes of the remaining portion of the parcel. The DRB may require that the Master Plan be submitted as part of an extended sketch plan review, or as a part of the preliminary or final subdivision approval. Approval of an applicant's current application does not constitute approval of the Master Plan.
- Master plans** are used a tool for the community to gain a better understanding of the potential build-out of future development on a parcel and to ensure the orderly development of the community.
3. **Action on Sketch Plan.** The DRB shall issue a written determination on the sketch plan within 45 days of the close of the sketch plan meeting, which may include requirements or recommendations for modifications to the sketch plan, additional studies, or supporting documentation. The DRB's determination shall specifically note whether the application should be resubmitted for sketch plan review or should be submitted for preliminary plan review (in the case of major subdivisions) or final plan review (in the case of minor subdivisions).
4. **Site Visit.** At the Sketch Plan Review meeting, the DRB may request a site visit. The applicant will be asked to mark significant aspects of the proposal for DRB observation. The public will be invited to attend, but no testimony or evidence may be given at the site visit.
5. **Number of Reviews.** Additional Sketch Plan Review public hearings will be permitted at the mutual discretion of DRB and applicant. This is to ensure the most complete and efficient review of projects, to save resources for both the applicant and the Town, and to provide public and municipal input at the earliest stages of project development.

6. **Effect of Sketch Plan Approval.** Approval of a sketch plan shall not constitute approval of a subdivision plat and is merely authorization for the applicant to file a preliminary plan or final plan application.

#### **E. Minor Subdivision Review**

1. **Application Process.** Within 6 months of classification of the Sketch Plan as a Minor Subdivision by the DRB, the applicant shall submit an application for approval of a Minor Subdivision Plan to the Zoning Administrator. Complete application materials shall contain those items set forth in Table 4.1 of these Regulations. The Plan shall conform to the layout approved at Sketch Plan Review plus any recommendations made by the DRB and agreed upon by the applicant. At the expiration of 6 months from classification by the DRB, the applicant shall be required to resubmit a Sketch Plan Application, unless an extension of up to six (6) months has been requested in writing before expiration and is granted by the DRB.
2. **Public Hearing and Final Approval.** The DRB must hold a public hearing on Final Plan Approval of a Minor Subdivision subject to Section 9.3, Public Hearings.
3. **Action on Minor Subdivision Review.** The DRB shall within forty-five (45) days after the completion of the public hearing or any continuation thereof approve, modify and approve, or disapprove such plat. Failure to act within such forty-five days shall be deemed approval.

#### **F. Major Subdivision Review**

1. **Preliminary Plat Application Process.** Within 6 months of classification of the Sketch Plan as a Major Subdivision by the DRB, the applicant shall submit complete application materials for approval of a Preliminary Plat for a Major Subdivision to the Zoning Administrator. Complete application materials shall include those items set forth in Table 4.1 of these Regulations, any additional information required by the DRB as a result of Sketch Plan Review and the following information:
  - i. The location of temporary markers adequate to enable the DRB to locate readily and appraise the basic layout in the field. Unless an existing street intersection is shown, the side distance along a street from one (1) corner of the property to the nearest existing street intersection shall be shown.
  - ii. Fire protection letter of requirements from the Fire Department.
  - iii. List of waivers, if any, the applicant desires from the application requirements of these regulations.

The proposal in the application materials shall conform to the layout approved at Sketch Plan Review, plus any recommendations made by the DRB and agreed upon by the

applicant. At the expiration of 6 months from classification by the DRB, the applicant shall be required to resubmit a Sketch Plan Application unless an extension of up to six months has been requested in writing before expiration and is granted by the DRB.

2. **Preliminary Plat Public Hearing.** When the Zoning Administrator determines that the preliminary plat application is complete, the Zoning Administrator shall schedule a public hearing at the next available DRB meeting, following the public notice and public hearing procedures of Section 9.3. A site visit may be conducted as part of the public hearing.
3. **Preliminary Plat Review Criteria.** In completing preliminary plan review, the DRB shall determine that the proposed subdivision conforms to all of the standards and conditions contained in Article 7, Planning and Design Standards, conforms to the goals and policies of the Municipal Plan, and conforms to any other applicable local ordinances or bylaws. In addition, the DRB may impose other modifications as necessary, including specific changes for subsequent submissions, additional studies, or supporting documentation to protect the public safety and welfare and to ensure compliance with the Municipal Plan, these regulations, and other bylaws and ordinances in effect.
4. **Action on Preliminary Plat.** Within forty-five (45) days of the completion of the public hearing, or any continuation thereof, the DRB shall approve, modify and approve, or disapprove said preliminary plat, and the grounds for any modifications required or the grounds of the disapproval shall be set forth in a written decision. Failure of the DRB to act within said forty-five (45) day period shall constitute an approval of the preliminary plat. *A copy of the notice of decision of the DRB shall be sent to the applicant by certified mail, return receipt requested, within forty-five-day period.*
5. **Sectionalizing and Phasing.**
  - a. **Sectionalizing and Phasing.** At the time the DRB grants preliminary plat approval, it may require that plat be sectionalized or phased as it deems necessary to assure the orderly development of the subdivision and coordination with the planned and orderly growth of Highgate as set forth in the *Municipal Plan* and any capital budget and program currently in effect.
  - b. Sectionalizing of the plat will require that it be divided into two or more sections prior to the filing of final plat. The DRB may impose conditions upon the filing of application for final plat approval for each section as it deems necessary to assure the orderly development of the plat.
  - c. Phasing of the plat will require that, after final plat approval, the subdivision is fully developed in accordance with a schedule set forth by the DRB. The DRB will set a phasing schedule as it deems necessary to assure the orderly development of the plat.
6. **Effect of Preliminary Plat Approval.** Approval of a preliminary plat shall not constitute approval of the subdivision plat and does not guarantee approval of the final plat. Prior to approval of the final subdivision plat, the DRB may require additional changes as a

result of further study. The approval of a preliminary plat shall be effective for a period of one (1) year. Any preliminary plat not receiving final approval prior to the expiration of the one (1) year shall be null and void, and the applicant shall be required to resubmit a new plat for Sketch Plan Review subject to all new zoning regulations. Should the DRB impose sectionalizing as a condition of preliminary plat approval, it may extend the one (1) year effective period of preliminary approval. Any extension of time granted for this reason will be specifically included in the written decision of Preliminary Plat Approval. When requested in writing, the DRB may also grant extensions beyond this 1-year period even for projects not involving phasing, when the delays are due to circumstances beyond the applicant's control.

7. **Final Plat Application Process.** Within 6 months of Preliminary Plat Approval, the applicant shall submit complete application materials for approval of a Final Subdivision Plan for a Major Subdivision. Complete application materials shall include those items set forth in Table 4.1 of these Regulations and the following information:
- a. Sufficient data acceptable to the DRB to determine readily the location, bearing and length of every street line, lot line, boundary line and to reproduce such lines upon the ground. When practicable these should be tied to reference points previously established by a public authority.
  - b. The length of all straight lines, the deflection angles, radii, length of curves and central angles of all curves, tangent distances, and tangent bearings for each street.
  - c. The location of the improvements referred to in Article 7 and in addition thereto the location of all fire protection devices, utility poles, sewage disposal systems, and rough grading and other devices and methods of draining the area within the subdivision.
  - d. Monuments shall be at all corners and angle points of the boundaries of the subdivision, and for new roads at all street intersections, angle points in street lines, points of curve and such intermediate points as shall be required by the DRB.
  - e. Permanent reference monuments and lot corner markers shall be clearly indicated.

Any application materials received beyond 6 months from Preliminary Plat Approval will be subject to any new regulations that have gone into effect. This may cause the application to be sent back to Sketch Plan Review if the new regulations or circumstances have changed in a way that would alter the original decision under Preliminary Plat.

The Final Plat application materials must conform to the layout approved at Preliminary Plan Review, including any amendments required by the DRB. If Final Plat Approval has not been given at the expiration of 1-year from Preliminary Plan Approval, the applicant shall be required to resubmit a Sketch Plan, unless extended by the DRB under Section 4.2(E)(6) above.

**8. Submittal of Supporting Documentation.**

a. **Major Subdivision.** There shall be submitted to the DRB with the final plat the following supporting documents for Major Subdivision:

- i. Copies of proposed deeds, easements, agreements or other documents showing the manner in which streets, open space, including park and recreation areas served and maintained and if the DRB determines its necessary, a certificate from the Town Attorney that these documents are satisfactory. Such certificate shall not be construed, however, as acceptance by the Town of Highgate of any areas proposed to be dedicated to the Town.
- ii. A certificate from a Town Consulting Engineer as to the satisfactory completion of all improvements may be required by the DRB, or in lieu thereof, a performance bond to secure completion of such improvements and their maintenance for a period of two (2) years, with a certificate from the legislative body that it is satisfied either with the bonding or surety company, or with security furnished by the applicant.
- iii. Any documents required by the DRB as a result of Preliminary Plat Approval.
- iv. The final plat application for a major subdivision shall be accompanied by a Certificate of Title showing ownership of all property and easements to be dedicated or acquired by the Town, or reserved, and said Certificate of Title shall be approved by the Town Attorney. Copies of all proposed instruments conveying property or easements to the Town shall also accompany the final application and be approved by the Town Attorney.
- v. Bonding may be required, sufficient to cover the completion of required improvements and maintenance of such improvements for a period of two (2) years after completion. The amount of bond shall be established by the DRB based upon the applicant's estimate, bids or other information deemed necessary by the DRB, but shall not exceed 150% of the projected improvement and maintenance cost.

b. **Minor Subdivision.** There shall be submitted to the DRB with final plat the following supporting documents for Minor Subdivision:

- i. Copies of proposed deeds, easements, agreements or other documents showing the manner in which streets, open space, including park and recreational areas served and maintained and if the DRB determines its necessary, a certificate from the Town Attorney that these documents are satisfactory. Such certificate shall not be construed, however, as acceptance by the Town of Highgate of any areas proposed to be dedicated to the Town.
- ii. Any other documents required by the DRB as a result of Sketch Plan approval.

**9. Final Plat Hearing**

- a. The DRB shall hold a public hearing as soon as schedule allows after the time of submission to the Zoning Administrator of the final subdivision plat. The hearing shall be warned according to Section 9.3.
- b. **Final Plat Review Criteria.** In completing a Final Plat review, the DRB shall determine that the proposed subdivision includes all required conditions, conforms to all of the standards and conditions contained in Article 7, Planning and Design Standards, conforms to the goals and policies of the Municipal Plan, and conforms to any other applicable local ordinances or bylaws. In addition, the DRB may impose other conditions of approval as necessary to protect the public safety and welfare and to ensure compliance with the Municipal Plan, these regulations, and other bylaws and ordinances in effect.
- c. **Security for Completing Improvements.** All roads, drainage, water, wastewater, stormwater, sewer, landscaping, lighting, monumentation or other improvements in the Town approved subdivision shall be installed at the sole expense of the owner/developer. The DRB 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. Bond amounts are at the discretion of the DRB; but are based upon the size and complexity of the project and the project use; but shall not exceed 150% of projected improvement and maintenance cost.

10. **Action on Final Plat.** The DRB shall within forty-five (45) days after the close of the final public hearing approve, modify and approve, or disapprove such plat. Failure to act within such forty-five day (45) days shall be deemed approval. *A copy of the notice of decision of the DRB shall be sent to the applicant by certified mail, return receipt requested, within said forty-five (45) day period.*

## **Section 4.4 Requirements After Final Approval**

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- A. Filing of Final Survey Plat.** Upon approval of the Final Plan by the DRB, the applicant shall prepare a Survey Plat for recording in conformance with the requirements of 27 VSA Chapter 17. A Survey Plat is a map drawn to scale on Mylar by a licensed land surveyor of one or more parcels, tracts or subdivisions of land, showing, but not limited to, boundaries, corners, markers, monuments, easements and other rights. A signed certification is required from the licensed land surveyor who prepared the Survey Plat, indicating that all the permanent lot markers (pins) have been set. Draft paper Survey Plats may be required for approval by the DRB before preparing a Mylar copy for filing.

1. The chairperson (or acting chairperson) of the DRB shall endorse the Survey Plat with the date of Final Plan Approval. Following endorsement by the chairperson of the DRB and within 180 days of the DRB's Final Approval, the applicant shall submit the Survey Plat to

the Town Clerk for filing. The Town Clerk shall endorse the Survey Plat before filing. The DRB's written decision, which includes all permit conditions set by the DRB, shall be filed in the land records of the Town and their location must be clearly referenced on the Survey Plat.

2. Final Plan Approval shall expire if the applicant does not receive endorsement and file the Survey Plat and related documents within the 180-day period. The Zoning Administrator, upon written request prior to the expiration date, shall extend the date for filing the Survey Plat by an additional 90 days if final local or state permits or approvals are still pending.

**B. Electronic Submission.** Upon approval endorsement of the Survey Plat by the DRB Chairperson, the applicant shall submit to the Town Clerk a CD or DVD with electronic survey files in DWG or DXF and PDF formats.

**C. Revisions.** No changes, erasures, modifications, or revisions shall be made on any subdivision Final Plan and Survey Plat after Final Approval, unless said Final Plan and Survey Plat are first resubmitted to the DRB in accordance with these Regulations and the DRB approves the modifications. For such revisions, Sketch Plan and where applicable, Preliminary Plan Review, may be combined into Final Plan Review at the DRB's discretion.

**D. Acceptance of Public Infrastructure.** Final approval by the DRB shall not be deemed to constitute or be evidence of acceptance by the Town of any street, road, easement, utilities, park, recreational area, or open space shown on the Final Plan or Survey Plat. Such acceptance may only be accomplished by formal resolution of the Selectboard.

**E. Other Permits and Regulations.** Approval of the Final Plan shall not exempt an applicant from compliance with all other applicable local, state, or federal regulations, standards, policies, and ordinances.

**F. Monuments.** Suitable survey monuments shall be placed at street intersections and other necessary points, as may be required.

## **ARTICLE 5: GENERAL REGULATIONS AND REVIEW STANDARDS APPLICABLE TO ALL DEVELOPMENT**

### **Section 5.1 Performance Standards**

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- A. The following performance standards shall be met by all uses in all districts.** Uses shall not:
1. Emit any level of noise which is considered both offensive and uncharacteristic of the area; normal agricultural and animal noises shall not be deemed uncharacteristic of this Town;
  2. Emit any intensity of odor which is considered both offensive and uncharacteristic of the area; normal agricultural odors shall not be deemed uncharacteristic of this Town;
  3. Emit smoke in excess of that shown on Ringleman Chart No. 2;
  4. Emit any dust, dirt or 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.
  5. 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.
  6. Cause harmful wastes to be discharged into a sewer system, streams or other bodies of water.

### **Section 5.2 Principal Use and Structure**

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- A. Principal Use and Structures.** More than one principal use and/or structure (as defined in Article 10, definitions) per lot is not allowed except as provided in Sections 6.10 (Planned Unit Development) and 6.1 (Mixed/Multiple Uses).

### **Section 5.3 Access Requirements**

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- A. Required frontage on, or access to, public roads, class IV Town Highways or public waters.** In accordance with and in addition to the Act [§4412(3)], land development may be permitted on lots that do not have frontage either on a public road, class 4 town highway, or public waters, provided that access through a permanent easement or right-of-way has been approved under Site Plan Review or Subdivision Approval, as applicable, and the following standards are met:

1. Driveways shall have a right of way of at least 20 feet wide and may serve as access to property for the purposes of development of not more than two (2) lots for sale, lease or transfer of ownership of land. Driveways shall be constructed according to the Vermont Agency of Transportation's B-71 Standards for Commercial and Residential Driveways, Town Road and Bridge Standards. Curb cut approval is subject to Selectboard Approval under the applicable ordinance.
  - i. **Location.** No driveway shall be located within fifty (50) feet of a road intersection. The DRB may reduce this standard through approving a waiver/modification application for driveways located in the Town Center Zoning District provided there is no undue adverse impact on public safety. Where a site occupies a corner of two (2) intersecting roads, the driveway access shall be located on the less traveled road. All driveway accesses in the Town Center District are exempt from the setback standards.
  - ii. **Shared Access.** The DRB may require shared driveways between adjoining properties in appropriate instances, including the presence of compatible adjacent uses or areas characterized by congestion and frequent and/or unsafe turning movements. See also Section 7.2(13)(b).
2. Development Roads shall comply with Section 7.2 have a right of way of at least 50 feet wide and shall conform to VTrans A-76 Standard including all standards regarding road subbase, intersection design, ditching, drainage, erosion control, side slopes, and paving; see also Section 7.2. Where the standards in these regulations are stricter than the A-76 Standards the stricter standards shall apply. Development Roads serve more than two (2) lots and/or provides access for sale, lease or transfer of ownership of lots. These roads may be considered for acceptance as Town Highways by petition to the Selectboard as provided in the *Town Highway Road Acceptance Policy*. There is no guarantee that the Selectboard will take over any private road and it shall be clearly stated to all developers, builders and potential buyers that the decision to take over a private road is at the sole discretion of the sitting Highgate Selectboard.
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 Article 4 shall apply. If site plan approval is required, application and approval under this section shall be coincidental with site plan approval under Section 3.5 of this Bylaw; all procedures and standards shall apply. If neither subdivision nor site plan approval is required, application shall be made to the DRB on an application provided by the Town and shall be subject to Section 9.3, Public Hearings.

## **Section 5.4 Non-Conforming Uses and Non-Conforming Structures**

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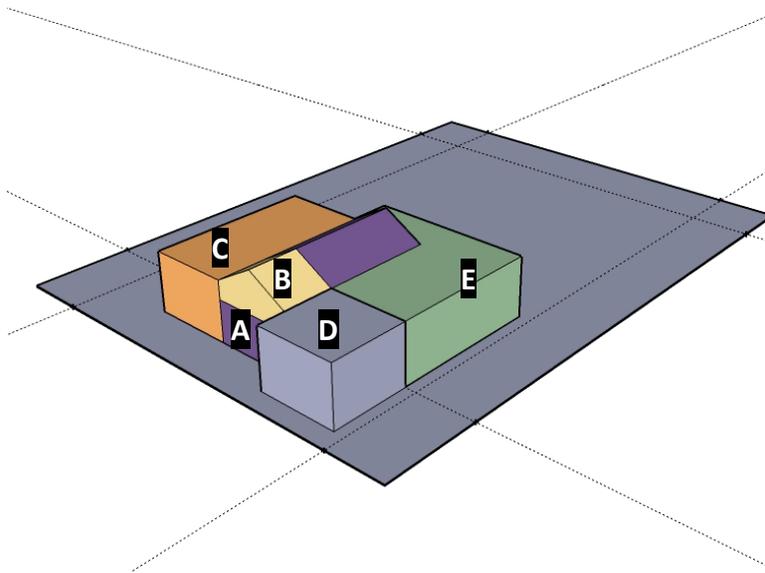
**A. Non-Conforming Uses.** The use of any building, structure or land which is made non-conforming by reason of the adoption of these Bylaws or subsequent amendments may continue indefinitely subject to the following provisions:

1. A non-conforming use shall not be resumed if such use has been abandoned or discontinued for a period of one (1) year 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.
2. A non-conforming use shall not be resumed after damage from any cause, unless reconstruction begins within one (1) year from the day of damage or destruction and is carried on without interruption. If the reconstruction has not begun within one (1) year 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.
3. 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 DRB.
4. Exterior signs constituting a non-conforming use shall be replaced only by signs which conform to the provisions of these Bylaws.
6. A non-conforming use located in the Flood Hazard Overlay District shall be regulated as outlined in Section 8.6.

### **B. Non-Conforming Structures**

1. 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 Bylaws. Pre-existing shall mean structures existing prior to Highgate Zoning Bylaws of 1984 or made non-conforming by virtue of subsequent amendments.
2. If a non-conforming single-unit dwelling is to be replaced by another non-conforming single-unit 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.
3. Non-conforming structures shall not be extended, expanded, or altered in any manner that increases the extent or degree on non-conformance (Figure 5.1).

