

**Town of Highgate  
Vermont**

**Development  
Regulations**



**Prepared by the Highgate Planning Commission  
Adopted by the Highgate Selectboard: March 5, 2015  
Effective Date: March 26, 2015**

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**Important Abbreviations**

**The Act:** The Vermont Planning & Development Act, 24 VSA, Chapter 117

**Bylaw:** The Highgate Development Regulations

**DRB:** Development Review Board

**PC:** Planning Commission

**PUD:** Planned Unit Development

**VSA:** Vermont Statutes Annotated

**ZA:** Zoning Administrator

## **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, the “Town of Highgate Zoning Bylaws & Map” last adopted June 23, 2011 and the “Town of Highgate Subdivision Regulations 2008” last adopted January 10, 2008.

### **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 a 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 except in conformance with these Regulations. No building or structure shall hereafter be erected, altered or extended, nor shall any land development or extension of the use of land commence without an approved permit having been issued.
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, as well as applicable state and federal approvals and/or permits.

### B. 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 distances 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 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. Construction of driveways or other right-of-way improvements. Driveway permits shall be secured from the Road Commissioner or Agency of Transportation, and driveways and related right-of-way improvements shall meet municipal and State standards.
  - b. Normal maintenance and repair of an existing structure which do not result in exterior alterations or expansion or a change of use.
  - c. Interior alterations or repairs to a structure that do not result in exterior alterations or expansion or a change in use.
  - d. Exterior alterations to structures that do not result in any change to the footprint or height of the structure or a change in use.
  - e. 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.
  - f. 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.
  - g. Small accessory buildings associated with residential uses that are less than 50 square feet of floor area and less than 10 feet in height.
  - h. 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 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. **“Permitted”** uses are uses allowed in a given zoning district without special review because they are considered compatible with the intent of the district. A zoning permit from the zoning administrator is needed. The buildings or structures that contain the uses, and the site development necessary for their establishment, must meet the requirements in these regulations and may require site plan review.
- C. **“Conditional”** uses are land uses 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 insure compatibility, and conditional use approval from the DRB must be obtained before a conditional use is established. Conditional uses may be denied if it is not possible to mitigate adverse impacts.
- D. Uses not allowed are land uses that cannot be established in a given zoning district because they are considered incompatible with the intent of the district.
- E. 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>District Name</b>	<b>Abbreviation</b>
Agricultural District	AD
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

- F. 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.
  
- G. 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 (VD) Village District** consists of the locations within the Town where it is desired that development occur which can accommodate the majority of the growth in Highgate. These districts have been selected because of existing settlements, anticipated patterns of growth, existing and future public facilities and services, suitable soils and other physical characteristics. The development of these districts with urban uses affords the best opportunity for the existing and future provision of economically feasible public facilities and services while providing an orderly separation of these uses from other legitimate land uses within the Town. Higher densities of residential, commercial development and many public and quasi-public facilities and services are intended to develop in this district.
- C. **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.

- D. **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.
- E. **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.
- F. **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.
- G. **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.

## **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

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

<b>Table 2.2 Land Uses</b>							
<b>Districts: Agricultural (AD), Medium Density Residential (MD), Village District (VD), Shoreline (SL), Protected Area (PA), Forest Reserve (FR), Industrial/Commercial (I/C)</b>							
<b>P (Permitted Use), C (Conditional Use), E (Exempt from Permits), S (Site Plan Review)</b>							
	AD	MD	VD	SL	PA	FR	I/C
<b>Manufacturing &amp; Processing of Goods, Merchandise and Equipment</b>							
Contractor Yards	C	C				C	P/S
Manufacturing							C/S
Slaughter House	C						C
<b>Public Uses</b>							
Public Facilities	C	C	C	C	C	C	P/S
Transfer/Recycling Station							C
<b>Recreation Uses</b>							
Campground	C/S	C/S		C/S		C/S	
Recreation, Indoor Facility	C/S	C/S	C/S	C/S			P/S
Recreation, Outdoor	C/S	C/S	C/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
Boarding School	C/S	C/S	C/S	C/S	C/S	C/S	
Club, Non-Profit	C/S	C/S	C/S	C/S	C/S	C/S	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
Junkyard							C/S
Renewable Energy Facilities (See Section 6.6)	P/C/S	P/C/S	P/C/S	P/C/S	P/C/S	P/C/S	P/C/S
Swimming Pool	P	P	P	P	P	P	P
Trucking Terminal							C/S
Warehouse	C/S	C/S					P/S
Wireless Telecommunication Facility	C/S	C/S	C/S	C/S	C/S	C/S	C/S
Youth Camp	C/S	C/S	C/S	C/S	C/S	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>							