**Figure 5.1 Increasing the Degree of Non-Conformity**



*The building 'A' is the original nonconforming structure because it encroaches into the setback. Addition 'B' is allowed under these Regulations because it does not encroach further into the setback than Building 'A'. Addition 'C' is not allowed because it adds to the area of the building that is non-conforming and is development that would not be allowed with a conforming structure. Addition 'D' is not allowed under these Regulations because it encroaches further into the setback than Building 'A'. Addition 'E' is allowed because it is not within the setback area of the road, or side or rear property lines.*

## **Section 5.5 Abandonment of Conforming Structures and Uses**

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- A. Abandonment of Conforming 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.
- B. Abandonment of Conforming Uses.** Following the abandonment of any conforming use, as outlined in and subject to the bylaw regulations, 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:
1. The cessation of use of a residential structure for such purposes for the period of five (5) years or more;
  2. 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.

## Section 5.6 Existing Small Lots

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- A. 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.
- B. 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 5.7 Sensitive Resource Lands

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- A. 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 such as the Town Plan and ANR Biofinder. The DRB may impose conditions as necessary to ensure that the development does not adversely impact these resource lands. Sensitive Resource Lands to be considered during the review process include those noted in the Highgate Town Plan, and the following:
  - 1. **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.
  - 2. **Threatened and Endangered Species.** Locations of threatened and endangered plant and animal species as defined by State and Federal agencies shall be avoided.
  - 3. **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.
  - 4. **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:
    - i. prevent runoff, erosion, slumps, and other down slope movements of material, and
    - ii. 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.

## **Section 5.8 Native American Sites District**

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**A. Purpose.** To create trust, confidence and harmony between property owners and Native Americans; to insure property owners' rights, privacy and property values; to preserve and protect Native American ancestral burial grounds, establish standards and procedures to identify sites that contain such remains and provide for their protection without undue burden on property owners. The Town, working together with the State of Vermont, Native American representatives and private property owners, will initiate efforts to develop long-term methods to ensure that the remains of Native Americans are dealt managed with in a respectful manner without placing unreasonable restrictions on lands which contain such remains.

**B. Definitions.**

**Division of Historic Preservation** – That division within the Vermont Department of Housing and Community Affairs created pursuant to 22VSA § 721 to coordinate historic preservation activities on behalf of the State of Vermont.

**State Historic Preservation Officer** – That individual appointed pursuant to 22 VSA § 761(a) to conduct and maintain a survey of sites of archeological and anthropological specimens within the state.

**State Archeologist** – That individual employed by the state historic preservation officer pursuant to 22 VSA § (a) to conduct and maintain a survey of sites of archeological and anthropological specimens within the state.

**Qualified Anthropologist** – An individual who, by education and professional experience, has the expertise to identify human remains and determine their cultural origin.

**Qualified Professional** – An individual who, by education and professional experience, has the expertise to identify human skeletal remains.

**Significant concentration of human remains** – An area having four (4) or more sets of human remains per one thousand (1,000) square foot area.

**Minimal concentration of human remains** - An area having three (3) or fewer sets of human remains per one thousand (1,000) square foot area.

**Site Examination** - The study of human remains at any site by means of surveying, digging, sampling, excavating or removing surface or subsurface materials.

**Native American Representation** – A member of the Abenaki Tribal Council.

**Governor’s Advisory Commission on Native American Affairs** – That commission established pursuant to Executive Order No. 97-90 on November 22, 1990, which executive order is codified in the chapter 18 of the appendix to Title 3 of the Vermont Statutes annotated.

**C. Designation of District.** The (NASO) Native American Sites Overlay District is defined as all properties on Monument Road.

**1. District Requirements.**

- a. Uses permitted within the Native American Sites Overlay Specifically include agriculture and forestry; unimproved open space, recreational and educational uses; and those uses generally permitted within single unit dwellings which do not require structural alterations (i.e., childcare homes, group homes, and home occupations as defined herein). All other uses and structures, including but not limited to new or expanded single unit dwellings, additions and accessory structures, shall be subject to review under this Section, as well as all other applicable municipal and state regulations. All properties on Monument Road shall be subject to review under these standards.
- b. Applications for development within the Native American Site Overlay District shall be submitted in accordance with this **Section D** below.
- c. Development in the Native American Sites Overlay District shall be subject to Conditional Use Review under Section 3.3 as well as applicable requirements of the underlying zoning district. Where this overlay imposes more restrictive standards on the construction and use of structures or land, the most restrictive standards shall apply.

**D. Permit Requirement:** Land development located in the NASO shall comply with the requirements of the underlying zoning district in addition to the following requirements:

1. Upon determination that the proposed land development does not involve excavation to a depth more than eighteen inches (18”) below existing grade, and upon determination that all proposed land development is in accordance with the underling zoning district standards and all other aspects of these regulations, the Zoning Administrator shall issue a permit.
2. Upon determination that the proposed land development does involve excavation to a depth more that eighteen inches (18”) below existing grade, the Zoning Administrator

shall attempt to determine based on information obtained pursuant to **Section E** below, whether any portion of the area to be excavated is within ten feet (10') of an area on the site containing a significant concentration of human remains. An applicant may provide such information but is not required to do so.

- a. Upon determination that the area to be excavated is not within ten feet (10') of an area on the site containing concentration of human remains, the Zoning Administrator shall issue a permit allowing excavation to proceed with due caution.
  - b. Upon determination that the area to be excavated is within ten feet (10') of an area on the site containing a significant concentration of human remains, no permit may be issued. The Town will work with the property owner, Native American representatives, and other interested federal, state, local and private interests to preserve and protect the affected parcel or area.
  - c. If the information described in **Section E** is not provided or is unavailable, the Zoning Administrator shall issue a permit subject to express requirements that:
    - i. The applicant provide the Town six (6) business days advance notice before initiating any excavation.
    - ii. The Town shall have a qualified professional on the property to monitor activity during the period that excavation occurs at the property owner's expense. This monitor must be on site when excavation first begins and shall have authority to order an immediate cessation of excavation work upon discovery of any human remains.
    - iii. Applicant shall immediately cease excavation work when so ordered by the Town's monitor. Once ordered to cease excavation work, Applicant shall not resume excavation work until authorized to do so by the Zoning Administrator.
    - iv. Upon discovery of human remains, the Zoning Administrator shall not authorize resumption of excavation work until completion of the actions and/or expiration of the time periods set forth in **Section F** below.
3. Any permit issued pursuant to this by-law shall require compliance with the requirements of **Section F**, below.

**E. Examination of Property:**

1. Determination that a proposed excavation site contains or does not contain human remains subject to the provisions of this by-law shall be based on information prepared by a qualified professional following examination of the proposed site using the best non-intrusive technology available. At the property owner's request, the services of a qualified professional may be obtained by:
  - a. any property owner, at no expense to the Town; or
  - b. the State Historic Preservation Officer, at the State's expense; or
  - c. a Native American Representative, at no expense to the property owner.
2. Any site examination conducted by the State Historic Preservation Officer, or Native American representative shall comply with the following requirements:

- a. be subject to a property owner's consent, except as provided in **Section F.4** below;
- b. be performed in a professional manner that minimizes disturbance of the owner's property and minimizes inconveniences to the owner;
- c. provides for restoration of any disturbed property to a condition adequate to return the property to its pre-disturbance state within a reasonable time following completion of the examination;
- d. be performed at no expense to the property owner.

**F. Procedure Upon Discovery of Human Remains:**

1. The Zoning Administrator and/or property owner shall contact the Vermont State Police for determination of whether human remains are part of a criminal incident. During this period, the property owner shall take such actions as the State Police direct and are necessary to protect the remains from the elements.
2. Upon notification from the State Police that the human remains are unrelated to a criminal incident, the Zoning Administrator shall promptly contact a qualified anthropologist selected by the Town Selectboard for determination of the cultural origin of the remains. The anthropologist will be asked to report such determination to the Zoning Administrator within six (6) business days.
3. If the anthropologist reports that the remains are not Native American, or if the anthropologist fails to make a determination within the requested time, the Zoning Administrator shall authorize resumption of excavation work. Thereafter, the property owner shall make disposition of the remains in accordance with 18 V.S.A. §5212 and any other applicable law. The notification and examination process set forth in Section F shall be followed if further human remains are discovered upon resumption of excavation work.
4. If the remains are determined to be Native American, the Zoning Administrator will notify the property owner, the Governor's Advisory Commission on Native American Affairs, the State Historic Preservation Officer and a Native American representative. Determination that the remains are Native American will provide authorization for the Town to conduct a site examination pursuant to Section E.2 above.
5. If it is determined following the site examination that the area to be excavated contains a minimal concentration of human remains, the Zoning Administrator shall within five (5) business days of such determination, hold a meeting to discuss disposition of the remains. The Zoning Administrator shall invite the property owner, the State Historic Preservation Officer and a Native American representative to this meeting.
  - a. At this meeting, the participants will discuss options for disposition of the remains which shall include, without limitation:
    - i. Leave the remains in place and move the project to avoid the remains or continue the project in a manner that will not further disturb the remains; or
    - ii. Leave the remains in place and discontinue the project; or

- iii. Leave the remains in place and arrange for permanent protection of the area in which they are located; or
  - iv. Allow the remains to be removed from the property by the Native American representative within seven (7) days of this meeting.
  - b. If the property owner and the Native American representative agree on disposition of the remains, the Zoning Administrator shall modify the existing permit or void any existing permit and issue a new permit which shall incorporate as conditions the agreed-upon disposition.
  - c. If the property owner and the Native American representative do not agree on disposition of the remains, the Native American representative shall have seven (7) days from the date the meeting concludes to remove the remains. If the remains have not been removed, the property owner shall make disposition of the remains in accordance with 18 V.S.A. §5212 and any other applicable law. The Zoning Administrator shall promptly authorize resumption of excavation work upon expiration of such time periods.
- G.** If it is determined following the site examination and any excavation that the area to be excavated is within ten feet (10') of an area on the site containing a significant concentration of Native American remains, the Zoning Administrator shall void any existing permit. Within five (5) business days of such determination, the Zoning Administrator will hold a meeting to discuss preservation and protection of the remains. The Zoning Administrator shall invite the property owner, the State Historic Preservation Officer, and a Native American representative to this meeting. The participants will discuss options for leaving the remains in place and arranging for permanent protection of the area in which they are located by acquisition of the land or rights in the land.

## **Section 5.9 Development Near Waterways**

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- A. Surface waters** are valuable natural resources in the Town of Highgate. The floodplains, wetlands, and wooded slopes along streams are very important parts of the stream ecosystem, and in many ways determine the health of a stream and the services it can provide. The maintenance and enhancement of streamside and lakeside vegetation is the easiest and most effective means of protecting the many benefits and values associated with Highgate's waters. Thus, the Town of Highgate requires that an undisturbed naturally vegetated buffer strip be maintained from the shores of lakes and ponds, from each bank of streams and rivers for several reasons, it:
- 1. Encompasses any fluvial erosion hazard area identified in Highgate, allowing for natural movement of the river corridor.
  - 2. Stabilizes banks and holds soil in place;
  - 3. Provides habitat for animals and plants and shades the stream to moderate temperatures;
  - 4. Takes up excess nutrients in the roots and recycles them;

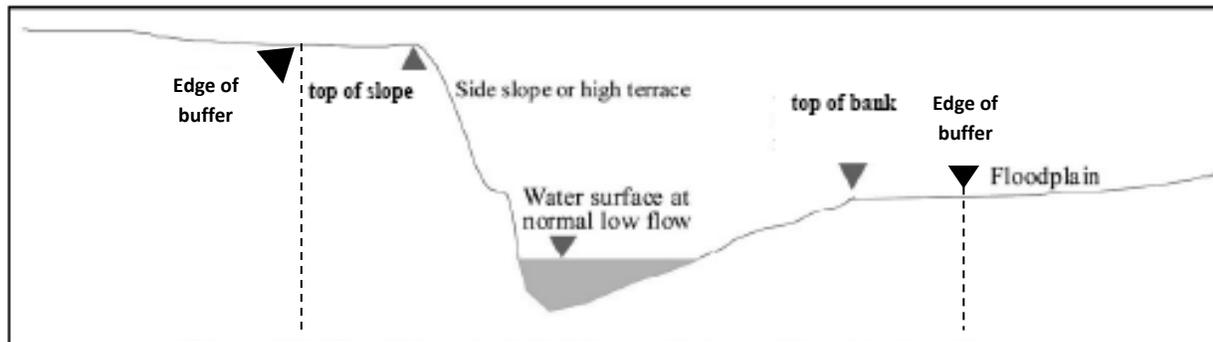
5. Decreases flood severity;
  6. Holds water;
  7. Filters stormwater runoff pollutants;
  8. Supports recreational activities;
  9. Provides drinking water for the community; and
  10. Provides crop-saving irrigation for farmers during droughts.
- B. **New Structures.** New structures or alteration of existing structures for transportation facilities, transmission lines, and sewer, water and gas lines may be constructed in buffers only if no practicable or feasible alternative exists for locating the structure elsewhere. If constructed within the buffer, acceptable management practices, soil conservation and water quality plans are required.
- C. **Existing Structures.** Existing structures already located in the buffer may be removed, restored, repaired, maintained, or enhanced. Enlargements no more than 20% may be allowed with approval from the Development Review Board as a conditional use, but the applicant must submit a mitigation plan that includes acceptable management practices. The Development Review Board may impose conditions such as:
1. Planting native species such as willow, silver maple, or cottonwood along the riverbanks.
  2. Allowing a natural buffer to form from the edge of the lawn to the water. This can simply be done by not mowing to the edge of the property along the waterway.
- D. **Prohibited Activities.** The following uses shall be prohibited within buffer strips:
1. Except as permitted in (B) above, no alteration of streambed or bank, except to reduce erosion, and maintenance of stream crossings for agricultural purposes.
  2. Disturbances to natural vegetation are generally prohibited. These include disturbances by tree removal, clearing, burning, and spraying.
  3. No pesticide use or storage.
  4. No storage for motorized vehicles. No use of motorized vehicles except for approved maintenance and emergency use.
  5. No soil disturbance from grading, plowing, except with approved soil conservation and water quality plan.
  6. No mining or excavation, except existing uses, no dredging except as permitted by State law.
  7. No deposit or landfill or reuse, solid or liquid waste; fill allowed only as approved by state or federal permit.
  8. No storage of materials.
  9. No dumping.
  10. No fill to expand development area.

- E. For development subject to subdivision, site plan, or conditional use review, the Development Review Board may require increased setback distances, limit access, and/or a buffer area management plan, if it is determined that such measures are needed based on site, slope and soil conditions and the nature of the proposed use.
- F. In hardship cases, the Applicant may apply to the Development Review Board for Conditional Use approval to waive or modify buffer requirements in accordance with a management plan that provides equal or better water quality protection, requires mitigation measures to compensate for loss of habitats, and does not adversely affect habitats of threatened and endangered species.
- G. The width of the buffer strip shall be in accordance with **Table 5.1** below and should be **measured from the top of bank or top of slope**, depending upon characteristics of the waterway (see Figure 5.2). The ZA may require the measurement to be taken by a licensed surveyor or engineer. No development or approved management practices shall occur within the buffer strips.

**Table 5.1. Minimum Width of Buffer Strips (feet along the ground surface)**

Type of Waterway	Required Buffer
Seasonal (intermittent) streams and permanent streams < 10 feet in average channel width	25 feet
Unnamed rivers and streams > 10 feet in average channel width	50 feet
Named rivers and streams (Missisquoi River and Rock River)	100 feet
Lakes and ponds > 1.0 acre in area (not including Lake Champlain)	50 feet

**Figure 5.2. Finding Top of Slope and Top of Bank for Measuring Buffer Setbacks**



## Section 5.10 Height Limits

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- A. **Maximum Height.** No building or other structure, whether principal or accessory, except those intended for the storage of crops (such as silos), shall exceed forty (40) feet in height above the average ground level, except as provided below.
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.
  2. The DRB 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.
  3. In the Airport Overlay District, no structure, except those used for airport operations, may be higher than forty (40) feet. Exceptions to this may only be granted by approval of the DRB after determination by the Federal Aviation Administration that the structure would not be an obstruction in the airspace or a hazard to air navigation.
  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.
- B. **Exceptions.** Unless otherwise provided in these bylaws, height limits on structures shall not apply to antenna structures, to windmills with blades less than 20 feet in diameter or to rooftop solar collectors less than 10 feet high which are mounted on complying structures.

## Section 5.11 Parking

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- A. 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.
- B. **Parking Requirements.** Parking requirements for uses not listed below will be determined by the DRB during site plan review or conditional use review.

**Table 5.2. Parking Minimums.** Use Definitions in Article 10 (Definitions)

USE TYPE	PARKING SPACES
Lodging Establishment	1 per lodging unit
Residential (except senior housing)	1.5 per dwelling unit*
Senior Housing	1 per dwelling unit
Church and School	1 per 3 seats in main room
Childcare Facility	1 per employee plus drop-off spaces
Clubs	1 per 4 members
Industrial/Manufacturing/ Warehouse/Trucking	1 for 1.5 employees per shift plus 1 per vehicle used in the business
Theater and places of assembly	1 per 6 seats
Hospital/Nursing Home	1 per 3 beds and 1 per employee
Funeral Home	15 per visitation area
Office and Personal/Professional Services	1 per 250 sq. ft. of leasable
Retail Sales	1 per 200 sq. ft. of gross sales
Restaurant/Lounge	1 per 4 seats
Unspecified Uses	As determined by the DRB based upon use, peak demand and shared parking options.

\*Minimum parking spaces required shall be rounded up to the nearest whole number.

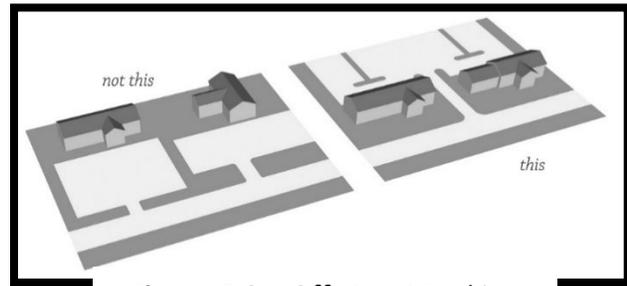
**C. Parking Area Performance Standards.** At the determination of the DRB, the following parking area performance standards may be required:

1. Parking areas will be required to be landscaped or screened from adjacent uses.
2. Parking will be located in the side or rear of the development unless, upon the judgment of the DRB, some or all parking in the front is more appropriate to lessen impacts on adjacent uses, provide for more orderly development of the area, or reduce impacts on Sensitive Lands.
3. Parking will be prohibited from the front, side and rear yard setback areas, except in the case of shared parking areas.
4. The size and location of any paved area may be limited.
5. The amount of parking may be limited or shared connected parking among compatible uses may be required where appropriate.

**D. ADA Design.** All Public buildings (including Commercial/Industrial) shall provide ADA compliant parking and all other developments are encouraged to include ADA parking.

**E. Town Center District Parking Standards.**

1. **Off Street Parking.** In the Town Center, off-street parking shall be located to the side and rear of principal structures. All off-street parking shall be properly lit and meet the standards in Section 7.4. Single Household Dwelling and Two Household Dwelling uses are exempt from this standard (See Figure 5.3)



**Figure 5.3 – Off-street Parking**

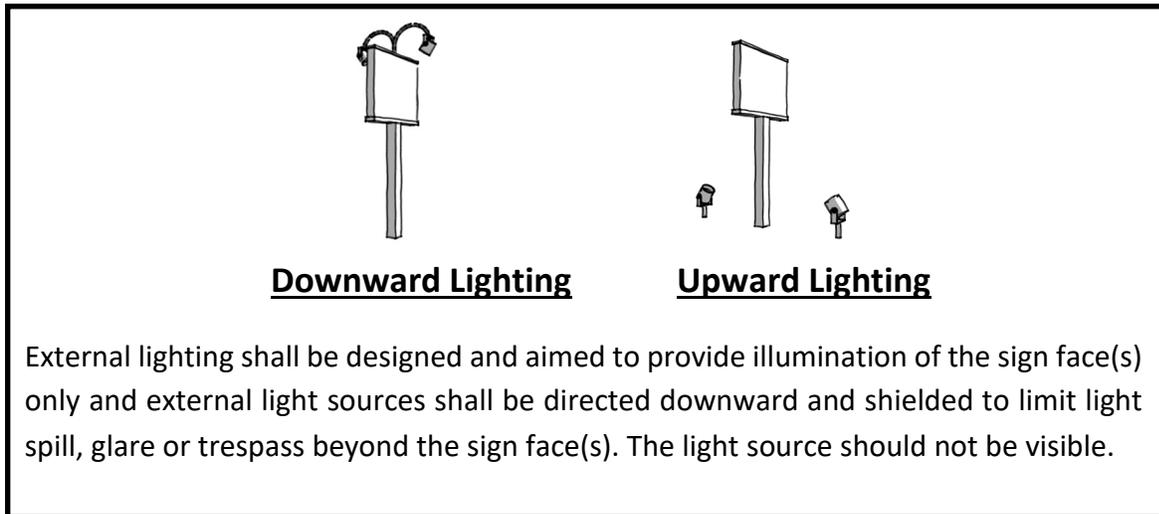
2. **On-Street Parking.** On-street parking may be used by the property owner to meet minimum parking standards established in this section. All on-street parking on town highways in Highgate shall meet Town of Highgate Road and Bridge Standards and any other applicable municipal standards. All on-street parking on state highways is subject to Vermont Agency of Transportation approval.
3. **Shared Parking.** Shared parking allows a reduction in the total number of parking spaces required for certain land uses in cases where a mix of adjacent land uses have varying peak periods of parking demand (see Section 5.11). The Development Review Board may approve shared parking if the following standards are met:
  1. **Location.** A use for which an application is made for shared parking shall be located within 400 feet of the subject parking lot.
  2. **Legal Agreement.** A written legal agreement between the owners of each establishment making use of the shared parking is required. This written agreement shall guarantee access to, use of, and management of designated shared parking spaces. Shared parking privileges shall continue in effect only as long as the agreement, binding on all parties, remains in force. If any shared parking agreement is no longer in force, parking shall be provided as otherwise required by these Regulations. A draft of the written agreement shall be provided Development Review Board upon application.
  3. **Similar Operating Hours.** The Development Review Board may approve a shared parking arrangement between two or more uses that have similar operating hours. Such share parking arrangements shall not allow for more than a 20 percent reduction in the total required number of parking spaces per Section 5.11.
  4. **Different Operating Hours.** The Development Review Board may approve a shared parking arrangement between two or more uses that have different operating hours. Such shared parking arrangements shall not allow for more than a 75 percent reduction in the total required number of parking spaces per Section 5.11. The applicant shall demonstrate that there is no substantial conflict in the principal operating hours of the uses for which the sharing of parking is proposed.

## **Section 5.12 Signs**

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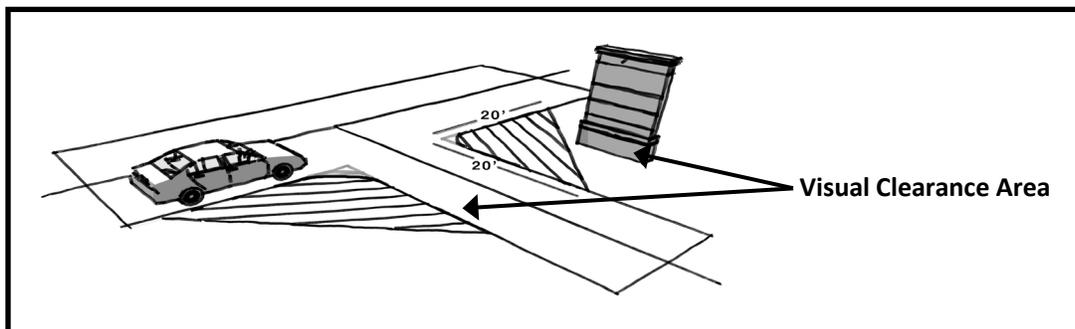
- A. Outdoor signs shall be deemed separate commercial structures and shall require a zoning permit before being erected, constructed, or replaced. Signs are prohibited except as in herein provided.
- B. Signs for Home Occupation.**  
One unlit sign of not more than four (4) square feet per side is permitted 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.
- C. Signs for Home Industry.**  
One unlit 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.
- D. Signs for Church, Schools, and Public Facilities.**  
One sign not more than twenty-four (24) square feet in area and not more than ten (10) feet in height is permitted on the premises of any such use in any district. Such sign must be at least 30 feet from the center of the road and at least 150 feet from any road intersection.
- E. Signs for Commercial/Business Uses.**  
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.
- F. Temporary Signs.**  
One unlit 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.
- G. General Requirements for All Signs.**
1. 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. All exterior lighting shall be down-directed and shielded so as to project only onto the sign.

**Figure 5.4(a) – Illustration of Downward Lighting versus Upward Lighting**



2. Signs may not be located within or project over a public or private right-of-way.
3. Signs shall be located such that there is at every street intersection or driveway a clear view between heights of three feet and 10 feet in a triangle formed by the corner and points on the curb 20 feet from the intersection or entranceway.
4. Signs may not present a safety hazard to pedestrians (e.g., by reason of hanging over public sidewalks or of not being securely fixed to a substantial structure or support).
5. Signs may not interfere with or resemble any official traffic control sign, signal or device, or prevent the driver of any motor vehicle from having a clear and unobstructed view of official traffic control signs and approaching, entering, or merging traffic.

**Figure 5.4(b) – Illustration of Vision Clearance Area**



### **Section 5.13 Fences**

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- A. A fence in any zoning district that is greater than six (6) feet in height shall not obstruct roadway view or be built in the visual clearance area (See Figure 5.(b)) of an intersection or driveway and shall require verification of the proper clearance distance by Road Commissioner and conditional use approval of the DRB.
- B. Fences are not subject to setbacks or other dimensional requirements.

### **Section 5.14 Storage of Flammable Liquids**

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- A. 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.
  - 1. Underground and above grounds tanks as defined in this section shall require a permit from the State of Vermont unless otherwise specified.
  - 2. An underground or above-ground tank used in conjunction with a non-residential use requires a zoning permit from the Zoning Administrator.

### **Section 5.15 Equal Treatment of Housing**

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- 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 24 VSA Section 4382(c).
- C. No provision of these bylaws shall be construed to prevent the establishment of mobile home parks pursuant to 10 VSA Chapter 153.

### **Section 5.16 Emergency Access Lock Boxes**

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- A. All commercial/industrial buildings require a lockbox for emergency services access.

## ARTICLE 6: SPECIFIC USE STANDARDS

### Section 6.1 Mixed/Multiple Uses Per Lot

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- A. In districts designated in the use table in Article VIII, more than one use, including different commercial or residential uses, may be permitted within a single building or in multiple buildings on a single lot, subject to site plan review by the DRB. If any of the uses proposed require conditional use review as shown in Table 2.2, then conditional use review by the DRB will also be required. In addition, the following conditions must be met:
1. Each of the proposed uses is otherwise allowed as a permitted or conditional use in the district in which the mixed use is proposed.
  2. The combined uses meet all applicable standards for the district in which the mixed use is proposed.
  3. The combined uses meet all general standards contained in these bylaws.
- B. 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 6.2 Home Business, Home Occupations and Home Industry

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- A. Home Business.** A Home Business shall not require a Zoning Permit in any district and shall be considered to be part of a residential use. A Home Business is a use of an accessory building or minor portion [no more than 30 percent] of a dwelling for a business that exhibits no external indications that a business exists. Home Businesses must meet all of the following standards:
1. There are not employees or helpers other than members of the household.
  2. The Home Business is not visible from outside the home.
  3. The Home Business does not generate traffic uncharacteristic of the residential character of the area.
  4. The Home Business has no impact on the character of the neighborhood.
  5. The Home Business has no signs.
  6. The Home Business has no external storage of materials or equipment.
  7. The Home Business produces no objectionable noise, smoke, vibration, dust or odors discernible on any adjoining property.
- B. Home Occupation.** A Home Occupation requires a Zoning Permit issued by the zoning administrator. A Home Occupation is a use of an accessory structure or minor portion [no more than 30 percent] of the dwelling for an occupation which is customary in residential

areas and which does not change the character of the residential area providing all of the following standards are met:

1. The Home Occupation shall be carried on by members of the household living on the premises plus no more than one non-resident full-time equivalent employee.
2. The Home Occupation shall occupy an accessory structure or no more than 30 percent of the dwelling.
3. Home Occupations are allowed signs permitted according to Section 5.12 of these Regulations.
4. No traffic shall be generated in a volume of greater than an estimated average of 10.0 trips per day and that alters the essential character of the neighborhood or substantially impairs the use of adjacent property.
5. Excessive noise, smoke, vibration, dust, glare, odors, electrical interference, or heat that is detectable at the boundaries of the property shall not be generated.
6. Where new parking is proposed, it shall be provided off-street and shall be located in side or rear yards outside setback areas. However, existing residential parking areas may be utilized.
7. Exterior storage of materials used in the home occupation shall be minimal, not visible from the street, road, or adjacent properties, and shall not be allowed in setback areas.
8. There shall be no potential risk to public health from the Home Occupation such as toxic emissions or on-site disposal of hazardous wastes.

**C. Home Industry.** A Home Occupation not meeting all of the Home Occupation standards listed above may qualify as a Home Industry, which requires Conditional Use Review and Site Plan Review in all districts where allowed. The DRB shall review applications for Home Industries for conformance with Section 3.3 (Conditional Use Review) and Section 3.5 (Site Plan Approval) and the following standards:

1. The Home Industry shall be carried on by members of the household living on the premises plus no more than three non-resident full-time equivalent employees.
2. The Home Industry shall occupy an accessory structure or no more than 50 percent of the dwelling.
3. Home Industries are allowed signs permitted according to Section 5.12 of these Regulations.
4. No traffic shall be generated in a volume that alters the essential character of the neighborhood, or substantially impairs the use of adjacent property.
5. Excessive noise, smoke, vibration, dust, glare, odors, electrical interference or heat that is detectable at the boundaries of the property shall not be generated.
6. Parking shall be provided off-street, outside of setback areas.
7. No exterior storage of materials shall be allowed in the setback areas. Exterior storage areas shall be screened by landscaping or other appropriate methods (See Section 7.7).
8. There shall be no potential risk to public health from the Home Industry, such as toxic emissions or on-site disposal of hazardous wastes.

### **Section 6.3 Accessory Dwellings**

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- A. In accordance with 24 VSA Section 4412, one accessory dwelling unit within or appurtenant to a single-unit dwelling shall be a permitted use except in the flood hazard district. An accessory dwelling unit shall be defined as a distinct unit that is clearly subordinate to a single-unit dwelling on an owner-occupied lot, which has facilities and provisions for independent living including sleeping, food preparation and sanitation, provided there is compliance with all the following:
1. the property has sufficient wastewater capacity as verified by the Agency of Natural Resources, as an updated Wastewater and Potable Water Supply permit may be needed;
  2. the unit does not exceed 30 percent of the total habitable floor area of the single-unit dwelling or 900 square feet, whichever is greater; and
  3. applicable setback, coverage and parking requirements specified in the bylaws are met.
  4. The owner occupies either the primary dwelling or accessory dwelling.
- A. 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 6.4 Mobile Homes**

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- A. Mobile homes, travel trailers and campgrounds are permitted in the districts so specified in these Bylaws, subject to the provisions of this section:
1. A mobile home shall be considered a single unit dwelling in accordance with 24 VSA 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.
  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 DRB for construction sites.

### **Section 6.5 Camping Vehicles and Campgrounds**

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- A. Camping Vehicles.** No camper shall be parked on any public or private property except in conformance with the following:
1. In an approved camper and/or tenting campground.
  2. In an approved camper sales lot.
  3. 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 a total of two (2) months in a calendar year.

- B. Campgrounds.** A campground is a Conditional Use in those districts in which it is allowed and requires approval by the DRB for site plan review. Campgrounds shall be at least five (5) contiguous acres and shall provide for individual camper and tenting spaces, access driveways, parking facilities and common recreational areas.
1. A campground is to conform to the dimensional requirements (setback distances) of the district in which it is located.
  2. 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 DRB may reduce or eliminate this landscaped area if such a waiver or modification will preserve a scenic view from the campground and still maintain privacy of the adjacent property owners.
  3. Adequate provision for proper disposal of solid waste shall be provided on site.
  4. Service buildings containing toilet and shower facilities shall be erected in compliance with all state regulations.

## **Section 6.6 Off-Grid Renewable Energy**

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- A. Purpose and Applicability.** The purpose of this Section is to promote the safe, effective and efficient use of off-grid renewable energy facilities *which are not regulated by the Vermont Public Service Board.*
- B. Permitted Use.** Small scale renewable energy systems are a permitted accessory structure in all Zoning Districts in which accessory structures are allowed, subject to certain requirements as set forth below. For purposes of these Regulations, “small-scale renewable energy facility” include a solar thermal, a solar photovoltaic (PV), or a wind system with a nameplate capacity of 15 kW or less that is intended to serve the principal use of one property.
- C. Site Plan/Conditional Use Review.** All renewable energy facilities regulated by the municipality not meeting the definition of ‘small scale facility’ must meet the requirement in Section 6.6(D) and receive site plan and conditional use approval from the DRB prior to the issuance of a Zoning Permit.
- D. General Requirements** for all regulated renewable energy systems.
1. The applicant shall forward a copy of system specifications to the Fire Department prior to issuance of zoning permit.
  2. Facilities mounted on non-conforming structures will not be considered to increase the degree or amount of nonconformance.

3. The application for a roof-mounted system shall include written certification from the system designer or installer that that the roof is structurally able to support system weight, and associated snow and wind loads.
4. Small scale energy systems must comply with all required state and federal codes and regulations. The installer must certify in writing that the facility as installed meets manufacturer's specifications and accepted industry safety and performance standards as established by the National Electrical Code. The manufacturer frequently supplies this information.
5. Line connections between a ground-mounted facility and the principal structure must be buried.
6. Facility lighting or use of the facility for display or advertising purposes is prohibited.

**E. Additional Review Standards for wind facilities.** The Zoning Administrator shall find that proposed small scale off-grid wind energy systems comply with the following standards before issuing a Zoning Permit:

- a. **Tower Height:** The facility shall not exceed a total height of 150 feet, or a maximum height of 40 feet above obstructions (e.g., structures, tree canopies) within 300 feet of the tower, whichever is greater, as measured vertically from the base of the tower at ground level to the top of the rotor blade at its highest point.
- b. **Setback.** The facility shall be set back at least 1.1 times the total facility height from all property lines, overhead utility lines, and public rights-of-way unless waived by the DRB under Section 3.4 (Waivers). A minimum clearance of 30 feet is required between the ground and the rotor blade tip at its lowest point. Supporting guy wires must be located at least 10 feet from all property lines.
- c. **Noise.** Noise levels generated by a wind facility shall not exceed 60.0 dBA, as measured at the nearest adjacent property line. The level, however, may be exceeded during short-term events such as utility outages and/or severe windstorms.

**F. Additional Review Standards for solar facilities.** The Zoning Administrator shall find that proposed small scale off-grid solar energy systems comply with the following standards before issuing a Zoning Permit:

- a. **Height.** The facility shall not exceed a total height of 20 feet, as measured vertically from the ground to the highest point of the structure.
- b. **Setback.** The facility must meet minimum district setback requirements from property lines and rights-of-way, unless waived by the DRB under Section 3.4 (Waivers).
- c. **Visual Impacts.**
  - a. Ground-mounted facilities must be sited or screened so that they are not highly visible from adjoining properties.
  - b. A ground-mounted solar installation shall not cast glare onto adjoining properties.

## **Section 6.7 Excavation of Soil, Sand, Gravel and Stone**

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- A. The removal of soil, sand, gravel and stone for sale, except when incidental to construction of a building on the same premises, is subject to Conditional Use and Site Plan approval in accordance with Table 2.2. Such uses shall meet the following standards:
1. The hours of operation of the proposed removal shall not have an undue adverse impact on the use and enjoyment of adjoining properties.
  2. The removal shall meet the performance standards in Section 5.1.
  3. The removal shall not cause any traffic hazards or excessive congestion or physical damage to Town or State highways on the expected route of truck traffic.
  4. In addition to application requirements under Section 3.2(A)(2), the applicant shall submit a proposed erosion control plan, prepared by a licensed engineer, showing existing grades, drainage and depth to water table; the extent and magnitude of the proposed operation including proposed project phasing; and finished grades at the conclusion of the operation. Such plans shall address the following:
    - a. Specific measures to control erosion and manage stormwater shall be specified for each stage of the operation to prevent erosion debris and other loose materials from filling any drainage course, street, or adjacent parcels
    - b. The slope of material in any excavation shall not exceed the normal angle of repose or 45 degrees, whichever is less, unless otherwise permitted by the DRB;
    - c. Any access road or driveway located within 100 feet of an adjacent parcel occupied by a dwelling shall be provided with a dust-free surface and maintained in a dust free condition; and
  5. In addition to application requirements under Section 3.2(A)(2), the applicant shall submit a proposed restoration plan, prepared by a licensed engineer, showing existing grades, depth to water table; and finished grades at the conclusion of the operation. Such plans shall address the following:
    - a. Topsoil removed should be stockpiled and saved for the reclamation of the land. The topsoil stockpile(s) should be protected from erosion through seeding or some other method. There should be run-off control around the topsoil stockpile until the stockpile is stabilized. Whenever possible, enough topsoil should be saved to allow a minimum of four inches of topsoil in the reclaimed

area. All regraded areas, except for exposed rock ledge, shall be covered with a minimum of four (4) inches of topsoil and a suitable cover crop upon restoration. Seeding of the reclaimed area shall be in accordance with the NRCS guidebook, *Vegetating Vermont Sand and Gravel Pits*.

- b. Roadways shall be graded, seeded, fertilized and mulched. Seeding shall be in accordance with the NRCS guidebook, *Vegetating Vermont Sand and Gravel Pits*.
  - c. Any portion of a site that is not excavated for more than two (2) years shall be deemed closed and shall be reclaimed immediately unless the applicant applies for and receives a new zoning permit for that section of the property.
  - d. If a sand or gravel pit, the final slope of the pit should be no greater than 2:1.
  - e. If a quarry, overburden and waste rock should be placed in the entry slot to discourage easy entry to the abandoned quarry. If necessary, a drainage pipe should be placed at the base of this fill so as to provide drainage to the quarry. Large quarry stone blocks should be spaced around the top crest perimeter of the quarry in an offset pattern with a maximum 10 foot spacing between blocks. Outside of these blocks at a distance of approximately 15' from the crest, chain link fence comparable to those specified by the Agency of Transportation for preventing access to an Interstate Highway shall be constructed.
6. In accordance with the Act [§4464(b)] a performance bond, escrow account, or other surety acceptable to the Legislative Body shall be required to ensure site reclamation upon completion of excavation phases, to include any regrading, reseeding, reforestation or other activities that may be required.
  7. If a sand or gravel pit, the pit shall not be deeper than three feet above the groundwater table. The pit floor should be sloped into the working face to allow water to infiltrate the ground. The sand or gravel pit shall not operate an area greater than five acres at one time. This is to ensure that reclamation occurs before an area becomes too big to reclaim effectively. For proposals covering a larger extraction area, the mining/extraction of the sand and gravel should occur in phases — e.g., extract sand or gravel from the first phase five acres, start extraction from the next phase five acres, while concurrently reclaiming the first phase five acres. This schedule of operations should continue throughout the life of the pit.
  8. No excavation, blasting or stock piling of materials shall be located within one hundred fifty (150) feet of any street or other property line.

9. 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.
10. In granting approval, the DRB may consider and impose conditions including, but not limited to, the following:
  - a. Hours and days of operation may be restricted.
  - b. Total truck trip ends entering and exiting the extraction site may be restricted.
  - c. Landscaping or fencing around the extraction site may be required.
  - d. Measures to control noise, dust and flying rock may be required.
11. It is the applicant's responsibility to obtain all relevant State permits associated with soil, sand, gravel and stone extraction. Permits issued by the State may be used to demonstrate compliance with the above local standards.
12. This section will not apply to the removal of natural resources from an agricultural operation, nursery, and cemetery as long as the natural resources being removed are not being offered for sale.