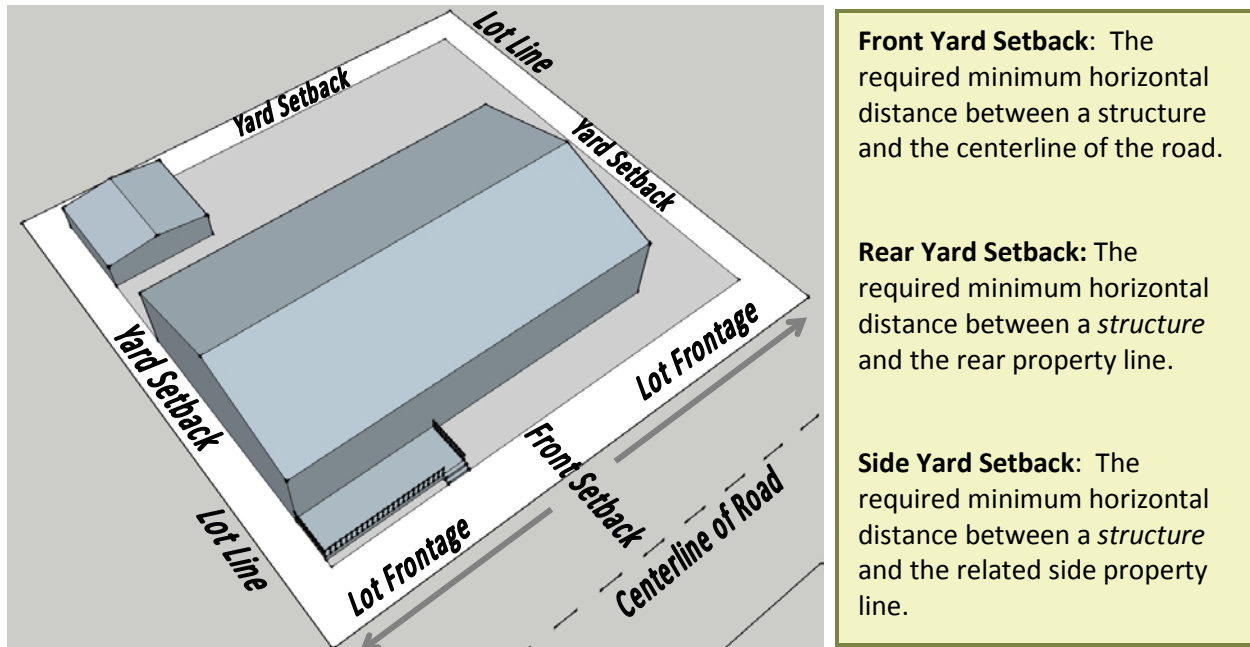
## Section 2.6 Dimensional Requirements

- 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>Table 2.3 Dimensional Standards by Zoning District</b>							
<b>Districts: Agricultural (AD), Medium Density Residential (MD), Village District (VD), Shoreline (SL), Protected Area (PA), Forest Reserve (FR), Industrial/Commercial (I/C)</b>							
	AD	MD	VD	SL	PA	FR	I/C
Lot size, minimum	1 acre	1 acre	1 acre	1 acre	1 acre	1 acre	1 acre
Access to Community or Municipal Water or Sewer	1 acre	1 acre	1 acre	1/2 acre	1 acre	1/2 acre	1 acre
Lot width, minimum	200 ft	200 ft	1 ac: 150 ft 1/2 ac: 125 ft	1 ac: 150 ft 1/2 ac: 125 ft	200 ft	200 ft	200 ft
<b>Minimum Setbacks</b>							
Front	65 ft	65 ft	40 ft	40 ft	65 ft	65 ft	85ft* 45 ft**
Side & Rear							
Principal Structures	30 ft	30 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	10 ft	10 ft	30 ft
<b>Notes:</b> <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 PC may modify dimensional requirements during review of a PUD, in accordance with <b>Sections 6.10 (PUD) and 6.1 (Mixed Uses)</b> of these bylaws.</li> </ul>							
* Required 85 ft from setback distance from the centerline of state highways.							
** Required 45 ft Front setback distance from the centerline of Town roads and private roads.							



Figure 2.1 Lot Dimensions and Terminology.



- B. **Reduction of Lot Area.** No lot shall be so reduced in area that the lot does not meet the minimum dimensional requirements of the district in which it is located, except as provided in Sections 6.10 (PUD) and 6.1 (Mixed Uses). These provisions shall not apply when part of the lot is taken for a public use or purpose.