## **Section 6.8 Junkyards, Recycling Centers, and Landfills**

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- A. The operation or presence of a junkyard as defined by state statute is prohibited except as provided in this section.
  1. **Junkyards and Recycling Centers.** Conditional Use only in the Industrial/Commercial district. The operation of a junkyard or recycling center also requires Site Plan approval from the DRB and approval from the Selectboard. A State of Vermont permit for the operation of a junkyard or recycling center is mandatory.
  2. **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 unless approved under 10 V.S.A Chapter 159 as a regional solid waste management facility.
  3. **Exemptions.** The outdoor storage of tractors and other forms of operating and non-operating farming equipment on farms is allowed except in the Village and Shoreline Districts.

## **Section 6.9 Wireless Telecommunications Facility**

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- A.** New or expanded telecommunication facilities that are not subject to 30 V.S.A. Section 248, including but not limited to towers and accessory structures, are subject to Site Plan Review, Conditional Use Review and the provisions of this Section. In conformance with 24 V.S.A. §4412(9), the DRB may permit new or expanded telecommunications facilities if the DRB finds that the facility will impose not more than a de minimus impact on the conditional use standards in Section 3.3 and the criteria in (F) below.
- B.** The following are specifically exempted from the provisions of this Section and no zoning permit shall be required:
1. Antennae with an aggregate area of not more than eight (8) square feet on the largest face and which are on masts that extend not more than twelve feet above the specific roof area to which they are attached and are not located on historic landmarks and structures.
  2. Antenna structures less than twenty (20) feet in height with a primary function to transmit or receive communication signals for commercial, industrial, municipal, county, or state purposes.
  3. Telecommunication facilities that are used exclusively for municipal radio dispatch service or emergency radio dispatch service and which do not exceed 100.0 feet in height.
  4. A single ground or building mounted radio or television antenna or satellite dish not exceeding 36 inches in diameter which is intended solely for residential use, and does not, as mounted, exceed 40 feet in height above the lowest grade at ground level.
  5. All citizens band radio antennae or antennae operated by a federally licensed amateur radio operator which do not exceed a height of 50 feet above the grade level, whether free standing or mounted, and which meet all setback requirements for the district in which they are located.
- C. Supplemental Application Requirements.** In addition to the application requirements set forth in Article 3, applications for new towers shall also include the following:
1. A report from a qualified and licensed professional engineer which describes tower height, construction design and capacity, including cross-sections, elevations, potential mounting locations, and fall zones;
  2. Information regarding the availability of existing towers and buildings located within the site search ring for the proposed site, including written documentation from other tower owners within the search ring that no suitable sites are available.

3. A letter of intent committing the tower owner and his/her successors to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use.
4. Written documentation that the proposed tower shall comply with all requirements of the Federal Communications Commission, and the Federal Aviation Administration;
5. Any additional information needed to determine compliance with the provisions of these regulations.

**D. Construction Standards.** Telecommunications facilities shall conform to the following construction standards:

1. The facility will not be built on speculation. If the applicant is not a telecommunication service provider, the applicant shall provide a copy of a contract or letter of intent showing that a telecommunication service provider is legally obligated to locate a wireless telecommunication facility on lands owned or leased by the applicant.
2. All towers, including antennae, shall be less than 200 feet in height as measured from the lowest grade at ground level to the top of the highest structure or component.
3. All telecommunication facilities shall comply with the setback provisions of the zoning districts in which facilities are located. Notwithstanding the above, in order to ensure public safety, the minimum distance of any wireless telecommunication facility to any property line, dwelling, or occupied structure shall be no less than the height of the tower, including antennas or other vertical appurtenances. This setback shall be referred to as a fall zone. In the event that an existing structure such as a barn silo, church steeple, or utility pole is proposed as a mounting for a wireless telecommunication facility, a fall zone setback may not be required.
4. The facility will not be illuminated by artificial means and will not display any lights or signs except for such lights and signs as required by Federal Aviation Administration, federal or state law, or these Regulations.
5. The DRB may require the applicant to provide a bond, or other form of financial guarantee acceptable to the DRB, to cover the cost of removal of the facility, should the facility be abandoned or cease to operate.
6. The applicant demonstrates that the facility will be in compliance with all FCC standards and requirements regarding radio frequency radiation. The owner of a wireless telecommunication facility shall, on a yearly basis, file a certificate to the ZA showing that it is in compliance with all FCC standards and requirements regarding radio frequency radiation, and that adequate insurance has been obtained for the facility.

7. The facility will be properly identified with appropriate warnings indicating the presence of radio frequency radiation.
8. The proposed equipment is installed on an existing wireless telecommunication facility, unless it is demonstrated by the applicant that such co-location is not structurally or spatially possible.
9. The facility provides reasonable opportunity for the installation and operation of other telecommunications equipment (co-location).
10. Unless otherwise approved by the DRB, an abandoned or unused wireless telecommunication facility shall be removed within 2 years of abandonment or cessation of use. The applicant may apply to the DRB for an extension for removal. If the facility is not removed, or an extension granted, within 2 years of abandonment or cessation of use, the DRB may cause the facility to be removed. The costs of removal shall be assessed against the facility owner.
11. Unused portions of a wireless telecommunication facility shall be removed within 1 year of the time that such portion is no longer used. Replacement of portions of a facility previously removed shall require a new permit.

**E. Additional Conditional Use Criteria.** In addition to the Conditional Use Standards in Section 3.3 and the construction standards in (D) above, the DRB shall approve an application for a wireless telecommunications facility when it finds that the application does not impose more than a de minimus impact on the following criteria:

1. New towers shall be sited and designed to minimize their visibility. New or modified towers and antennae shall be designed to blend into the surrounding environment to the greatest extent feasible, through the use of existing vegetation, landscaping and screening, the use of compatible materials and colors, or other camouflaging techniques.
2. Access roads, and all accessory utility buildings and structures shall be designed to aesthetically blend in with the surrounding environment and meet all other minimum requirements for the district in which they are located. Ground-mounted equipment shall be screened from view. Setback, landscaping and screening requirements may be increased as appropriate based on site conditions, and to protect neighboring properties and uses. All utilities proposed to serve a telecommunications site shall be installed underground.

**F.** Notwithstanding the requirements of Subsection (A), wireless telecommunications equipment to be mounted on existing towers, utility poles, silos, steeples or other existing structures may be permitted by the Zoning Administrator without conditional use or site plan review provided that:

1. No changes are made to the height or appearance of such structure except as required for mounting;
  2. No panel antenna shall exceed 72 inches in height or 24 inches in width;
  3. No dish antenna shall exceed 3 feet in diameter; and
  4. Any accompanying equipment shall be screened from view.
- G.** Communication facilities for use by municipal, state or federal agencies may be allowed in any district subject to site plan approval in accordance with Sections 3.5 and all provisions of this Section.

### **Section 6.10 Planned Unit Development (PUD)**

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**A. Applicability.** In accordance with the Act, the DRB may modify this Bylaw for a Planned Unit Development (PUD). The purposes of this provision is 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.

**B. Application and Review Procedures.**

1. To qualify as a PUD, the project shall:
  - a. Be allowed in all districts;
  - b. Be consistent with the Town Plan;
  - c. Conform to the definitions herein and to the requirements of the Act. A PUD allows for any combination of uses allowed in the zoning district in which it is located.
2. All major subdivisions (4 or more lots) in the Protected Areas Districts shall be reviewed as a PUD and designed to meet the requirements of this section.

**A Planned Unit Development (PUD)**

Is a development designed and planned as an integral unit which may contain various commercial, industrial and residential uses and may consist of individual lots or structures that do not satisfy the dimensional requirements otherwise contained in these Regulations. PUDs are most commonly designed to shift the permitted density from one portion of a property to a smaller area to enable more efficient and concentrated development on a single parcel of land.

The benefits of clustering the density with a PUD can include lower infrastructure and maintenance costs as well as preserving open space and promoting compact, pedestrian oriented development.

3. Application for a PUD must include all requirements for Subdivision or Site Plan Approval, whichever applies, accompanied by a statement setting forth the nature of all modifications, changes, or supplementations of existing Bylaws and a brief description of how the project meets the goals of a PUD.
4. **Review Procedures.** As designated in Article 2 in the Use Table and Dimensional Requirements, PUDs are subject to either Subdivision Review, if the PUD involves the subdivision of land, or Site Plan Review. PUDs are also subject to Conditional use Review if it contains uses listed as Conditional Uses, and any other reviews required by these Bylaws. Review shall be conducted in the order described in Section 9.8 Combined Review.

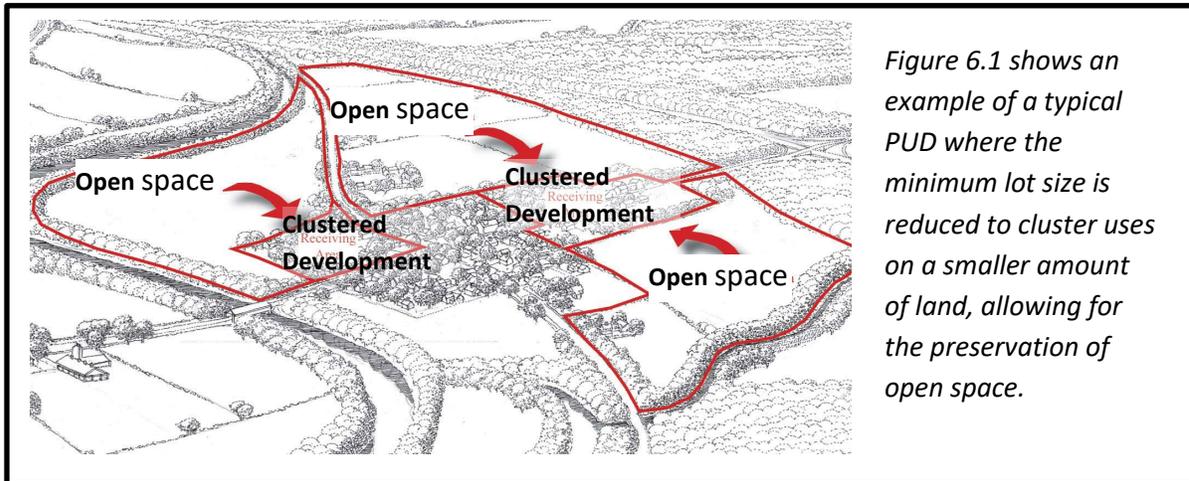
**C. PUD Review Standards:**

1. 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 DRB's judgment if the land were subdivided into lots in conformance with the applicable district requirements of the zoning bylaws.
2. Permitted uses in a PUD may include and shall be limited to any nonresidential use allowed as a permitted or conditional use in the district in which the uses allowed as Permitted or Conditional uses in the District in which it is located.
3. Dwelling units permitted may, at the discretion of the DRB, be varied types including single unit, duplex, or multi-unit construction.
4. If the application of this procedure results in lands available for park, recreation, open space or other municipal purposes, the DRB, 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.
5. Planned Unit Developments shall be designed to incorporate open space or common land. 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 DRB, in accordance with the following:
  - a. The DRB may require that up to 25% of the gross area proposed for development shall be set aside for open space.
  - b. Open space land may, at the discretion of the DRB, be utilized fully or partially as active or passive recreational areas. Areas preserved for agricultural and forestry use should be of a size that retains their eligibility for available tax abatement programs.
  - c. Open space for purposes of protecting natural or archaeological resources or for agricultural or forestry purposes shall be given preference over open space preserved for purposes of recreational or other uses.

- d. The open space must be an integral part of the design of the whole development and not simply a tract of land included in the plan to meet density requirements. The open space should have general flowing patterns so they are connected one with another. Open space shall be contiguous on the property and with open space on adjacent properties wherever feasible.
  - e. Plans for development of recreational areas (trails, picnic area, playground, park) must be presented simultaneously with the presentation of all plans for development.
  - f. Development of the open space will either be completed prior to the conveyance of lots, units, or dwelling units or an escrow or performance bond shall be posted with the Town to insure completion of the development of the open space within a period of time stipulated by the DRB.
  - g. Open space or common land shall be protected by appropriate legal devices to insure the continued use, or maintenance of such lands for the purpose of agriculture, forestry, recreation, or conservation. Such mechanisms may include but shall not be limited to: dedication of development rights, conservation easements, homeowner's associations, and restrictive covenants or other appropriate grants or restrictions approved by the Board after consultation with the Town Attorney. Further subdivision of residual land shall be prohibited
  - h. Open space may be held under common or separate ownership from contiguous parcels.
  - i. 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 landowners.
6. The following areas shall not constitute open space and may not be utilized to satisfy the open space requirement:
- a. Any areas located within or under any public street easement or right-of-way.
  - b. Property located under or within any private road or road easement.
  - c. The land located under or the area within any easement for overhead utility lines.
  - d. Off-street parking areas.

**Common Open Space** is land within or related to a development, not individually owned or dedicated for public use, that is designed and intended for the common use or enjoyment of the residents and may include such complementary structures and improvements as are necessary and appropriate. For instance, structures or improvements may be located in the open space if the structures and/or improvements would be consistent with the designated purpose of the open space. By way of example only, park or playground equipment could be permitted on open space designated for recreational use, or agricultural structures could be permitted on open space designated for agricultural use.

- e. Detention and retention ponds.
- f. Community septic systems.
- g. Lands with slopes exceeding 15%.
- h. Areas subject to flooding or within a flood plain.



**Figure 6.1. Planned Unit Developments (PUDs)**

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## Section 6.11 Seasonal Conversion

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- A. A seasonal dwelling unit may be converted to a single-unit dwelling as a Conditional Use following approval by the DRB. The DRB must determine that the conversion meets the following requirements:
1. The proposed year-round residential use is a permitted use in the District.
  2. The property shall have a septic system and year-round access to potable water conforming to all current State regulations, the applicant shall provide evidence of state permit
  3. The property shall have adequate access in accordance with Section 5.3 and snow storage on site.
  4. 1-1/2 parking spaces per dwelling unit (rounded up to nearest whole number) are required on the lot, or with deeded parking easement on an adjacent lot.
  5. No modification shall be approved without the receipt of a letter of approval from the Town's Fire Department or Rescue Squad stating that the road will provide safe access to each dwelling unit that it serves year-round.

## **ARTICLE 7: PLANNING AND DESIGN STANDARDS**

### **Section 7.1 Applicability**

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- A. The DRB shall evaluate Site Plan Review, Conditional Use and Subdivision Applications against the following Planning and Design Standards. The Development Review Board may, as a result of findings made concerning the proposed development's conformance with these standards, require modification of the proposed land development, phasing of the proposed subdivision, specific conditions and/or additional measures to avoid or mitigate any adverse impacts likely to result from the proposed land development.

### **Section 7.2 Streets, Roads, and Rights-of-Way**

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#### **A. Infrastructure layout, design and maintenance.**

##### **1. Road Layout and Coordination All Districts.**

Layout will promote and contribute to a logical street network within the project and the district, which provides for connections between parcels, between other commercial and industrial uses, and between the site and nearby residential and recreation uses, and for the continuation of streets.

Proposed streets shall be extended to the boundary line of tract to be subdivided, unless prevented by topography or other physical conditions. In all districts except the Town Center, the DRB may waive this requirement if it determines that such extension is not necessary or desirable for the coordination of the layout of the proposed subdivision with the existing layout or the most advantageous future development of adjacent tracts.

##### **2. Road Network in the Town Center District.**

New public and private roads shall generally be laid out in a grid pattern by generally being either parallel or perpendicular to Vermont Route 78. Intersections with other roads, driveways or other rights-of-way shall create right angles (approximate). The Development Review Board may waive this requirement to accommodate topographic or physical limitations beyond the property owner's control. The modification shall be the minimum necessary to accommodate the limitation.

##### **3. Topography.**

Streets shall be logically related to the topography so as to produce usable lots, reasonable grades and safe intersection in appropriate relation to the proposed use of the land to be served by such streets.

##### **4. Through Traffic.**

Minor streets shall be so laid out that their use by through traffic will be discouraged.

**5. Reserved Strips.**

The creation of reserved strips shall not be permitted adjacent to a proposed street in such a manner as to deny access from adjacent property to such street.

**6. Dead Ends and Street Length.**

- a. No dead-end streets shall be permitted without a suitable cul-de-sac at its terminus with a radius of not less than thirty-five feet.
- b. In the Town Center District, new public or private road rights-of-way shall not be longer than 1,400 feet before connecting to another public or private road, connecting with a future public or private road according to a town approved master plan or official map, or as an alternative, meeting an adjacent property boundary with the intent of connecting to a new road when such adjacent property is developed. New roads in the Town Center District designed to be permanent “dead ends” shall be discouraged.

**7. Intersections.**

Jog intersections with centerline offsets if less than two hundred (200) feet shall be permitted. All street intersections shall be as nearly at right angles as possible.

**8. Accessibility.**

The access provided by the street, road, or right-of-way shall be sufficient to afford a reasonable means of access for emergency and service vehicles as well as for all those likely to need or desire access to the lot in its intended use.

**9. Sight Distances.**

Sight distances should be consistent with probable traffic speed, terrain, alignment, and climatic extremes in accordance with State Agency of Transportation Regulations and Standards.

**10. Drainage.**

Adequate provisions shall be made to control the storm water runoff.

**11. Design, Surface and Width.**

Design of roads shall have a right of way of at least 50 feet wide and at minimum conform to VTrans A-76 Standard including all standards regarding road subbase, intersection design, ditching, drainage, erosion control, side slopes, and paving. In the Town Center District, all new private and public roads shall be designed with traveled lanes not more than 11 feet. All new roads are required to be paved with an engineer block submitted on Final Plat. Where the standards in these regulations are stricter than the A-76 Standards the stricter standards shall apply. Where the standards in these regulations are stricter than the A-76 Standards the stricter standards shall apply.

**12. Town Acceptance.** Development Roads serve more than two (2) lots and/or provides access for sale, lease or transfer of ownership of lots. These roads may be considered for

acceptance as Town Highways by petition to the Selectboard as provided in the *Town Highway Road Acceptance Policy*. There is no guarantee that the Selectboard will take over any private road and it shall be clearly stated to all developers, builders and potential buyers that the decision to take over a private road is AT THE SOLE DISCRETION OF THE SITTING HIGHGATE SELECTBOARD.

**13. Access.**

- a. 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, in accordance with Section 5.3.
- b. The DRB may require a common access point to serve multiple properties under single or different ownership in order to limit the number of curb cuts onto major roads and state highways. Shared access to adjoining properties may be required where possible. The DRB may limit access to the property to a side street or secondary road, or previously approved access on the subject property or adjoining properties. Where traffic access is required to only a portion of the land, sharing that access with future uses of the remainder of the parcel may be required.

**14. Filing in Land Records.**

The easement establishing the right-of-way shall be filed with the Town Land Records.

**15. Maintenance.**

Covenants or other agreements establishing the manner in which the costs of road maintenance, snow plowing and repair will be shared must be submitted to the DRB for review to ensure adequate provisions for maintenance are provided. Upon approval the covenant or other agreement shall be filed with the land records.

## **Section 7.3 Pedestrian and Bicycle Accessibility**

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- A. **Adequacy of Pedestrian and Bicycle Circulation.** All projects will provide adequate pedestrian and bicycle circulation, which may include sidewalks and pathways along public and private streets that front the project, connection to nearby pedestrian or bicycle facilities, access to adjacent public buildings and uses, or other commercial uses, and to nearby residential and recreation areas. The project will promote and contribute to a logical pedestrian network within the project and the district (see Figure 7.1), which provides for connections between parcels, between other commercial and industrial uses, and between the site and nearby residential and recreation uses, and for the continuation of pedestrian ways.