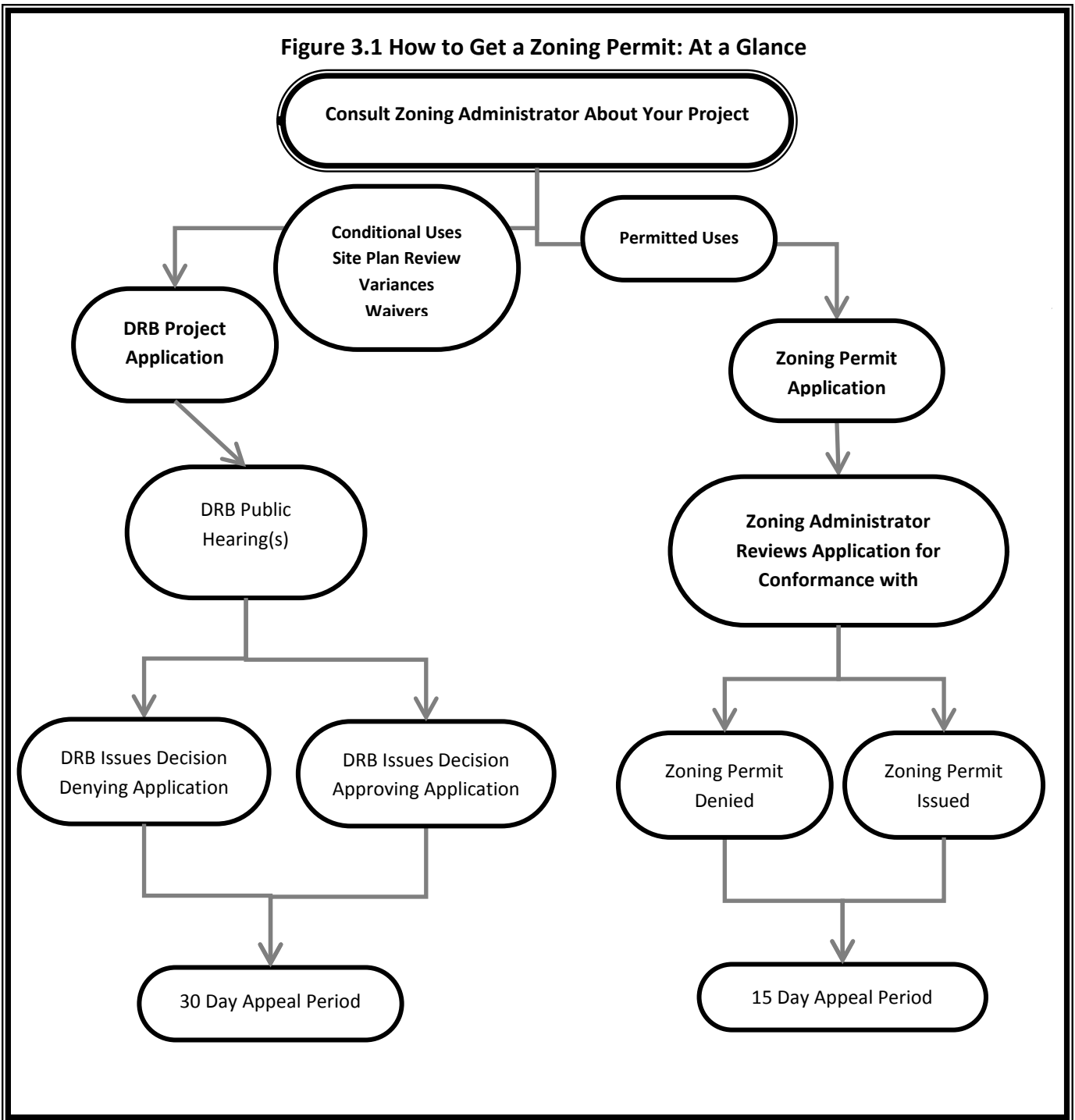
## **ARTICLE 3: PERMIT REVIEW PROCEDURES AND STANDARDS**

### **Section 3.1 Permitting Process**

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

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; and
  - i. 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.
- 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. Temporary Permits.** Temporary permits may be issued and renewed by the Zoning Administrator for a period not exceeding six (6) months for nonconforming uses and nonconforming 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 insure 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, 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 following:

- 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.
- A. 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.
- B. 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 safety and convenience, and to access in case of emergency.
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 be limited to: limits on the days and hours of operation, and requirements for or limits to lighting on the site. 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.

**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

- A. Applicability.** 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 4.1 Application Requirements

- 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.

**Table 4.1 Subdivision Sketch Plan/Plat Requirements**

✓ – the item is required NA – the item is not required	Sketch Plan	Boundary Adjustment	Preliminary Plat	Final Plat
<p><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></p> <p>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.</p>				
Required Form (seeText Box 4.1)	Sketch Plan	Survey Plat <sup>1</sup>	Plot Plan	Plot Plan
<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 should be numbered in alternating order within the blocks).	✓ Approximate	✓	✓	✓

<b>Table 4.1 Subdivision Sketch Plan/Plat Requirements</b>				
✓ – the item is required NA – the item is not required	<b>Sketch Plan</b>	<b>Boundary Adjustment</b>	<b>Preliminary Plat</b>	<b>Final Plat</b>
<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>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	✓	✓

Table 4.1 Subdivision Sketch Plan/Plat Requirements

✓ – the item is required NA – the item is not required	Sketch Plan	Boundary Adjustment	Preliminary Plat	Final Plat
<b>Public rights-of-way and easements</b>	✓ Approximate	✓	✓	✓
<b>Deed reference-tax map reference</b>	✓	✓	✓	✓
<b>Typical cross section</b> of the proposed grading and roadways and sidewalks.	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>Lighting and Signage Plan</b> – Locations and	NA	NA	✓	✓