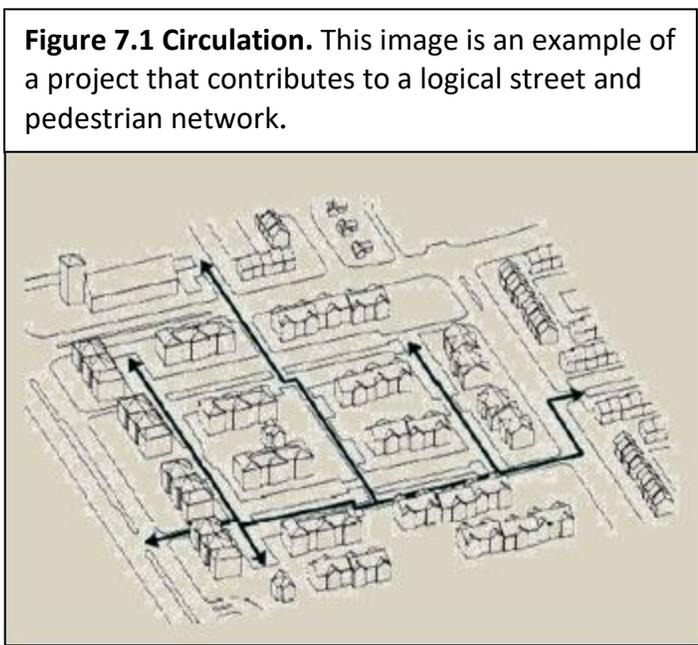
**B. Required Pedestrian and Bicycle Accessibility Improvements.** Curbs and sidewalks are required along all private, town and state highway road frontages that provide access to existing or proposed development in Major Subdivisions, Planned Unit Developments and to multi- unit housing projects in the Town Center, Village and Medium Density Residential districts, except as provided below. For all other types of development and in other districts, the DRB may require pedestrian circulation via sidewalks and/or non-motorized improved paths if it will contribute to an existing pedestrian and/or bicycle network. The applicant shall be responsible for the cost and construction of required pedestrian and bicycle infrastructure in accordance with specifications provided by the Town, unless otherwise agreed to by the Town in accordance with a Pedestrian and Bicycle Master Plan.

a) The DRB may allow multi-use paths in addition to or as an alternative to sidewalks if a sidewalk is not practical or if a path would be more appropriate given the context of the neighborhood. On arterial and collector streets, sidewalks shall be located on both sides of the street. On local streets, sidewalks on one side of the street may be permitted.

b) The DRB may require that a sidewalk connect to the entrance of the building to facilitate pedestrian access to the site and between the site and nearby services, facilities and neighborhoods.

C. The DRB may require perpetual unobstructed easements at least twenty (20) feet in width, sidewalks and or multi-use paths to facilitate pedestrian and bicycle circulation along frontage or within a project or subdivision and to ensure safe access from roads to schools, parks, playgrounds, or other nearby roads. Easements shall be indicated on the plat.

D) The design of all facilities shall be in accordance with any public works specifications, pedestrian or bicycle master plan, and the *Vermont Pedestrian and Bicycle Facility Planning and Design Manual*.



## Section 7.4 Outdoor Lighting

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**A. Applicability and Review Standards.** Outdoor lighting may be required where deemed appropriate by the DRB to illuminate areas such as streets, sidewalks, and parking areas. Outdoor lighting fixtures must be designed to shield the light source and direct light downward. The following standards apply to all outdoor lighting in the Town of Highgate, with the exception of temporary holiday lighting:

1. All outdoor lighting shall be kept to the minimum required for safety, security and intended use, consistent with the character of the neighborhood in which the lighting is located.
2. Permanent outdoor lighting fixtures shall not direct light beyond the boundaries being illuminated or onto adjacent properties, or public waters, shall minimize glare, and shall not result in excessive lighting levels which are uncharacteristic of the neighborhood. Outdoor lighting fixtures shall be designed to direct light downward and located so as not to cast light directly on adjacent roadways or properties. Such fixtures may include recessed, shielded or cutoff fixtures, and/or have low luminance lamps (e.g., 150 watts or 2,000 lumens).
3. The use of timers, dimmers, and/or sensors, wherever practicable, is encouraged on outdoor lighting fixtures to reduce energy consumption and eliminate unneeded lighting.

***Landscaping** is the enhancement of an expanse of natural land, which may take the form of lawns, trees, plants, and other natural materials such as rock, wood chips, and decorative features.*

***Screening** shields or obscures one abutting or nearby structure or use from another or from a road. It may take the form of landscaping, or other site modifications such as berms.*

## Section 7.5 Landscaping, Screening and Open Space

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**A.** The DRB shall require landscape improvements where needed to reduce the visibility of unsightly or incompatible areas from the road and adjoining properties, which must meet seasonal conditions, soil conditions, and light conditions on the site, in accordance with the following standards:

1. Landscaping shall take the form of shade trees, deciduous shrubs, and evergreens, well-kept grasses, ground cover, and site modifications such as berms.
2. Native species are preferred; plants list on the Vermont Invasive quarantine list and watch list are prohibited.
3. In determining the amount and type of plantings to be required, the DRB shall take into account at least the following:
  - a. Existing trees, shrubs, evergreens and other vegetation to be preserved on the site;
  - b. The visibility of incompatible or unsightly areas from public roads and/or adjacent properties;

- c. The land form and overall landscaping plan for the development; and
  - d. Other factors which affect the safety and appearance of the development.
- B. Off-street parking areas for uses other than single and two-unit dwellings shall be landscaped and screened from adjacent uses.
- C. Landscaping shall be installed in a time frame established by the DRB in the written decision.
- D. Screening is required to shield or obscure commercial and industrial properties where they abut residential properties or public roads.
- E. The DRB may require that suitable shade trees be planted along streets where trees do not exist at intervals of forty (40) feet or less. All trees shall measure at least ten (10) feet in height and at least two (2) inches in diameter measured at a point six (6) inches above finished grade level. All street trees are to be planted within five (5) feet of the edge of the street right of way.
- F. The placement of trees and other landscaping shall not interfere with site distances at adjacent street intersections or parking lot access points.
- G. The DRB may require open space or parkland as needed to accommodate the town's recreation plan or to fulfill the need for parkland created by the proposed land development.

## **Section 7.6 Site Preservation, Stormwater, and Erosion Control**

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- A. All development is subject to the following standards to ensure that all sources of soil erosion and sediment on the construction site are adequately controlled, and the existing site features that naturally aid in stormwater management are protected to the maximum extent practical.
- B. **Site Preservation and Minimizing Land Disturbance**
1. **Existing Features.** Site amenities including trees, surface waters, historic sites, farmland, ridgelines, unique geologic features, archaeological resources or any other unusual features, which the DRB determines are assets to the site and/or the community shall be preserved. Preservation techniques may include Planned Unit Developments, careful layout of lots and roads, limitations on size and location of building envelopes, and requiring fixed percentages of developable open space in rural districts.
  2. **Vegetation and Natural Cover.** Land shall be subdivided and developed to minimize grading and cut and fill, and to retain, to the degree possible, the natural contours. Wherever possible, the natural cover and vegetation such as trees and shrubs shall be conserved.

3. **Tree Removal.** In all existing vegetative areas, tree removal shall be limited to the following:
  - a. Within areas designated for a building envelope and for an access drive, tree removal may be permitted as needed to accommodate the purposes of the lot.
  - b. Mature trees that can be saved should be welled and protected against changes in grade.
  - c. Outside the area designated for a building envelope, the DRB may limit tree removal if it determines that such removal would cause soil erosion or would adversely affect ridgelines or other scenic views, screening for abutting properties, or significant habitat sites. When tree removal is permitted to create view corridors, it should be accomplished with narrow view openings between trees and beneath tree canopies rather than with large openings. Selective cutting of small trees and the lower branches of large trees is preferred over the removal of mature trees
  - d. Tree removal, either within or outside the area designated for a building envelope, shall not be permitted where the DRB determines that it would adversely affect the scenic qualities of a ridgeline or impact slope stability.
  
4. **Springs, Drainageways and Other Lowland Areas.** Springs and other lowland areas are resources that warrant restrictive land use controls because of flooding hazards to human life and property, their ground water recharge functions, their importance to water quality and the health of aquatic communities, and their wildlife habitats. The following activities shall be minimized:
  - a. Disturbance to streams and drainage swales.
  - b. Disturbance to year-round wetlands, areas with seasonally high-water tables, and areas of surface water concentration.

**C. Topographical Alterations: Excavating and Grading**

1. **Excavation and Grading.** All excavation, filling and grading required for construction shall be as specified by the Town. The entire area of work shall be brought to the required elevations by excavation or filling. A minimum of four (4) inches of topsoil shall be provided to cover finished grades and slopes. All roads shall be graded from property line to property line to approved grades and cross sections.
  
2. **Fill.** No stumps, wood, roots or other fibrous materials shall be used as fill except in an area stipulated for no development. A stump dump may be permitted only if the DRB determines that its location will cause no adverse environmental effects. The DRB may require the subdivider to submit evidence of boring and/or other soil investigations to determine the depth, composition and stability of the subgrade within road sections or where homes are to be located.

- D. Erosion and Sediment Control.** Projects shall comply with erosion and sediment control measures in accordance with the guidelines of the latest edition of the Vermont Handbook

for Soil Erosion and Sediment Control on Construction Sites. In addition, projects shall comply with the following standards:

1. Runoff from above the construction site must be intercepted and directed around the disturbed area.
  2. The smallest practical area of land shall be exposed at any one time and the time of exposure shall be kept as short as possible. Land shall not be left exposed during the winter months.
  3. Temporary control measures such as vegetated strips, diversion dikes and swales, sediment traps and basins, check dams, stabilized construction entrances, dust control, mulching and/or silt fencing, shall be installed to protect areas exposed and minimize sediment loss during construction.
  4. Immediate seeding and mulching or the application of sod shall be completed at the conclusion of each phase of construction, or at the conclusion of construction if not phased.
- E. **Steep Slopes.** Development on slopes in excess of 20 percent must comply with the requirements in Section 5.7.
- F. **Stormwater Management.** Stormwater drainage, infiltration, retention and treatment facilities, including culverts and ditches, shall be designed to accommodate potential stormwater runoff from the entire upstream drainage area, based on conditions of total potential development. In addition, development shall comply with the following standards:
1. Post-development peak storm flows shall not exceed pre-development levels.
  2. All stormwater management facilities shall be designed in accordance with best management practices (BMPs) for stormwater management as most recently amended by the Vermont Agency of Natural Resources. The permittee is required to contact the VT Stormwater District Reviewer to **determine if a Stormwater Permit is required** for the proposed project.
  3. The preparation and implementation of a stormwater management plan, **prepared by a Professional Engineer licensed by the State of Vermont**, may be required by the DRB and incorporated into any landowner or homeowners' association agreements. The permittee's engineer shall provide such information as the Development Review Board deems necessary to determine the adequacy of all proposed drainage facilities.
  4. Off-site easements and/or management facilities may also be required by the DRB as needed to accommodate stormwater runoff on adjoining properties or downstream from the proposed development.
  5. The use of Low Impact Development (LID) and Green Infrastructure approaches is preferred and shall be implemented to the maximum extent practical give the site's soil

characteristics, slope and other relevant factors. To the extent that LID design approaches are not proposed in the stormwater management plan the applicant shall provide justification as to why the use of LID approaches is not possible before proposing to use conventional structural stormwater management measures which channel stormwater away from the development site. The following are examples of acceptable approaches:

- a. Design residential and commercial sites to contain and infiltrate roof runoff or direct roof runoff to vegetative swales or buffer areas.
  - b. Create vegetated depression, commonly known as bioretention areas or rain gardens that collect runoff and allow for short-term ponding and slow infiltration.
  - c. Utilize filter strips or bands of dense vegetation planted immediately downstream of a runoff source to filter runoff before it enters a receiving structure or water body.
6. Additional information on acceptable practices is provided by the Vermont Department of Environmental Conservation Stormwater and Green Infrastructure Section ([www.watershedmanagement.vt.gov/stormwater/htm/sw\\_green\\_infrastructure.htm](http://www.watershedmanagement.vt.gov/stormwater/htm/sw_green_infrastructure.htm)).

## Section 7.7 Utilities

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### A. Locations.

1. The DRB may require that all utility lines, including but not limited to electric, fiber optic, gas, telephone, and cable television, be located underground throughout the subdivision, in order to reduce wind and ice damage to lines and protect the scenic character of the community. In the Town Center District, utility lines shall be located underground unless a significant topographic hardship is present making underground installation unusually difficult.
2. Applicants shall coordinate site or subdivision design with utility companies to insure adequate and suitable areas for underground and above-ground installation, both for the proposed development and areas adjacent to the development.
3. Utility corridors shall be shared with other utility and/or transportation corridors where feasible, and located to minimize site disturbance, the fragmentation of agricultural, forest and conservation lands, and any adverse impacts to natural, cultural or scenic resources and to public health.

**B. Utility Easements.** Utility easements of sufficient width shall be provided so as to serve both the proposed development and existing and anticipated development outside the area or parcel. Such easements shall be shown on the final plat.

## **Section 7.8 Lot Layout for New Lots**

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- A. Lot Shape.** As a first priority, new lots shall be designed with consideration of natural and manmade features such as tree lines, stone walls, ridgelines, roads, shorelines or other features recognizable on the land. Where this requirement conflicts with sections below, this section shall govern.
- B. Zoning Regulations.** Regular shape lots are required and all lots shall conform to the Bylaws. Lots designed with irregular shapes such as curves, jogs, doglegs, bowling alleys, or lots that are otherwise contorted in order to get around these regulations are not regularly shaped lots.
- C. Corner Lots.** Corner lots shall have sufficient width to permit a front yard setback on each street.
- D. Side, Front, & Rear Lot Lines.** Side lot lines shall generally be at right angles to straight streets, or radial to curved street lines; variations of up to 15° will be accepted. Rear lot lines will be generally parallel to front lot lines; variations of up to 15° will be accepted. Side lot lines shall be no more than 5 times the length of the front lot line.
- E. Exceptions & Waivers.** Exceptions may be made from the above lot shape requirements only where expressly permitted by the DRB. Exceptions will be approved only when warranted by conditions of topography, protection of natural resources, existing road location and/or shape or use of the tract being subdivided and when, in the judgment of the DRB, no other form of subdivision of the property, including PUD, is appropriate or possible without severe hardship to the applicant.
- F. Lot Size & Density.** Lots shall be appropriately sized to comply with other standards set by these regulations. Lot sizes and densities in the Bylaw are a minimum standard that will not always be possible to meet in a subdivision. Given the physical limitations to development on land in the town and the significant natural and agricultural resources in the town that are a high priority for protection in the Town Plan, lower densities may be appropriate and required in some cases.

## ARTICLE 8: FLOOD HAZARD:AREA REGULATIONS

### Section 8.1 Statutory Authorization and Effect

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- A. In accordance with 24 V.S.A. §§ 4424 and 4414, there is hereby established requirements for areas at risk of flood damage in the Town of Highgate, Vermont. Except as additionally described below, all administrative procedures follow municipal procedures under 24 V.S.A. Chapter 117.

### Section 8.2 Purpose

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- A. **Purpose.** It is the purpose of this article to:
1. Minimize and prevent the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public services that result from flooding-related inundation and erosion hazards.
  2. Ensure that the selection, design, creation, and use of development in flood hazard areas and river corridors is reasonably safe, accomplished in a manner that minimizes or eliminates the potential for loss and damage to life and property due to flooding-related inundation and erosion hazards, and does not impair stream equilibrium, floodplain services, or the river corridor.
  3. Manage all flood hazard areas designated pursuant to 10 V.S.A. §§ 751 and 753.
  4. Make the Town of Highgate, its citizens, and businesses eligible for federal flood insurance, federal disaster recovery funds, and hazard mitigation funds, as may be available.

### Section 8.3 Administration

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- A. These standards shall apply to all development in the Town of Highgate located within the Flood Hazard Area Overlay District. The Flood Hazard Area Overlay District overlays other existing zoning districts. All other requirements of the underlying district shall apply in addition to the provisions herein, unless otherwise indicated. The Flood Hazard Area Overlay District is composed of two areas:
1. **River Corridor.** The River Corridors as published by the Vermont Agency of Natural Resources (including the Statewide River Corridors and refinements to that data based on field-based assessments which are hereby adopted by reference) and/or a fifty (50) foot setback from the top of steam bank, or slope, from all rivers and streams in Highgate with a drainage area greater than 0.5 square miles in size as included in the Vermont Hydrography Dataset (VHD). If the fifty (50) foot setback area is greater in size than the mapped River Corridor area, the fifty (50) foot setback area shall take precedence. Data regarding the size of drainage areas for all rivers and streams in

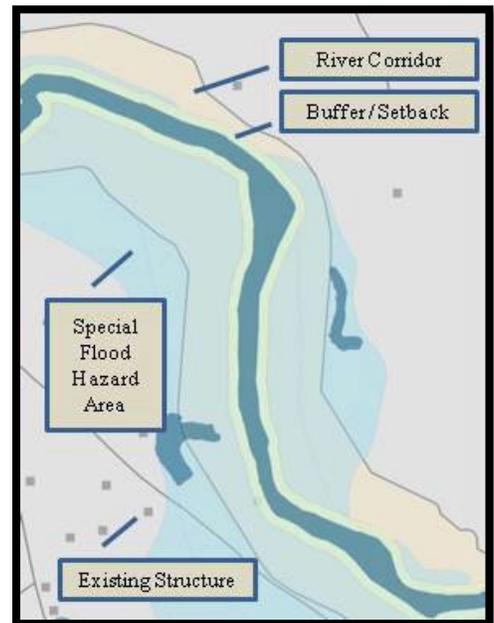
Highgate is available from the Vermont Agency of Natural Resources and available from the Highgate Zoning Administrator.

2. **Special Flood Hazard Area.** The Special Flood Hazard Area identified in and on the most current flood insurance studies and maps published by the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), and National Flood Insurance Program (NFIP), as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. § 753, which are hereby adopted by reference and declared to be part of these regulations.

- B. **Interpretation.** The information presented on any maps, or contained in any studies, adopted by reference, is presumed accurate. However, if uncertainty exists regarding the River Corridor or Special Flood Hazard Area boundary the following procedure shall be followed:

1. **River Corridor.** If uncertainty exists with respect to the boundaries of the River Corridor, the location of the boundary shall be determined by the Zoning Administrator. If the applicant disagrees with the determination made by the Zoning Administrator, a letter of determination from the Vermont Agency of Natural Resources shall constitute proof. When the Agency of Natural Resources receives a request for a letter of determination, Agency of Natural Resources evaluates the site and existing data to see if a change to the river corridor delineation is justified, necessitating a river corridor map update. An Agency of Natural Resources letter of determination will either confirm the existing river corridor delineation or will result in an update to the river corridor delineation for the area in question. If a map update is justified, an updated map will be provided with the letter of determination.<sup>1</sup>
2. **Special Flood Hazard Area.** If uncertainty exists with respect to the boundaries of the Special Flood Hazard Area or the floodway, the location of the boundary shall be determined by the Zoning Administrator. If the applicant disagrees with the determination made by the Zoning Administrator, a Letter of Map Amendment from FEMA shall constitute proof that the property is not located within the Special Flood Hazard Area.

**Figure 8.1 – Special Flood Hazard Area and River Corridor**



<sup>1</sup> River Corridor map updates are further explained in the Flood Hazard Area & River Corridor Protection Procedure: [http://dec.vermont.gov/sites/dec/files/documents/DEC\\_FHARCP\\_Procedure.pdf](http://dec.vermont.gov/sites/dec/files/documents/DEC_FHARCP_Procedure.pdf)

**C. Special Flood Hazard Areas - Base Flood Elevations and Floodway Limits.**

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

**D. Precedence.** The provisions of this article shall not in any way impair or remove the necessity of compliance with any other local, state, or federal laws or regulations. Where this article imposes a greater restriction the provisions here shall take precedence.

**E. Warning of Disclaimer of Liability.** This article does not imply that land outside of the areas covered by this article will be free from flood or erosion damages. This article shall not create liability on the part of the Town of Highgate, or any municipal official or employee thereof, for any flood or erosion damages that result from reliance on these regulations, or any administrative decision lawfully made hereunder.