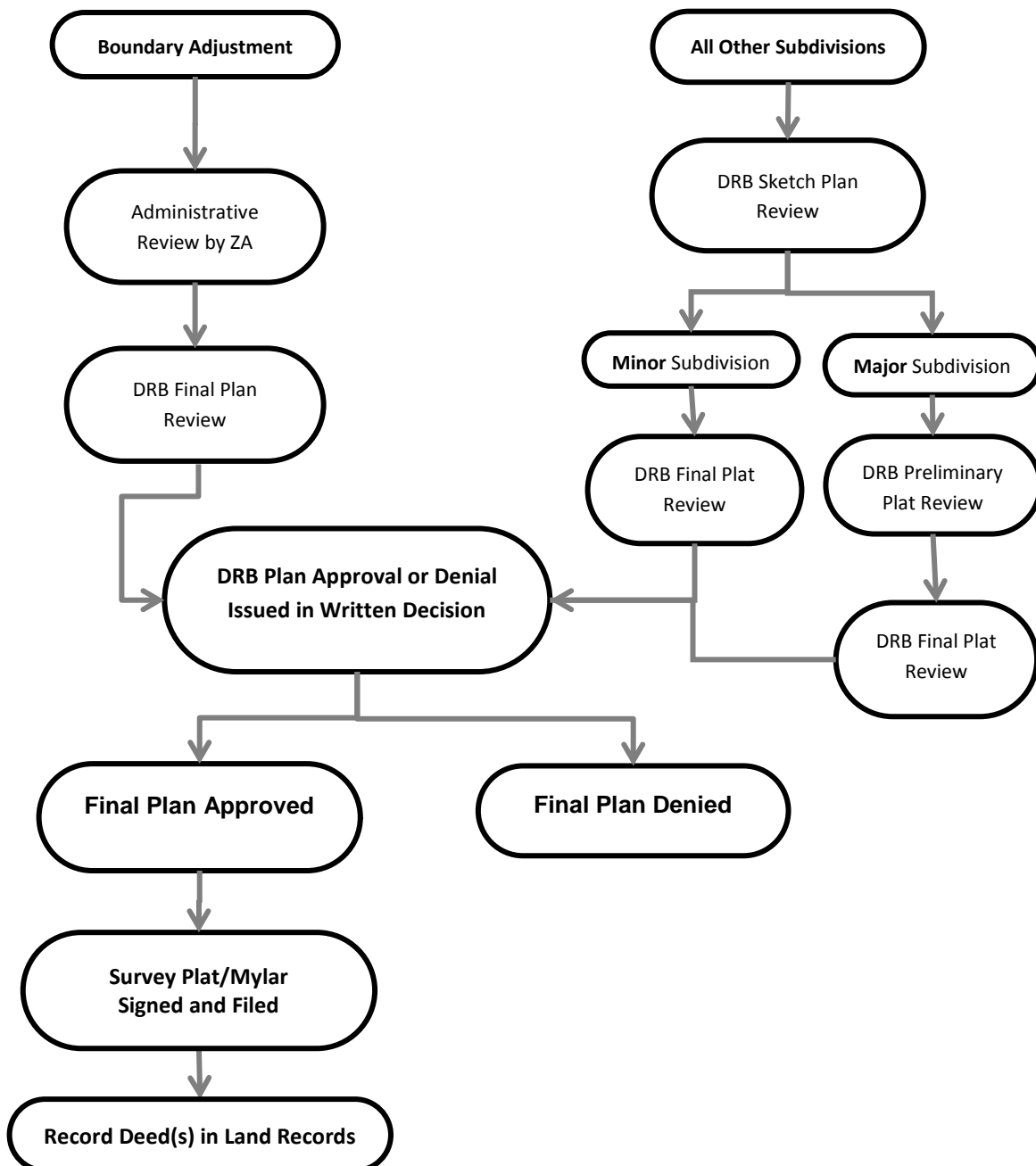


<b>Table 4.1 Subdivision Sketch Plan/Plat Requirements</b>				
<b>✓ – the item is required NA – the item is not required</b>	<b>Sketch Plan</b>	<b>Boundary Adjustment</b>	<b>Preliminary Plat</b>	<b>Final Plat</b>
illumination of exterior lights. Location and dimensions of all exterior signs.				
<b>Garbage 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-family 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, 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 various elements of the property and describing management objectives and techniques.	NA	NA	As Required	As Required

## Section 4.2 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.

**Figure 4.1 Subdivision Review Process**



**B. 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**.

**C. 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.
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.

**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.

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.

#### D. 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.

#### E. 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 Commission** 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.

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 4.3: 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.

## **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 Principle Use and Structure**

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- A. **Principle Use and Structures.** More than one principal use and structure per lot is not allowed except as provided in Sections 6.10 (Planned Unit Development) and 6.1 (Mixed 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. **A driveway** is not part of the town highway system.
2. **Development Roads** shall have a right of way of **at least 50 feet wide** and shall be constructed and maintained by the owner or developer according to the ***Town Highway Road Acceptance Policy*** and **State of Vermont Agency of Transportation standards**. Development Roads 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***.
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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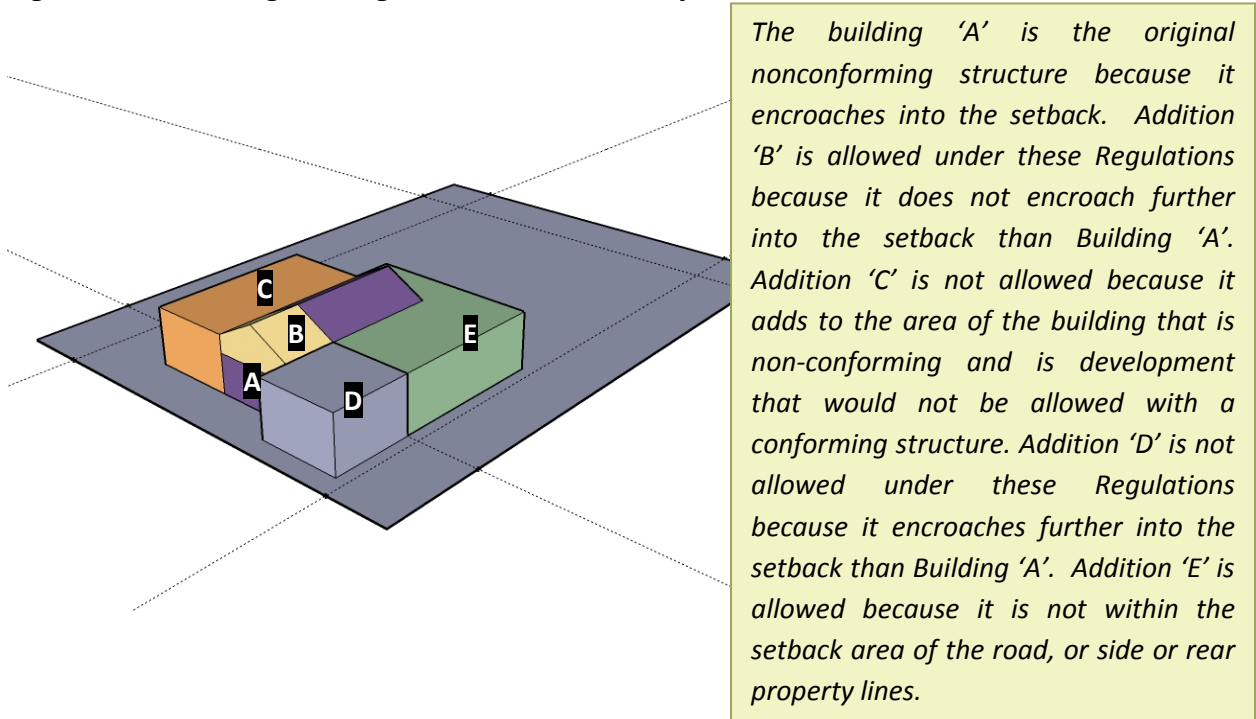
- A. Non-Conforming Uses.** The use of any building, structure or land which is made **non-conforming** by reason of the adoption of these **Bylaws** or subsequent amendments may continue indefinitely subject to the following provisions:
1. **A non-conforming use** shall not be resumed if such use has 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 family dwelling** is to be replaced by another non-conforming single family dwelling, the replacement home **cannot be more than 35% larger than the original home**. Such replacement home **may not increase the degree of non-conformance of the original home with regard to the dimensional requirements of these Bylaws**.
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



## 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 family dwellings which do not require structural alterations (i.e., child care homes, group homes, and home occupations as defined herein). All other uses and structures, including but not limited to new or expanded single family 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 underlying 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 than 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.

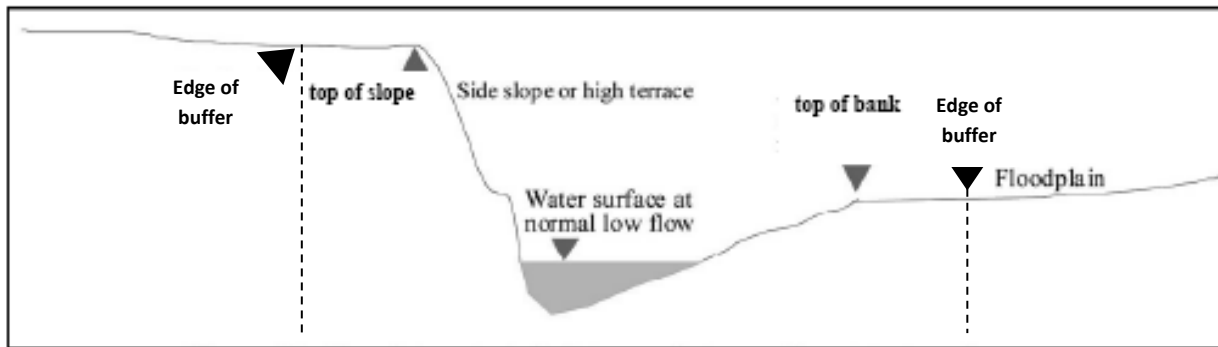
F. In hardship cases, the Applicant may apply to the Development Review Board for Conditional Use approval to waive or modify buffer requirements in accordance with a management plan that provides equal or better water quality protection, requires mitigation measures to compensate for loss of habitats, 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

- 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 thirty five **(35) 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 thirty-five **(35) 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 TYPE	PARKING SPACES
Lodging Establishment	1 per lodging unit
Residential	2 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.

- 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.

## 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

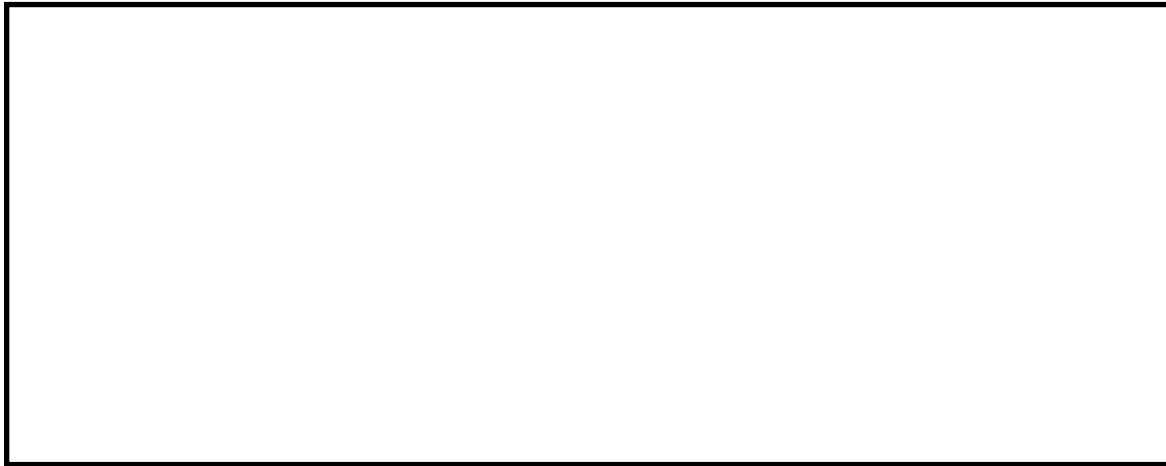


in business. Temporary signs for agricultural products sold at roadside stands are permitted providing that the sign is erected **twenty five (25) feet** back from the center of the road.