**F. Exempted Development.** The following types of development are exempt from review under the standards of this Article within the Flood Hazard Area Overlay District:

1. The removal of a building or other improvement in whole or in part, so long as the ground elevations under and adjacent to the removed structure remain unchanged. Please be aware that for damaged structures where FEMA mitigation funds may be used, the damaged structure may be required to remain in place until funds are granted.
2. Routine maintenance of existing buildings in the usual course of business required or undertaken to conserve the original condition, while compensating for normal wear and tear. Routine maintenance includes actions necessary for retaining or restoring a piece of equipment, machine, or system to the specified operable condition to achieve its maximum useful life and does not include expansions or improvements to development.
3. Interior improvements to existing buildings that cost less than five-hundred (500) dollars.
4. Maintenance of existing sidewalks, roads, parking areas, or stormwater drainage; this does not include expansions.
5. Maintenance of existing bridges, culverts, and channel stabilization activities; this does not include expansions.
6. Streambank armoring and stabilization, retaining walls, and abutment work that do not reduce the cross-sectional flow area of the river or stream channel and have coverage

under a Stream Alteration Permit, if required, under 10 V.S.A. Chapter 41 and the rules adopted thereunder.

7. The following activities are exempt from municipal regulation, but may require a permit under the State’s “Vermont Flood Hazard Area and River Corridor Rule” (Environmental Protection Rule, Chapter 29):
  - a. State-owned and -operated institutions and facilities.
  - b. Forestry operations and silvicultural (forestry) activities conducted in accordance with the Vermont Department of Forests and Parks Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont or other accepted silvicultural practices, as defined by the Commissioner of Forests, Parks and Recreation.
  - c. Agricultural activities conducted in accordance with the Vermont Agency of Agriculture Food and Market’s Required Agricultural Practices (RAPs).
  - d. Public utility power generating plants and transmission facilities regulated under 30 V.S.A. § 248.
  - e. Telecommunications facilities regulated under 30 V.S.A. § 248a.
8. Planting projects which do not include any construction or grading activities in accordance with 24 V.S.A. § 4424(c).

## **Section 8.4 Application Requirements in Flood Hazard Area Overlay District**

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- A. **Application Submission Requirements** All applications for development in the Flood Hazard Area Overlay District shall include:
  1. **Site Plan.** A site plan that depicts the proposed development, all water bodies, all boundaries (Flood Hazard Area Overlay District boundaries – both River Corridor and Special Flood Hazard Area), the shortest horizontal distance from the proposed development to the top of bank of any river, any existing and proposed drainage, any proposed fill, pre- and post-development grades, and the elevation of the proposed lowest floor as referenced to the same vertical datum as the elevation on the current Flood Insurance Rate Maps;
  2. **Project Review Sheet.** A completed Vermont Agency of Natural Resources Project Review Sheet or Permit Navigator review sheet.
- B. **Supplemental Application Requirements.** Some applications may require additional information based on the location and type of the development. The following information shall be developed and provided with an application, as required below:
  1. **Base Flood Elevation (BFE).** BFE information is required for:
    - a. Replacement, substantially improved, or substantially damaged structures located within any Flood Hazard Overlay District, including Zone A, where no BFEs have been provided;

- b. Projects requiring elevation or dry-floodproofing above BFE;
  - c. Additions to existing historic structures; and
  - d. Any accessory structure proposed to be built in accordance with Section 9.6 and having building utility systems that will need to be protected from flood waters through elevation above the BFE.
2. **Floodway Data.** The following information is required for development proposed to be located in the floodway. All floodway data shall be certified by a registered professional engineer. All submitted proposals shall include electronic input/output files mapping showing cross-section locations and the following information:
- a. Hydraulic calculations demonstrating no rise in BFE or velocity for proposed new or expanded encroachments within the floodway.
  - b. In accordance with 44 C.F.R. § 60.3(c)(10), where BFE data has been provided by FEMA, but no floodway areas have been designated, the applicant shall provide a floodway delineation that demonstrates that the proposed development, when combined with all existing and anticipated future development, will not increase the water surface elevation of the base flood by more than one foot at any point within the community.
3. **Compensatory Flood Storage.** The following information is required for applications that require compensatory flood storage pursuant to Section 8.6:
- a. Designs shall provide equivalent storage volumes during peak flows up to and including the base flood discharge. This No Adverse Impact (NAI) volumetric analysis and supporting data shall be certified by a registered professional engineer.
  - b. If it appears that the design may create an undue adverse impact to adjacent landowners or structures, a hydraulic analysis may be required to verify that a proposed development will not increase flood elevations or velocities of floodwaters. Hydraulic analyses and supporting data shall be provided by the applicant and certified by a registered professional engineer.
4. **River Corridor Assessment.** The following information is required for applications proposing development within the river corridor:
- a. Information clearly demonstrating how the proposed development meets the infill or shadowing requirements in Section 8.6; or
  - b. A narrative and supporting technical information from a qualified consultant that demonstrates how the proposal meets the River Corridor Performance Standard in Section 8.6; or
  - c. Evidence of an approved major or minor map update issued by ANR in accordance with the process outlined in the DEC Flood Hazard Area & River Corridor Protection Procedure, finding the proposed development is not located within the River Corridor. Please note that ANR may require the applicant to provide technical data from a qualified consultant to justify a map update.
5. **Waivers.** Upon written request from the applicant, the Development Review Board may waive specific application requirements when the data or information is not

needed to comply with these regulations. A determination to waive the compensatory storage requirement shall include written concurrence from the ANR regional floodplain manager that project will have only a minimal effect on floodwater storage.

## **Section 8.5 Development Review Process in Flood Hazard Area Overlay District**

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### **A. Referral.**

1. Upon receipt of a complete application for new construction or a substantial improvement, the Zoning Administrator shall submit a copy of the application and supporting information to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources, in accordance with 24 V.S.A. § 4424. A zoning permit may be issued only following receipt of comments from the Agency, or the expiration of 30 days from the date the application was mailed to the Agency, whichever is sooner. The Zoning Administrator or Development Review Board shall consider all comments from ANR. Any application requiring conditional use, site plan or variance review shall be referred to the Development Review Board in accordance with 24 V.S.A. § 4460.
2. If the applicant is seeking a permit for the alteration or relocation of a watercourse, copies of the application shall also be submitted to the adjacent communities, the River Management Engineer at the Vermont Agency of Natural Resources, and the Army Corps of Engineers. Copies of such notice shall be provided to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation. A permit may be issued only following receipt of comments from the Vermont Agency of Natural Resources, or the expiration of 30 days from the date the application was mailed to the Vermont Agency of Natural Resources, whichever is sooner.

### **B. Review Process.**

1. **Administrative Review.** The following types of development within the Flood Hazard Area Overlay District may be reviewed and approved administratively by the Zoning Administrator:
  - a. Changes from a permitted land use to another permitted land use provided that any other changes to the site may also be administratively reviewed.
  - b. Above grade development which has not been elevated by the placement of fill, that is one foot above base flood elevation and documented with field-surveyed topographic information certified by a registered professional engineer or licensed land surveyor.
  - c. Open fencing and signs elevated on poles or posts that create minimal resistance to the movement of floodwater.
  - d. Municipal transportation infrastructure improvements designed and constructed by the Vermont Agency of Transportation that have written confirmation from the ANR Regional Floodplain Manager that the project is designed to meet or exceed the

- applicable standards in this bylaw.
  - e. River and floodplain restoration projects, including dam removal, that restore natural and beneficial floodplain functions and include written confirmation from the ANR Regional Floodplain Manager that the project is designed to meet or exceed the applicable standards in this bylaw.
  - f. Improvements or repairs of damage to structures that do not expand the existing footprint and do not meet the definition of “substantial improvement” or “substantial damage.”
  - g. Accessory structures less than 500 square feet in size (except those located in the Floodway).
  - h. Building utilities.
  - i. Recreational vehicles.
2. **Development Review.** All other development in the Flood Hazard Overlay District shall require plan review (Section 9.2) by the Development Review Board.

**C. Public Notice and Hearings.**

- 1. Prior to the issuance of a zoning permit, proposals needing Development Review Board approval shall meet the public hearing requirements in Section 9.3.

**D. Decisions.**

- 1. The Zoning Administrator, Planning Commission, and/or Board of Adjustment shall consider comments from the ANR when making a decision on an application.
- 2. Decisions on applications that require Planning Commission and/or Board of Adjustment review shall be made in accordance with Section 9.4.

**E. Zoning Permit.** A zoning permit for development in the Flood Hazard Overlay District shall be issued by the Zoning Administrator only in accordance with the requirements of Article 3 and the following provisions:

- 1. Within 30 days of receipt of a complete application, including all application materials and fees, the Zoning Administrator shall act to either issue or deny a permit in writing, or to refer the application to the Planning Commission and/or Board of Adjustment, or to ANR for consideration, as required by Section 8.5(A). If the Zoning Administrator fails to act with regard to a complete application for a permit within the 30-day period, a permit shall be deemed issued on the 31st day, unless the permit is for new construction or substantial improvement, in which case a permit shall not be issued until the Zoning Administrator has complied with the requirements of Section 8.5(A).

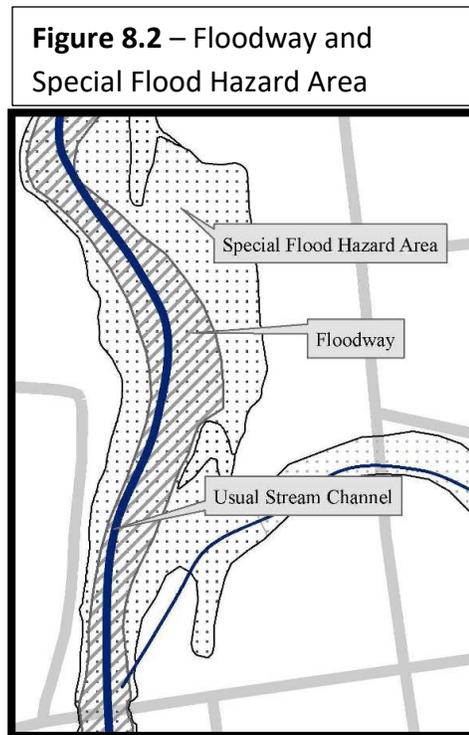
2. No zoning permit shall be issued by the Zoning Administrator for any use or structure which requires the approval of the Planning Commission and/or Board of Adjustment until such approval has been obtained. For permit applications that must be referred to a state agency for review, no permit shall be issued until a response has been received from the State, or the expiration of 30 days following the submission of the application to the State, whichever is sooner.

## **Section 8.6 Development Review Standards in Flood Hazard Area Overlay District**

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- A. **Development Review in Special Flood Hazard Area (SFHA).** The criteria below are the minimum standards for development in the Special Flood Hazard Area. If the floodway or flood fringe is not specified, the standard shall apply to the entire Special Flood Hazard Area. Where more than one district is involved, the most restrictive standard shall take precedence.
  1. **Development in the Floodway.** Within the floodway, the following standards apply:
    - a. New encroachments, including structures, are prohibited within the floodway, except for the following, which also shall comply with subsection (b) below:
      - i. Changes to existing structures where the footprint is proposed to expand horizontally into the floodway less than 500 square feet;
      - ii. New encroachments relating to bridges, culverts, roads, stabilization projects, public utilities, functionally dependent uses, and river or floodplain restoration projects; and
      - iii. New encroachments relating to health and safety measures, such as replacement of pre-existing on-site septic and water supply systems, if no other practicable alternative is available;
    - b. For all proposed new encroachments and above-grade development, a hydraulic analysis is required to be provided for review. The analysis should be performed in accordance with standard engineering practice, by a registered professional engineer, certifying that the proposed development will:
      - i. Not result in any increase in flood levels during the occurrence of the base flood;

- ii. Not increase base flood velocities; and
- iii. Not increase any risk to surrounding properties, facilities, or structures from erosion or flooding.
- c. For development that is either below grade or will not result in any change in grade, the hydrologic & hydraulic analyses may be waived, where the applicant will provide pre and post-development elevations demonstrating that there will be no change in grade, and that the development will be adequately protected from scour.
- d. For any new encroachment that is proposed within the floodway sub-district where a hydraulic analysis is required, the applicant may provide a FEMA Conditional Letter of Map Revision (CLOMR) in lieu of a hydraulic analysis, to demonstrate that the proposed activity will not have an adverse impact.



2. **No Adverse Impact (NAI) Standard within the Flood Fringe.** Within the flood fringe, the following standards apply:
  - a. **Compensatory Flood Storage.** New development or redevelopment shall not decrease flood storage capacity. Therefore, except as noted in subsection (b) (Compensatory Flood Storage Requirement Exceptions) below, development that displaces floodwater storage in the flood fringe shall provide compensatory storage to offset the impacts of the proposal. This is required when the development will cause an increase, or will contribute incrementally, to an increase in the horizontal extent and level of flood waters during peak flows up to and including the base flood discharge.
    - i. Volumetric analyses<sup>2</sup> and supporting data, demonstrating compensatory storage to offset the impacts of the proposal, shall be provided by the applicant and certified by a registered professional engineer.
    - ii. An applicant may submit a hydraulic analysis that demonstrates that a project will not increase flood elevations and velocities on floodwaters in lieu of a NAI volumetric analysis.
    - iii. Compensatory flood storage designs shall not materially impact adjacent landowners or structures.

<sup>2</sup> For more information on volumetric analysis, please refer to ANR’s Compensatory Flood Storage guide at <http://dec.vermont.gov/watershed/rivers/river-corridor-and-floodplain-protection/state-permits>

- iv. If the design may create an undue adverse impact to adjacent landowners or structures, a hydraulic analysis shall be required to verify that a proposed development will not increase base flood elevations and velocities. Hydraulic analyses and supporting data shall be provided by the applicant and certified by a registered professional engineer.
  - b. **Compensatory Flood Storage Requirement Exceptions.**
    - i. The NAI compensatory storage requirement may be waived for proposed designs that have no more than a minimal effect on floodwater storage and will not result in diverting floodwaters onto an adjacent property or structure. Examples of designs that have a minimal effect on floodwater storage include an open foundation design; utility work that is largely or completely located below grade; minor above ground improvements such as fences or poles that minimally displace or divert floodwaters; and development that will not result in any change to the predevelopment ground elevations. A determination to waive the NAI compensatory storage requirement shall include written concurrence from the ANR regional floodplain manager, that the project will have only a minimal effect on floodwater storage.
    - ii. For remediation of properties with contaminated soils, such as Brownfields sites, the NAI compensatory storage requirement may be waived, if hydraulic analysis demonstrates that the remediation will not increase flood elevations and velocities. Hydraulic analyses and supporting data shall be provided by the applicant and certified by a registered professional engineer.
    - iii. The NAI compensatory storage requirement may be waived for a replacement structure if:
      - I. There is no increase in the structure's footprint, or
      - II. An open foundation design is used. Examples include using compliant flood vents or openings, or elevating the structure on post, piers, or pilings with no structural foundation walls below the design flood elevation. The NAI compensatory storage requirement may be waived for associated transportation and utility networks and replacement on-site septic system proposals, if the applicant demonstrates that the placement of fill cannot be mitigated.
3. **The Special Flood Hazard Area.** Within the entire Special Flood Hazard Area, the following standards apply:
- a. All development shall be:
    - i. Reasonably safe from flooding;
    - ii. Designed (or modified) and adequately anchored to prevent flotation, collapse, release, or lateral movement of the structure;
    - iii. Constructed with materials resistant to flood damage;
    - iv. Constructed by methods and practices that minimize flood damage;

- v. Constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- vi. Adequately drained to reduce exposure to flood hazards; and
- vii. Required to elevate or floodproof any fuel storage tanks to at least two feet above the base flood elevation. This can be achieved by:
  - I. Elevating the fuel storage tank a minimum of two feet above the BFE and securely anchoring the tank to prevent flotation. The tank shall be located on the land-ward or downstream side of the building and all inlets, fill openings, line connections, and vents shall be elevated to two feet above the BFE. Any structure or platform used to elevate the tank shall be designed to withstand anticipated flood loads and forces;
  - II. In places where elevation of the fuel storage tank is not possible due to the location of existing fuel hookup/fuel lines into an existing building:
    - A. The tank shall be securely anchored to prevent floatation while protecting it from flood forces and debris. Any structure or platform used to anchor and protect the tank shall be designed to withstand anticipated flood forces and debris. The tank vent pipe/valve shall be located at a minimum two feet above the BFE; or
    - B. Storage tanks may be placed underground, if securely anchored and certified by a qualified professional and are protected from flood forces such as scour, erosion, velocity flow, and buoyancy (uplift) force.
- b. For any new structure, replacement structure, substantially improved structure, or structure that has experienced substantial damage, outdoor utilities (electrical, heating, ventilation, plumbing, and air conditioning equipment) and other service facilities (such as sewer, gas, and water systems), shall be located on the landward or downstream side of the building and/or behind structural elements, and located and constructed to minimize or eliminate flood damage.
- c. In Zones AE and A1 – A30 where floodway limits have not been determined, development shall not be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated encroachment, will not increase the base flood elevation more than one foot at any point within the community. The demonstration shall be supported by technical data that conforms to standard hydraulic engineering principles and certified by a registered professional engineer.
- d. For new, replacement or substantially improved structures, or for structures that have incurred substantial damage, fully enclosed areas below grade on all sides (including below grade crawlspaces and basements) are prohibited.
- e. Recreational vehicles, equipment and boat trailers, portable toilets, construction trailers, and other travel trailers shall:
  - i. Be currently registered, licensed and ready for highway use; or
  - ii. Be on site for fewer than 180 consecutive days; or
  - iii. Meet all other requirements applicable to structures.

- f. Water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- g. Sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- h. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- i. The flood carrying capacity within any altered or relocated portion of any watercourse shall be maintained, any alteration or relocation shall not result in any decrease of stream stability.
- j. Bridges, culverts and channel management activities, which by their nature shall be placed in or over the watercourse, shall have a Stream Alteration permit from the Agency of Natural Resources, if required.
- k. Subdivisions and Planned Unit Developments shall be accessible by dry land access outside of the Flood Hazard Area Overlay District.
- l. **Structural Standards.** All structures in the Special Flood Hazard Area shall meet the following standards:
  - i. New structures, existing structures to be substantially improved or replaced, or that have incurred substantial damage shall be located such that the lowest floor is at least two feet above base flood elevation. This shall be documented in the proposed and as-built condition with a FEMA Elevation Certificate.
  - ii. New non-residential structures, and non-residential structures to be substantially improved, replaced, or that have incurred substantial damage shall:
    - I. Meet the standards of subsection (A)(3)(I) above; or have the lowest floor, including basement, together with attendant utility and sanitary facilities, designed so that two feet above the base flood elevation the structure is dry floodproofed, meaning watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
    - II. A permit for dry floodproofing shall not be issued until a registered professional engineer or architect has reviewed the structural design, specifications, and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection;
    - III. Dry floodproofing measures used to meet the above floodproofing standard shall work without the use of human intervention at the time of flooding. Exceptions to this standard are when the facility is adequately staffed at all hours with people trained and able to deploy the facility's floodproofing measures, or if the structure is located in a floodplain that has a National Weather Service flood forecast stream gauge that provides adequate advanced warning of potential flooding for the deployment of the floodproofing system.
  - iii. New structures, or existing structures to be substantially improved or replaced, or that have incurred substantial damage in Zone AO shall have the lowest floor, including basement, elevated above the highest adjacent grade, at least two feet

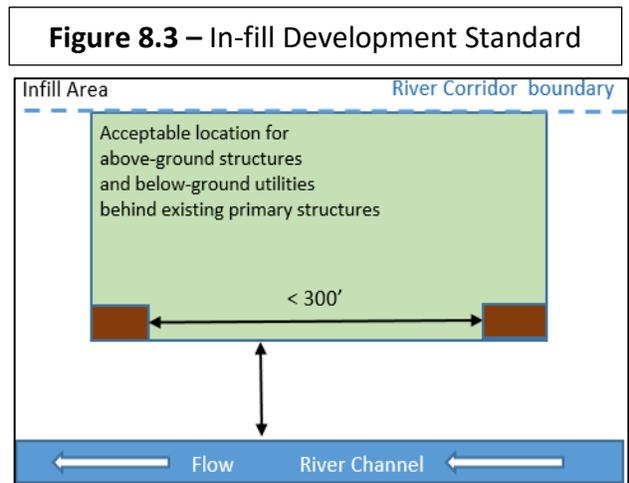
- above the depth number specified on the community's FIRM, or at least three feet if no depth number is specified.
- iv. Critical facilities that are to be replaced, substantially improved, or meet the definition of substantial damage shall be constructed so that the lowest floor, including basement, shall be elevated or dry-floodproofed at least one foot above the elevation of the 0.2% annual flood height (500-year floodplain), or three feet above base flood elevation, whichever is higher. A critical facility shall have at least one access road connected to land outside the 0.2% annual chance floodplain that is capable of accommodating emergency services vehicles. The top of the access road shall be no lower than six inches below the elevation of the 0.2% annual chance flood event.
  - v. For historic structures that would meet the definition of substantial improvement or substantial damage if not for their historic structure designation, the improved or repaired building shall meet the following mitigation performance standards for areas below the base flood elevation:
    - I. Any future damage to enclosures below the lowest floor shall not result in damage to the foundation, utility connections, or elevated portions of the building or nearby structures;
    - II. Utility connections (e.g., electricity, water, sewer, natural gas) shall be protected from inundation and scour or be easily repaired;
    - III. The building foundation shall be structurally sound and reinforced to withstand a base flood event;
    - IV. The structure's historic designation shall not be precluded;
    - V. The likelihood of flood waters entering the structure during the base flood is reduced; and
    - VI. There shall be no expansion of uses below base flood elevation except for parking, storage, building access, or, in the case of non-residential buildings, where the space is dry floodproofed.
  - vi. Fully enclosed areas that are above grade, below the lowest floor, below BFE, and subject to flooding, shall:
    - I. Be solely used for parking of vehicles, storage, or building access, and such a condition shall clearly be stated on any permits; and
    - II. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Such designs shall be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings on two walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above adjacent grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters; and
    - III. Include a signed non-conversion agreement from the owner of the structure with the permit application stating that the enclosed area below the BFE will not be converted to another use not listed above in Section 8.6(A)(3)(I)(vi)(I) and that

the community would have the ability to inspect the exterior and interior of the enclosed area in compliance with the standards laid out in the non-conversion agreement.