**G. General Requirements for All Signs.**

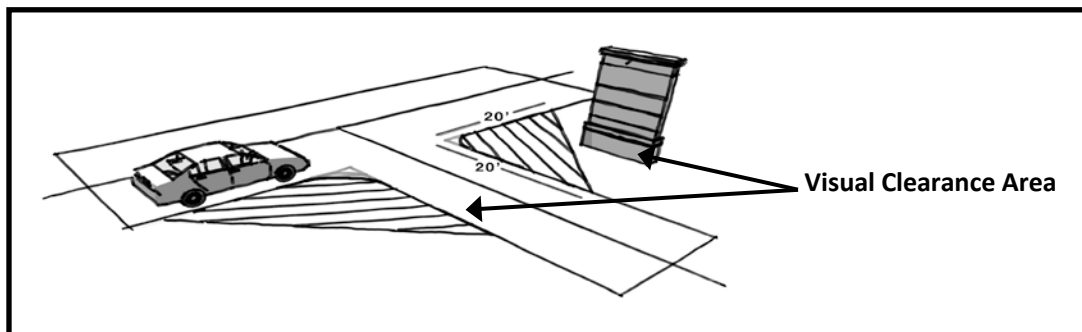
1. A sign may be illuminated only by a continuous, non-flashing light. Such lighting must be effectively focused and shielded so that it does not cause undue glare, impair the vision of drivers or illuminate neighboring properties. All exterior lighting shall be down-directed and shielded so as to project only onto the sign.

**Figure 5.3(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.

**Figure 5.3(b) – Illustration of Vision Clearance Area**



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.

### **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 5.3(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.

## ARTICLE 6 – SPECIFIC USE STANDARDS

### Section 6.1 Mixed Uses

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- A. In districts designated in the use table in **Article VIII**, more than one use may be permitted within a single building or in multiple buildings on a single lot, subject to **site plan review** by the **DRB**. If any of the mixed 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 family 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 family 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**, an **accessory dwelling unit** means an efficiency or one-bedroom apartment that is clearly **subordinate** to a single-family dwelling, which has facilities and provisions for independent living including sleeping, food preparation and sanitation. An accessory dwelling unit, located within or appurtenant to a single-family dwelling and where the **owner occupies** either the primary dwelling or the accessory dwelling, shall be considered to constitute a single-family residential use of property, provided there is compliance with all the following:
1. the property has sufficient wastewater capacity;
  2. the unit does not exceed **30 percent** of the total habitable floor area of the single-family dwelling or **600 square feet**, whichever is greater; and
  3. applicable setback, coverage and parking requirements specified in the bylaws are met.
- B. 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 family 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**.

1. 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.
2. A campground is to conform to the dimensional requirements (setback distances) of the district in which it is located.
3. A **buffer zone** of at least **fifty (50) feet** shall be maintained as a landscaped area abutting all property lines. No camper, tent or service building shall be located in the buffer zone. The **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.
4. Adequate provision for proper disposal of solid waste shall be provided on site.
5. 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 insure 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 VSA §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.
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**.
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. Provisions**

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.

**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.

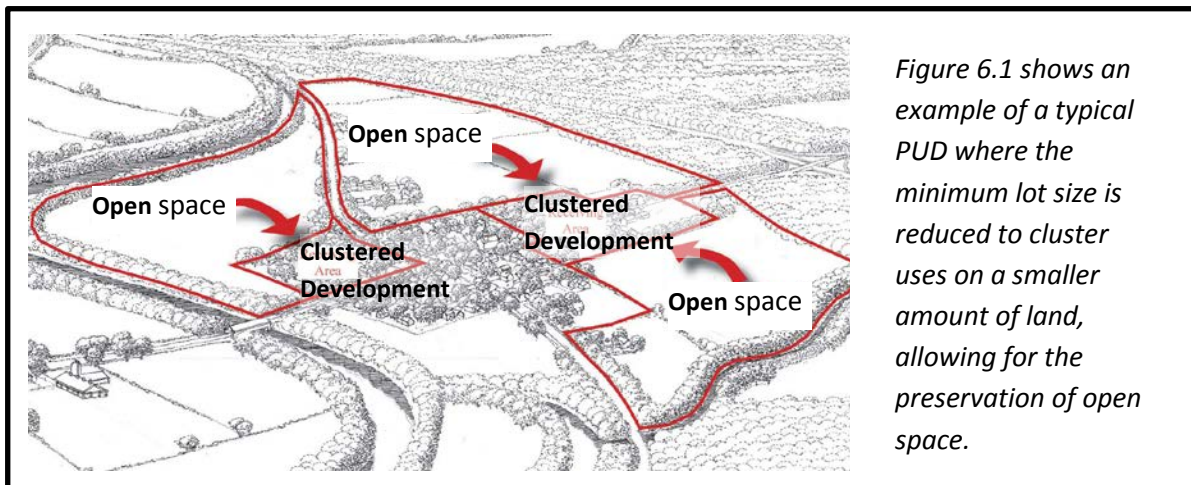
2. **Permitted uses** in a **PUD** may include and shall be limited to any nonresidential use allowed as a permitted or conditional use in the district in which the uses allowed as Permitted or Conditional uses in the District in which it is located.
3. **Dwelling units** permitted may, at the discretion of the DRB, **be varied types** including one family, two -family, or multifamily 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.

**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.



- 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 land owners.

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



- 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.
  - 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.

## **Section 6.11 Seasonal Conversion**

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- A. A seasonal dwelling unit may be converted to a single family 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. Two off-street parking spaces per dwelling unit 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. **Layout Coordination.**

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 or unless in the opinion of the **DRB** 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. **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.

3. **Through Traffic.**

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

4. **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.

5. **Dead Ends.**

No dead end streets shall be permitted without a suitable **cul-de-sac** at its terminus with a radius of not less than **thirty feet**.

**6. 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.

**7. 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.

**8. 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**.

**9. Drainage.**

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

**10. Design.**

All streets shall be constructed in accordance with **State design standards** and the **Town Road Acceptance Policy**.

**11. 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.

**12. Filing in Land Records.**

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

**13. 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 Accessibility

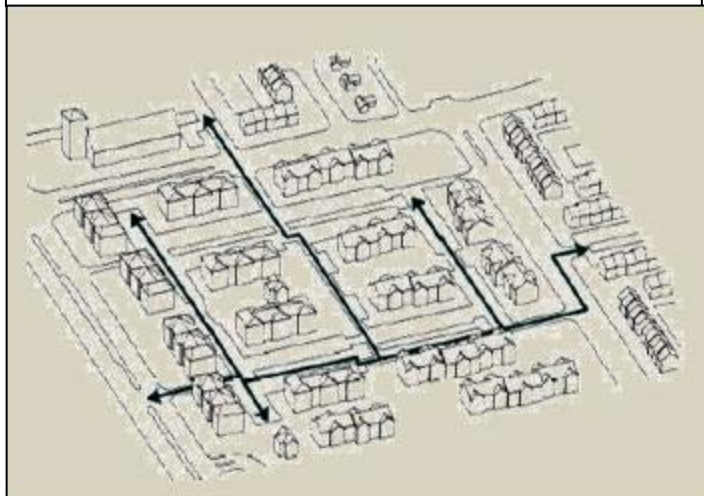
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- A. **Adequacy of pedestrian circulation.** All development in Highgate shall provide pedestrian facilities that are adequate in terms of safety, convenience, access to points of destination, attractiveness, and connections with pedestrian ways on adjoining properties.
- B. All development in the Village and Medium Density Residential districts shall provide adequate pedestrian circulation via sidewalks. Development in all other districts may require pedestrian facilities such as sidewalks or non-motorized improved paths. The DRB may require curbs and sidewalks along the road frontage and a sidewalk to the entrance of the building to facilitate pedestrian access to the site and between the site and nearby services, facilities and neighborhoods. The design of all facilities should refer to the *Vermont Pedestrian and Bicycle Facility Planning and Design Manual*.

### C. Pedestrian Access in Subdivisions and PUDs.

1. **Pedestrian Circulation.** All projects will provide adequate pedestrian circulation within the project, such as sidewalks and pathways along public and private streets, connecting the project to public buildings and uses, to other commercial or industrial uses, and to nearby residential and recreation areas.
2. **Required improvements.** Curbs and sidewalks are required in the Village and Medium Density Residential districts. Adequate pedestrian circulation via sidewalks and/or non-motorized improved paths is required in all other districts.
3. **Pedestrian Rights of Way.** The DRB may require, in order to facilitate pedestrian access from the roads to schools, parks, playgrounds, or other nearby roads, perpetual unobstructed easements at least twenty (20) feet in width. Easements shall be indicated on the plat.
4. 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.

**Figure 7.1 Circulation.** This image is an example of a project that contributes to a logical street and pedestrian network.



## Section 7.4 Outdoor Lighting

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- A. 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.** It must be located and adjusted so as not to cast light directly on adjacent roadways or properties. Spot-lights are generally not permitted. **High Pressure Sodium lamps are not allowed** unless used as an addition to an existing lighting scheme.
- B. The **DRB** may prohibit fixtures that cause **excessive glare** within the property or on adjoining properties. They may limit or adjust the number, intensity, and location of fixtures to provide for **even treatment of lighting**, reduce impacts on the **night sky**, and to ensure **limited impact** on surrounding properties.

## Section 7.5 Landscaping, Screening and Open Space

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- A. The DRB may require landscape improvements for the purpose of reducing 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.
  4. Screening is required to shield or obscure commercial and industrial properties where they abut residential properties or public roads.

***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.*

5. Parking areas for uses other than single and two-family dwellings shall be landscaped and screened from adjacent uses.
  6. 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**.
  7. The placement of trees and other landscaping shall not interfere with site distances at adjacent street intersections or parking lot access points.
- B. 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 7.8 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 7.9 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.
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 7.10 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 Lands to which these Standards Apply

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- A. These standards shall apply to development in the Flood Hazard Overlay District. This District includes the Special Flood Hazard Areas 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 VSA §753, which are hereby adopted by reference and declared to be part of these regulations.

The location of the Special Flood Hazard Area boundary shall be determined by the Zoning Administrator. This determination is appealable to the Development Review Board. The Development Review Board shall rule in accordance with a Letter of Map Amendment (LOMA) from FEMA.

The provisions of these Flood Hazard Regulations shall not in any way impair or remove the necessity of compliance with any other local, state, or federal laws or regulations. Where this flood hazard regulation imposes a greater restriction the provisions here shall take precedence.