- vii. A small accessory structure of 500 square feet or less need not be elevated to the base flood elevation, provided the structure is placed on the building site so as to offer the minimum resistance to the flow of floodwaters and shall meet the criteria in subsection (A)(3)(a) above.

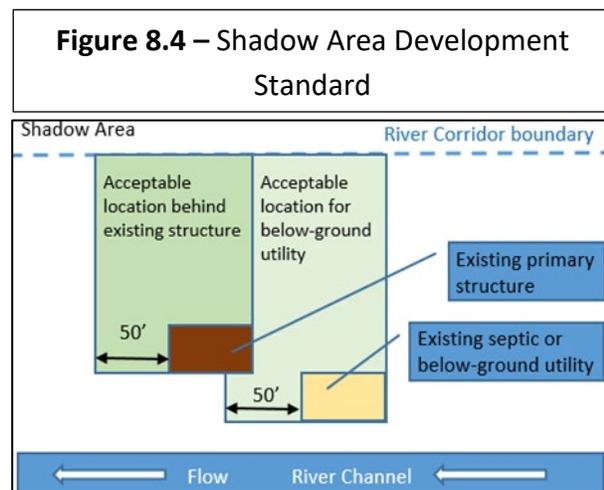
**B. Development Review in the River Corridor.** The criteria below are the minimum standards for development in the River Corridor. Where more than one district is involved, the most restrictive standard shall take precedence.

- 1. Development within designated centers shall be allowed within the river corridor if the applicant can demonstrate that the proposed development will not be any closer to the river than pre-existing adjacent development.



- 2. Development outside of designated centers shall meet the following criteria:
  - a. **In-Fill Between Existing Development:** Development must be located no closer to the channel than the adjacent existing primary structures, within a gap that is no more than 300 feet (see Figure 8.3), or

- b. **Down River Shadow:** An addition to an existing habitable structure, or an accessory structure that is adjacent to an existing structure, shall be located in the shadow area directly behind and further from the channel than the existing structure, or within 50 feet to the downstream side and no closer to the top of bank. Below-ground utilities may also be placed within the same shadow dimensions of an existing below-ground system (see Figure 8.4).



### 3. River Corridor Performance Standard<sup>3</sup>

- a. Proposals that do not meet the infill or shadowing criteria in must demonstrate to the Planning Commission and/or Board of Adjustment the development will:
    - i. not be placed on land with a history of fluvial erosion damage or be imminently threatened by fluvial erosion;
    - ii. not cause the river reach to depart from or further depart from the channel width, depth, meander pattern, and slope associated with natural stream processes and equilibrium conditions; and
    - iii. not result in an immediate need or anticipated future need for stream channelization solely as a result of the proposed development, that would increase flood elevations and velocities or alter the sediment regime triggering channel adjustments and erosion in adjacent and downstream locations.
  - b. Proposals that meet the infill or shadowing criteria in Section 8.6 are presumed to meet the River Corridor Performance Standard. However, The Planning Commission and/or Board of Adjustment may require an applicant to demonstrate that a proposal meets the River Corridor Performance Standard if there is a concern that the proposed development is at particular risk from fluvial erosion or may increase fluvial erosion, based on location or past flood damage.
  - c. The Planning Commission and/or Board of Adjustment may request or consider additional information to determine if the proposal meets the River Corridor Performance Standard, including:
    - i. a description of why the shadowing and infill criteria in Section 8.6 cannot be met;
    - ii. data and analysis from a consultant qualified in the evaluation of river dynamics and erosion hazards;
    - iii. Comments provided by the DEC Regional Floodplain Manager on whether the proposal meets the River Corridor Performance Standard.
- C. **Development in Both the Special Flood Hazard Area (SFHA) and River Corridor.** Where development is located in both the Special Flood Hazard Area and the River Corridor, and shall meet the standards of both areas, the most restrictive development standard shall take precedence.
- D. **Prohibited Development.** Except as exempted in this article, the following development is prohibited:

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<sup>3</sup> Depending on community settlement patterns and development plans, some communities may consider removing the river corridor performance standard to create a more restrictive bylaw that is easier to administer

**1. Special Flood Hazard District.**

- a. Fully enclosed areas below grade on all sides, including below grade crawlspaces and basements.
- b. New critical facilities.
- c. New encroachments in the Floodway, including accessory structures, except for minor improvements<sup>4</sup> to existing structures or relating to bridges, culverts, roads, stabilization projects, public utilities, river and/or floodplain restoration projects, or health and safety measures.
- d. Storage of any materials and salvage yards.

**2. River Corridor.**

- a. New critical facilities.
- b. Storage of any materials and salvage yards.

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## **Section 8.7 Standards for Review of Nonconforming Structures**

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- A. A nonconforming structure in the Flood Hazard Area Overlay District that has been substantially damaged or destroyed may be reconstructed in its original location only if it is rebuilt to comply with all requirements of the National Flood Insurance Program (if located in the Special Flood Hazard Area) and these regulations;
- B. Nonconforming structures and uses shall be considered abandoned where the structures or uses are discontinued for more than 5 years. An abandoned structure shall not be permitted for re-occupancy unless brought into compliance with these regulations. An abandoned use shall not be permitted unless brought into compliance with these regulations.

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## **Section 8.8 Variances in the Flood Hazard Area Overlay District**

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- A. Variances may be granted in writing by the Planning Commission and/or Board of Adjustment only in accordance with all the criteria in 24 V.S.A. § 4469 after a public hearing noticed in accordance Section 9.4 and Section 3.6. If the proposed development is located within any Flood Hazard Overlay District, the proposal shall comply with 44 C.F.R. § 60.6.
  1. Any variance issued in the Flood Hazard Area Overlay District shall not increase flood heights and shall inform the applicant in writing over the signature of a community official that the issuance of a variance to construct a structure below the BFE increases risk to life and property and will result in increased flood insurance premiums up to

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<sup>4</sup> Minor improvements are those that would not affect base flood elevations, consistent with the provisions of FEMA P-480; Desk Reference for Local Officials: [https://www.fema.gov/pdf/floodplain/nfip\\_sg\\_unit\\_5.pdf](https://www.fema.gov/pdf/floodplain/nfip_sg_unit_5.pdf)

amounts as high as \$25 for \$100 of coverage. Such notification shall be maintained with a record of all variance actions.

### **Section 8.9 Certificate of Occupancy**

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- A. All development subject to review under this article shall also be subject to the requirements in Section 3.2 (E) – Certificate of Occupancy.
- B. Upon receipt of the application for a certificate of occupancy, the Zoning Administrator shall review the permit conditions and inspect the premises to ensure that:
  - 1. Any required state and federal permits that have been received;
  - 2. All work has been completed in conformance with the zoning permit and associated approvals; and
  - 3. All required as-built documentation has been submitted to the Zoning Administrator (e.g. updated FEMA Elevation Certificate, dry floodproofing certificate, as-built volumetric analysis, or as-built floodway encroachment analysis).

### **SECTION 8.10 Violations**

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- A. This article shall be enforced under the requirements of Section 9.6. A copy of the notice of violation shall be sent to the State NFIP Coordinator.
- B. If all appeals have been resolved, but a violation remains, the Zoning Administrator shall submit a declaration to the Administrator of the NFIP requesting a denial of flood insurance. Section 1316 of the National Flood Insurance Act of 1968, as amended.

### **Section 8.11 Definitions**

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- A. **Construction of Language.** Except where specifically defined herein, all words used in these regulations shall have their common meanings. The word "shall" means the action is mandatory; and "occupied" and "used," in the context of structures and vehicles, shall be considered as though followed by "or intended, arranged, or designed to be occupied or used."

B. **Definitions.** Definitions in this section apply only to the land development subject to the standards in this article. The following are Article 8 definitions:

**Area of Special Flood Hazard:** is synonymous in meaning with the term “special flood hazard area” for the purposes of these regulations.

**Associated Transportation and Utility Networks:** means those transportation and utility networks connected to a bridge, culvert, or utility for the purpose of crossing a river or stream and do not include transportation or utility networks within the river corridor that merely run parallel to a river or stream.

**Base Flood:** means the flood having a one percent chance of being equaled or exceeded in any given year (commonly referred to as the “100-year flood”).

**Base Flood Elevation (BFE):** is the elevation of the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year. On the Flood Insurance Rate Map the elevation is usually in feet, in relation to the National Geodetic Vertical Datum of 1929, the North American Vertical Datum of 1988, or other datum referenced in the Flood Insurance Study report, or the average depth of the base flood, usually in feet, above the ground surface.

**Basement:** means any area of a building having its floor elevation below ground level on all sides, including crawlspaces.

**BFE:** see “Base Flood Elevation.”

**Channel:** means an area that contains continuously or periodic flowing water that is confined by banks and a streambed.

**Compensatory Storage:** means a volume not previously used for flood storage and which shall be incrementally equal to the theoretical volume of flood water at each elevation, up to and including the base flood elevation, which would be displaced by the proposed project. Such compensatory volume shall have an unrestricted hydraulic connection to the same waterway or water body. Further, with respect to waterways, such compensatory volume shall be provided within the same reach of the river, stream, or creek. These do not include state transportation networks or power generation and transmission utility networks subject to the Public Utility Commission jurisdiction, as those are exempt from municipal regulation and are regulated under the State Flood Hazard Area & River Corridor Rule;  
<http://dec.vermont.gov/sites/dec/files/documents/wsmd-fha-and-rc-rule-adopted-2014-10-24.pdf>

**Common Plan of Development:** means where a structure will be refurbished or constructed under one approved plan or permit, but in separate stages, phases, or in combination with other construction activities. Such work may be planned unit by unit and may take place at different times, on different schedules.

**Construction trailer:** means a vehicle which is: (1) built on a single chassis; (2) 500 square feet or less when measured at the largest horizontal projection; (3) designed to be self-propelled or permanently towable; and (4) designed for use as a temporary office facility used to support management of a construction project, and not as a permanent structure.

**Critical Facilities:** means facilities that are vital to public health and safety, including police stations, fire and rescue facilities, hospitals, shelters, schools, nursing homes, water supply and waste treatment facilities.

**Designated Center:** means a downtown, village center, new town center, growth center, or neighborhood development area designated pursuant to 24 V.S.A. Chapter 76A.

**Development:** means any human-made change to improved or unimproved real estate, including buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

**Encroachment:** means activities or construction including fill, substantial improvements, and other development that may cause an increase in flood levels.

**Equilibrium Condition:** means the width, depth, meander pattern, and longitudinal slope of a stream channel that occurs when water flow, sediment, and woody debris are transported by the stream in such a manner that it generally maintains dimensions, pattern, and slope without unnaturally aggrading or degrading the channel bed elevation.

**Fill:** means any placed material that changes the natural grade, increases the elevation, redirects the movement of flood water, or diminishes the flood storage capacity at the site. Temporary storage of material for less than 180 days is not considered fill.

**Flood:** means (a) a general and temporary condition of partial or complete inundation of normally dry land areas from: the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and mudslides which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current; (b) the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a

natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

**Flood Fringe:** means the portion of the special flood hazard area that is outside of the floodway but still inundated by the base flood (the flood having a one percent chance of being equaled or exceeded in any given year – 100-year floodplain).

**Flood Hazard:** means those hazards related to damage from flood-related inundation or erosion.

**Flood Hazard Area:** shall have the same meaning as “area of special flood hazard” under 44 C.F.R. § 59.1. “Area of special flood hazard” is synonymous with the term “special flood hazard area.”

**Flood Insurance Rate Map (FIRM):** means an official map of a community, on which the Federal Insurance Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community. In some communities the hazard boundaries are available in paper, pdf, or Geographic Information System formats as a Digital Flood Insurance Rate Map (DFIRM).

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

**Floodplain:** means any land area susceptible to being inundated by water from any source (see definition of “flood”).

**Floodproofing:** means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**Floodway:** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point. Please note that flood hazard areas and floodways may be shown on a separate map panels.

**Fluvial Erosion:** means the erosion or scouring of riverbeds and banks during high flow conditions of a river. Fluvial erosion is most likely to occur within the river corridor.

**Functionally Dependent Use:** means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water.

**Grading:** means the movement or replacement of topsoil or other material originating on the site and within the hazard area. Grading results in minor or no changes in topographic elevations. If new material is brought from outside the hazard area and such new material is not offset with an equal or greater removal of material from the portion of the site within the hazard area, the new material shall be considered “fill” and shall not be considered grading.

**Historic Structure:** means any structure that is: (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (i) by an approved state program as determined by the Secretary of the Interior or (ii) directly by the Secretary of the Interior in states without approved programs.

**Infill Development:** means construction, installation, modification, renovation, or rehabilitation of land, interests in land, buildings, structures, facilities, or other development in an area that was not previously developed but is surrounded by existing development.

**Letter of Map Change (LOMC):** is a letter issued by FEMA officially removing a structure or lot from the flood hazard area based on information provided by a certified engineer or surveyor. This is used where structures or lots are located above the base flood elevation and have been inadvertently included in the mapped special flood hazard area. A LOMC can include a Letter of Map Amendment (LOMA), Letter of Map Revision (LOMR), Letter of Map Revision based on Fill (LOMR-F), or a Letter of Map Revision for a Floodway (LOMR-FW).

**Lowest Floor:** means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building’s lowest floor provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 C.F.R. § 60.3.

**National Flood Insurance Program:** means the National Flood Insurance Program under 42 U.S.C. chapter 50 and implementing federal regulations in 44 C.F.R. parts 59 and 60. The National Flood Insurance Program aims to reduce the impact of flooding on private and public

structures. It does so by providing affordable insurance to property owners in communities that adopt and enforce floodplain management regulations. These efforts help mitigate the effects of flooding on new and improved structures.

**Natural and Beneficial Floodplain Functions:** means the functions associated with the natural or relatively undisturbed floodplain that includes moderating flooding, retaining flood waters, and reducing erosion, sedimentation and flood related damage. Ancillary beneficial functions include support of ecosystem services such as wildlife habitat, water quality, and recharge of ground water.

**New Construction:** means structures for which the start of construction commenced on or after the effective date of these regulations and includes any subsequent improvements to such structures.

**Nonconforming Structure:** means a structure or part of a structure that does not conform to the present bylaws but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a structure improperly authorized as a result of error by the administrative officer. Structures that were in violation of the regulations in effect at the time of their creation, and remain so, remain violations and are not nonconforming structures.

**Nonconforming Use:** means use of land that does not conform to the present bylaws but did conform to all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a use improperly authorized as a result of error by the administrative officer.

**Non-residential:** includes: businesses, churches, schools, nursing homes, pool houses, clubhouses, recreational buildings, government buildings, mercantile structures, industrial structures, and warehouses.

**Person:** means an individual, a corporation, a partnership, an association, and any other incorporated or unincorporated organization or group.

**Public Water Access:** means a public access to a water of the State and, except for toilet facilities, shall not include structures as defined in these regulations.

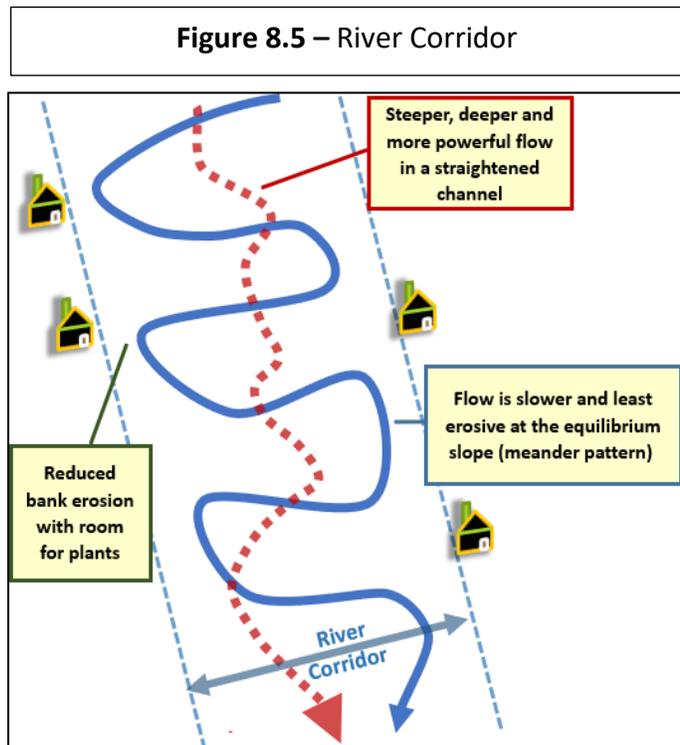
**Recreational Vehicle:** means a vehicle which is: (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towable by a light duty truck; and (d) designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

**Redevelopment:** means construction, installation, modification, renovation, or rehabilitation of land, interests in land, buildings, structures, facilities, or other development in a previously developed area. The term includes substantial improvements and repairs to substantially damaged buildings.

**Replacement Structure:** means a new building placed in the same footprint as the pre-existing building and does not include a change in use.

**River:** means the full length and width, including the bed and banks, of any watercourse, including rivers, streams, creeks, brooks, and branches which experience perennial flow. "River" does not mean constructed drainageways, including water bars, swales, and roadside ditches.

**River Corridor:** means the land area adjacent to a river that is required to accommodate the dimensions, slope, planform, and buffer of the naturally stable channel and that is necessary for the natural maintenance or natural restoration of a dynamic equilibrium condition and for minimization of fluvial erosion hazards, as delineated by the Vermont Agency of Natural Resources in accordance with river corridor protection procedures. (10 V.S.A. § 1422).



**Special Flood Hazard Area:** is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. For purposes of these regulations, the term "area of special flood hazard" is synonymous in meaning with the phrase "special flood hazard area." This area is usually labeled Zone A, AO, AH, AE, or A1-30 in the most current flood insurance studies and on the maps published by FEMA. Maps of this area are available for viewing in the municipal office or online from the FEMA Map Service Center: [msc.fema.gov](http://msc.fema.gov). Base flood elevations have not been determined in Zone A where the flood risk has been mapped by approximate methods. Base flood elevations are shown at selected intervals on maps of special flood hazard areas that are determined by detailed methods. Please note, where floodways have been determined they may be shown on separate map panels from the Flood Insurance Rate Maps.

**Start of Construction:** for purposes of floodplain management, determines the effective map or bylaw that regulated development in the special flood hazard area. The “start of construction” includes substantial improvement and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing, piers, or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**Storage:** means the aggregation of materials, items, or objects whether natural or human-made; that is kept as a stockpile, collection, or inventory; where individual materials from the stockpile, collection or inventory may change, but where the general footprint of the stored materials continues to be used for the same purpose; whether set upon the land or within a container, structure, or facility; and that would not otherwise be in compliance with these development standards.

**Structure:** means a walled and roofed building, as well as a manufactured home, including gas or liquid storage tanks.

**Substantial Damage:** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged conditions would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**Substantial Improvement:** means any repair, reconstruction, rehabilitation, addition, or other improvement of a structure after the date of adoption of these regulations, the cost of which, over three years. For further guidance, see FEMA P-758, Substantial Improvement/Substantial Damage Desk Reference: <https://www.fema.gov/media-library/assets/documents/18562> or over the period of a common plan of development, cumulatively equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either: (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or

safety code specifications which have been previously identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (b) Any alteration of an “historic structure,” provided that the alteration will not preclude the structure’s continued designation as an “historic structure.”

**Top of Bank:** means the point along a streambank where an

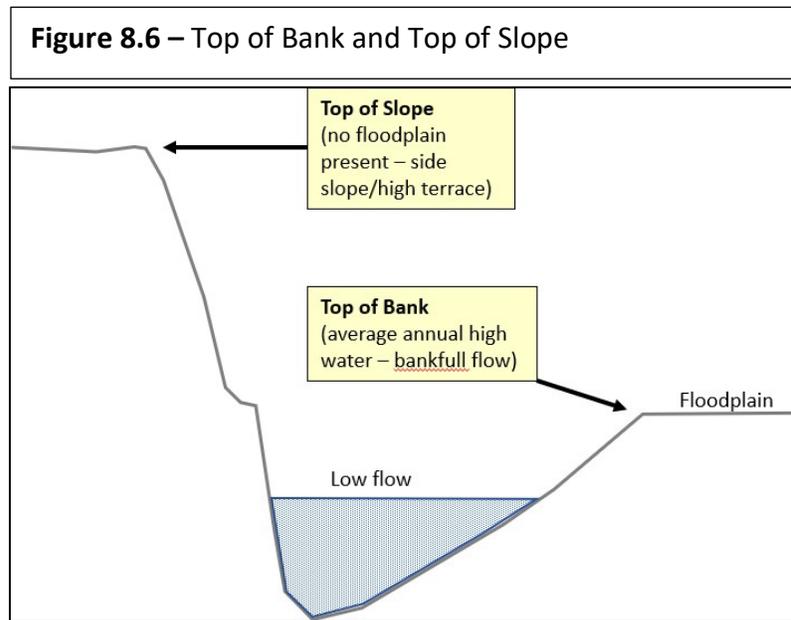
abrupt change in slope is evident, and where the stream is generally able to overflow the banks and enter the adjacent floodplain during flows at or exceeding the average annual high water stage.

**Top of Slope:** means a break in slopes adjacent to steep-banked streams that have little or no floodplain; or a break in slope where the side slopes adjacent to an incised, or deeply cut, channel meet floodplains that have been abandoned or are undergoing abandonment.

**Violation:** means the failure of a structure or other development to be fully compliant with these regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 C.F.R. § 60.3 is presumed to be in violation until such time as that documentation is provided.

**Watercourse:** means any perennial stream and shall not include ditches or other constructed channels primarily associated with land drainage or water conveyance through or around private or public infrastructure.

**Wet-floodproofing:** means permanent or contingent measures applied to a structure that prevent or provide resistance to damage from flooding by allowing water to enter the structure in accordance with Technical Bulletin 7 published by FEMA. <https://www.fema.gov/media-library/assets/documents/3503>



## ARTICLE 9 ADMINISTRATION AND ENFORCEMENT

### Section 9.1 Municipal Administrative Requirements

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**A. Appointments.** The following appointments shall be made in association with the administration and enforcement of these regulations as provided for in the Act:

1. **Zoning Administrator.** In accordance with the Act [§4448], a Zoning Administrator, who may hold any other office in the municipality, other than membership on the Development Review Board, shall be nominated for a term of 3 years by the Planning Commission, with the approval of the Legislative Body. The Planning Commission may also nominate, with the approval of the Legislative Body, an Acting Zoning Administrator who shall have the same duties and responsibilities as the Zoning Administrator in his or her absence. A Zoning Administrator may be removed for cause at any time by the Legislative Body after consultation with the Planning Commission. The Zoning Administrator:
  - a. shall administer these regulations literally, and shall not have the power to permit any land development which is not in conformance with these regulations;
  - b. in administering these regulations, may enter at reasonable times upon any public or private property for purposes of inspection, investigation or enforcement; and
  - c. shall provide forms and maintain records as required, and perform other tasks as needed to administer and enforce these regulations.
  
2. **Development Review Board.** In accordance with the Act [§4460], a Development Review Board consisting of not less than 3 nor more than 9 members, shall be appointed by the Legislative Body for specified terms. Vacancies shall be filled by the Legislative Body for the unexpired terms and upon the expiration of such terms. The Legislative Body also may appoint alternates to the Development Review Board for specified terms, to be assigned by the Legislative Body to serve in situations where one or more members of the Board are disqualified or absent. Members of the Development Review Board may be removed for cause by the Legislative Body upon written charges and after public hearing. The Board shall adopt rules of procedure to guide its official conduct in accordance with the requirements of the Act [§4430] and Vermont's Open Meeting Law [1 V.S.A., §310-314]. The Development Review 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 decide:
  - a. applications for conditional use approval under Section 3.3,
  - b. appeals from any decision, act or failure to act by the Zoning Administrator under Section 9.5 (Appeals Process),
  - c. applications for site plan approval under Section 3.5,
  - d. applications for planned unit developments under Section 6.10,

- e. applications for subdivision approval under Article 4,
- f. variance requests under Section 3.6 (Variance Review),
- g. access requests under Section 5.3,
- h. review of request for waivers,
- i. review of wireless telecommunications facilities, and
- j. any other reviews required by the bylaws.

**3. Planning Commission.** In accordance with the Act [§4322, §4323], a Planning Commission consisting of not less than 3 nor more than 9 voting members shall be appointed by the Legislative Body for 4-year terms; however no more than 2 Commissioners shall be reappointed or replaced during any calendar year, and a majority of Commissioners shall be residents of the municipality. Vacancies shall be filled by the Legislative Body for the unexpired terms and upon the expiration of such terms. Any member may be removed at any time by unanimous vote of the Legislative Body. The Planning Commission shall elect a chair and clerk and adopt rules of procedure to guide its official conduct in accordance with the requirements of the Act [§4323] and Vermont's Open Meeting Law [1 V.S.A., §310-314]. The Planning Commission 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 decide:

- a. prepare amendments to these Regulations and other regulations as permitted by 24 VSA Chapter 117,
- b. prepare and update the Town Plan every five years and prepare amendments to the Plan as necessary,
- c. requests and petitions for bylaw amendments,
- d. undertake comprehensive planning, including related preliminary planning and engineering studies, and
- e. perform such other acts or functions as it may deem necessary or appropriate to fulfill the duties and obligations imposed by, and the intent and purposes of, the Act.

## Section 9.2 Combined Review

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- A. In accordance with Section 4462 of the Act, in cases where development proposals require subdivision, conditional use, 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 DRB 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).
- B. **To the extent feasible, the review process shall be conducted in the following order, as applicable:**
  - 1. Subdivision or Site Plan; then
  - 2. Access by right-of-way; then
  - 3. Conditional Use Review; then
  - 4. Requests for Variances; then any other reviews required by these bylaws
- C. 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.
- D. 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 9.3 Public Hearings

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### A. Public Notice.

- 1. In accordance with the Act [§4464], a warned public hearing shall be required for conditional use review (Section 3.3), appeals of decisions of the Zoning Administrator (Section 9.6), final plat review (Section 4.2) and variances (Section 3.6). 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:
  - a. Publication of the date, place and purpose of the hearing in a newspaper of general circulation in the municipality;
  - b. 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;
  - c. 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.

2. Public notice of all other types of development review hearings, including site plan review (Section 3.2), shall be given not less than seven (7) days prior to the date of the public hearing, and shall at minimum include the following:
  - a. Posting of the date, place and purpose of the hearing in three (3) or more public places within the municipality, and
  - b. 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.
3. The town will complete the public warning and notify adjoining landowners as required above, as determined from the current municipal grand list.
4. No defect in the form or substance of any required public notice under this section shall invalidate the action of the Development Review Board 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 Development Review Board 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.
5. In accordance with the Act [§4461], all meetings and hearings of the Development Review Board, 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 Development Review Board.
6. The Development Review Board, in conjunction with any hearing under this bylaw, may:
  - a. examine or caused to be examined any property, maps, books, or records bearing upon the matters concerned in that proceeding;
  - b. require the attendance of any person having knowledge in the premises;
  - c. take testimony and require proof material for its information; and
  - d. administer oaths or take acknowledgement in respect of those matters.
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 Development Review Board shall keep a record of the name, address, and participation of each of these persons.

## Section 9.4 Decisions

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### A. Decisions

1. Any action or decision the DRB shall be taken by the concurrence of a majority of the members. In accordance with the Act [§4464(b)], the DRB 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.
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 9.6) 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.
3. In rendering a decision in favor of the applicant, the DRB 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:
  - a. 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
  - b. 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.
4. All decisions of the DRB 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.

## Section 9.5 Appeal Process

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### A. Decisions of the Zoning Administrator.

1. Any interested person as defined in 24 V.S.A., Chapter 117, Section 4465(b) may appeal any decision taken by the Zoning Administrator by filing a notice of appeal with the Secretary of the Development Review Board or with the Town Clerk if no such secretary has been elected within fifteen (15) days of the act or decision.
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.
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 9.3 and mail a copy of the hearing notice to the appellant not less than 15 days prior to the hearing date.
4. A decision on appeal shall be rendered within 45 days after the final adjournment of the hearing, as required under the Act [§4464(b)].
5. The Development Review 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].

### B. Decisions of the Development Review Board.

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 Development Review Board within thirty (30) days of such decision to the Vermont Environmental Court.
2. Appeals to Environmental Court shall also meet the following requirements:
  - a. "Participation" in a Development Review Board proceeding shall consist of offering, through oral or written testimony, evidence of a statement of concern related to the subject of the proceeding.
  - b. The notice of appeal shall be filed by certified mailing, with fees, to the Environmental Court and by mailing a copy to the Zoning Administrator, 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 9.6 Violations, Investigation and Penalties

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- A. **Violations.** The commencement or continuation of any land development, subdivision or use which is not in conformance with the provisions of these Bylaws shall constitute a violation. All violations will be pursued in accordance with the Act [ §§ 4451, 4452] and/or as a civil matter enforced in accordance with the provisions 24 VSA 1974(a) et. Seq at the discretion of the Zoning Administrator. Each day that a violation continues shall constitute a separate offense.
- B. **Notice of Violation.** Pursuant to the Act [§4451], no action may be brought under this Section unless the alleged offender has had at least 7 - day notice by certified mail that a violation exists. The warning notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the 7-day period, and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the 7-day period. Action may be brought without notice and opportunity to cure if the alleged offender repeats the violation of the bylaw after the 7-day notice period and within the next succeeding 12 months.
- C. **Enforcement Pursuant to the Act [§4451].** In accordance with the Act [§4451, §4452], the Zoning Administrator shall institute in the name of the municipality any appropriate action, injunction or other proceeding to enforce the provisions of these regulations. All fines imposed and collected for violations shall be paid over to the municipality. The municipality shall observe any limitations on enforcement proceedings relating to municipal permits and approvals as set forth in the Act [§4454].
- D. **Civil Enforcement Pursuant to 24 VSA 1974(a).** Penalties shall be imposed for initial, second and subsequent violations of any provision of these **Bylaws** in accordance with 24 VSA 1974(a).

## Section 9.7 Fees

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The Select Board shall establish a schedule of fees and amend the schedule as needed to cover some or all the cost of the administration and enforcement of this bylaw. The schedule of fees may include provisions that require applicants to pay for reasonable costs of an independent technical review of their applications. The schedule of fees shall be posted in the offices of the Town Clerk and Zoning Administrator and may be altered or amended only by resolution of the Select Board. Fees are non-refundable.

## ARTICLE 10. DEFINITIONS

### Section 10.1 Definitions

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

**ACCEPTED AGRICULTURAL PRACTICES (AAPs):** Accepted practices for agriculture, including farm structures other than dwellings, as currently defined by the Commissioner of Vermont Department of Agriculture, Food and Markets (see exemptions under Section 1.3.B).

**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 Section 6.5)

**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.

**CONTRACTOR YARD:** A facility for the storage and maintenance of contractor supplies and operational equipment.

**DAY CARE/CHILD CARE:** A home or facility where the owner or operator provides childcare. A home or facility serving six or fewer children shall be considered by right to constitute a single unit 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 Professional Service, and will need to follow all applicable regulations for that use as per Article II of this bylaw.

**DRIVEWAY:** Vehicular access from the road to one (1) or two (2) lots.

**DWELLING, ACCESSORY:** A distinct unit that is clearly subordinate to a single-unit dwelling and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, and complying with the standards in Section 6.3.

**DWELLING, DUPLEX:** A residential building that has two dwelling units in the same building and neither unit is an accessory dwelling unit.

**DWELLING, MULTI-UNIT:** A building that contains three or more dwelling units in the same building.

**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 UNIT:** A residential building designed or used as the living quarters for a single household.

**EDUCATIONAL FACILITY:** Public and private schools licensed by the State of Vermont.

**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.

**FARMLAND:** A parcel of land used for agricultural activities. [See also Accepted Agricultural Practices].

**FINAL SUBDIVISION PLAT:** The final drawings, on which the subdivision is presented to the DRB for approval and which, if approved, shall be filed for record with the Town Clerk.

**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 VSA §4501 or who are, aged (55+). Group or Community Care Homes serving not more than 8 persons, shall be considered a single unit dwelling (and shall be a permitted use wherever single unit 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.

**HOME BUSINESS:** Home Business is a use of an accessory building or up to 30% of a dwelling for a business which exhibits no apparent indications that a business exists. Uses otherwise listed in Table 2.2 may qualify as a home business if they meet the requirements of Section 6.2. [See also Home Occupation and Home Industry, Section 6.2].

**HOME INDUSTRY:** Use of up to 50% of a residential lot by a resident for an occupational business with not more than three non-resident full time equivalent employees, and which could normally be expected to be customarily located in the area and that will not change the character of the neighborhood. Uses otherwise listed in Table 2.2 may qualify as a Home Industry if they meet the requirements of Section 6.2. [See also Home Business and Home Occupation, Section 6.2].

**HOME OCCUPATION.** Use of a no more than 30% of a dwelling or an accessory building by a resident for an occupational business with not more than one non-resident full time equivalent employee, and which could normally be expected to be customarily located in the area and that will not change the character of the neighborhood. Uses otherwise listed in Table 2.2 may qualify as a home occupation if they meet the requirements of Section 6.2 (Home Occupations). [See also Home Business and Home Industry, Section 6.2].

**INDOOR RECREATION FACILITY:** Places of indoor commercial recreation.

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

**INTERIOR FINISHED SPACE:** Habitable square footage that is entirely enclosed by finished walls, finished flooring and a roof, which may include basement and attic areas.

**JUNK:** Any worn-out, cast-off, or discarded article or material which is ready for destruction or has been collected or stored for salvage or conversion to some *use*. Any article or material which, unaltered or unchanged and without further reconditioning, can be used for its original purpose as readily as when new shall not be considered *junk*.

**JUNK YARD:** A *lot*, parcel of land, or *building* or any part thereof, used for the collection, storage, sale, wrecking, dismantling, or salvaging of "*junk*," including any place where three (3) or more unregistered vehicles are stored.

**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.

**MAJOR SUBDIVISION PLAT:** Any subdivision containing four or more lots.

**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.

**MINOR SUBDIVISION PLAT:** Any subdivision containing less than four lots.

**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 BODY AND REPAIR SHOP:** The *use* of any *building*, land area, or other premise which is used for the purpose of making major and minor repairs, for hire, to *motor vehicles*, including painting, body work, and mechanical work, provided all *motor vehicles* located on the premises are being worked on for repair or *rebuilding* and are not kept on the premises for salvage. All *motor vehicles* located on the premises must be registered for operation. The sale of vehicular fuels is prohibited.

**MOTOR VEHICLE SALES:** The *use* of any *building*, land area, or other premise for the display and sale of new or used automobiles generally but may include light trucks or vans, trailers, or recreation vehicles. Limited to the actual sales of vehicles that require registration by the Department of *Motor Vehicles*. The sale of vehicular fuels and vehicular servicing is prohibited.

**MOTOR VEHICLE SERVICE:** The *use* of any *building*, land area, or other premise for the sale of *motor vehicle* fuel, lubricants, and related products and accessories, and for servicing of automobiles and light trucks. The sale of *motor vehicles* is prohibited.

**NIGHT CLUB/BAR/LOUNGE:** 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 Zoning Administrator.

**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 Zoning Administrator.

**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, professional or business services.

**OPEN SPACE:** Land not occupied by structures, buildings, roads, rights-of-way, recreational facilities, and parking lots. Open space may or may not be held in common.

**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.

**PERSONAL OR PROFESSIONAL SERVICE:** Establishments engaged in providing services involving the care of a person, personal goods or providing services based on a recognized profession. Including but not limited to: barbershop, beauty parlor, laundry, photographic studio, doctor, dentist, lawyer, engineer, certified public accountant, consulting firm, real estate broker or appraiser, chiropractor, planner, architect, funeral home, bank, daycare center and similar professions.

**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.

**PLAN:** The Municipal Plan of the Town of Highgate adopted pursuant to the Vermont Planning and Development Act.

**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.

**PRELIMINARY PLAT:** The preliminary drawings for a major subdivision, indicating the proposed layout of the subdivision, to be submitted to the DRB for its consideration.

**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.

**RENEWABLE ENERGY FACILITIES REGULATED BY THE TOWN:** These include renewable energy facilities that are sized to serve more than one dwelling but do not include those which are regulated by the VT Public Service Board. Facilities must meet the standards of Section 6.6 Off-Grid Renewable Energy.

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

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

**RE-SUBDIVISION:** Any change in a recorded subdivision plat, if such change affects any street layout on such plat, or area reserved thereon for public use, or any lot lines, or if the change affects any map legally recorded after the adoption of any such subdivision regulation by the Town of Highgate.

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

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

**SENIOR HOUSING:** Housing development that is specifically designed for those over the age of 55 that is adapted to the challenges of the ageing process, such as limited mobility and susceptible illness; as well as providing common areas for activities and socialization. Senior Housing shall be subject to covenants or equivalent legal restrictions that preserve their status.

**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.

**SETBACK:** The nearest distance between a structure and a road centerline 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.

**SKETCH PLAN:** Any informal sketch of a proposed subdivision, the purpose of which is to enable the applicant to save time and expense in reaching a general agreement with the DRB as to the form of the subdivision and objectives and requirements of these regulations.

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

**STREET OR ROAD:** Any public or private thoroughfare which affords the principal means of access to more than two lots, including roads, highways, avenues, streets, and land or other way between right of way lines.

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

**SUBDIVISION:** Any land, vacant or improved, which is divided or proposed to be divided into two or more lots, parcels, sites, units, plots or interests for the purpose of offer, sale, lease, or otherwise. The terms include amended subdivisions and re-subdivisions.

**SWIMMING POOL:** Any structure intended for swimming or recreation bathing that contains water over 24 inches deep. This includes in-ground, above-ground and on-ground swimming pools, hot tubs, and spas.

**TRANSFER/RECYCLING STATION:** A facility certified by the state that functions as a collection point for solid waste that will subsequently be transported to a state-approved landfill, disposal or recycling facility. The facility will include, at minimum, a receiving hopper and compacting equipment which are housed in an enclosed structure.

**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 material

**YOUTH CAMP:** Any parcel of land used wholly or in part for recreational or educational purposes, accommodating five or more children at one time under eighteen years of age for a period of, or portions of, five days or more. The operation may be a day camp or a resident camp.