**B. Base Flood Elevations & Floodway Limits.**

1. Where available, base flood elevations and floodway limits provided by the National Flood Insurance Program and in the Flood Insurance Study and accompanying maps shall be used to determine the boundary of the Special Flood Hazard Area and regulatory floodway and in administering these regulations. In Special Flood Hazard Areas where base flood elevations and/or floodway limits have not been provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps, it is the applicant's responsibility to develop the necessary data. Where available, the applicant shall use data provided by FEMA, or State, or Federal agencies.
2. The regulatory floodway in the Town of Highgate means the Floodway identified in and on the most current flood insurance studies and maps published by the DHS, FEMA, and the channel of the watercourse and the adjacent lands that must be reserved in order to discharge the base flood without cumulative increasing the water surface elevation more than 1.00 foot at any point.

- C. **Warning and Disclaimer.** The Flood Hazard Overlay District standards in this section do not imply that land outside of the areas of special flood hazard or land use permitted within Flood Hazard Overlay District will be free from flooding or flood damages. These standards shall not create liability on the part of the Town of Highgate or any town official or

employee thereof for any flood damages that result from reliance on the standards of this section or any administrative decision lawfully made thereunder.

## **Section 8.2 Development Permits in the Flood Hazard Overlay District**

- A. A permit is required for all development within the Special Flood Hazard Area. For the purposes of this Section, development is defined as any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials in accordance with Title 44 CFR 59.1.

<b>Table 8.1 Allowable Development in the Flood Hazard Overlay District</b>			
<b>P = Permitted Use</b>	<b>X = Prohibited</b>	<b>Special Flood Hazard Area</b>	<b>Floodway</b>
<b>C = Conditional Use</b>	<b>E = Exempt</b>		
New residential or non-residential structures (including the placement of manufactured homes)		C	X
Substantial improvement, elevation, relocation, or flood proofing of existing structures		C	C
Non-Substantial Improvements to existing structures		P	C
Accessory structures		P	C
Building utilities		P	X
New or replacement storage tanks for existing structures		C	X
At grade parking for existing buildings		P	X
Fill as needed to elevate existing structure		C	C
Grading or excavation not otherwise integral to other listed land development; or the creation of a pond		C	X
Bridges, culverts, channel management activities, or public projects which are functionally dependent on stream access or stream crossing		C	C
Maintenance of existing roads		E	E
Improvements to existing roads		C	C
Public utilities		C	X
Recreational vehicles		P	X

B. **Exempted Development throughout the Special Flood Hazard Area and Floodway.** The following are allowed throughout the Special Flood Hazard Area, including the floodway:

1. The removal of a building or other structure in whole or in part;
2. Maintenance of existing roads and storm water drainage;
3. Agricultural activities conducted in accordance with the Vermont Department of Agriculture’s Accepted Agricultural Practices (AAP); and
4. Silvicultural (forestry) activities conducted in accordance with the Vermont Department of Forests and Parks Acceptable Management Practices.

- C. **Prohibited Development throughout Special Flood Hazard Area and Floodway.** The following are prohibited throughout the Special Flood Hazard Area, including the floodway:
1. Storage of any explosive, flammable, hazardous, toxic, or floatable materials, or junk yards;
  2. Critical facilities;
  3. All development not exempted, permitted or conditionally permitted within the SFHA or Floodway; and
  4. New fill except where necessary to elevate structures above the base flood elevation.

### **Section 8.3 Application Requirements**

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- A. **Application Requirements.** In addition to the application requirements for permitted or conditional uses as applicable, applications for development within the Flood Hazard Area Overlay District shall also include the following information:
1. The location and elevations of all structures, roads, and water supply and wastewater facilities in relation to the channel, floodway, and base flood elevations on the site development plan;
  2. A completed FEMA "Elevation Certificate" prepared by a registered surveyor, engineer, architect or other official authorized by the state to certify building elevations, for any building constructed after the publication of the Town's Flood Insurance Rate Maps;
  3. Where flood-proofing is proposed (as allowed only for nonresidential buildings), a completed FEMA "Flood-proofing Certificate" prepared by a registered professional engineer or architect who is authorized by the state to certify flood-proofing design and construction;
  4. A hydraulic and hydrologic analysis for any development located within the floodway;
  5. A description of the extent to which any watercourse will be altered or relocated as a result of the proposed development; and
  6. A Vermont Agency of Natural Resources Project Review Sheet for the proposal. The Project Review Sheet shall identify all State and Federal agencies from which permit approval is required for the proposal, and shall be filed as a required attachment to the municipal permit application. The identified permits, or letters indicating that such permits are not required, shall be submitted to the ZA and attached to the permit before work can begin.

- B. **Referrals.** In accordance with § 4424 (2)(D) of the Act, no zoning permit for new construction or substantial improvement of land in the Flood Hazard District shall be issued until:
1. A copy of the application is mailed or delivered by the Zoning Administrator or by the Board of Adjustment, to the Agency of Natural Resources; and
  2. Either 30 days elapse following the mailing or the Agency of Natural Resources delivers comments on the application.
- C. Any permit issued for development in the Special Flood Hazard Area will require that all other necessary permits from State or Federal Agencies have been received before work may begin.
- D. If the applicant is seeking a permit for the alteration or relocation of a watercourse, copies of the application shall also be submitted to the adjacent communities, the Stream Alteration Engineer at the Vermont Agency of Natural Resources, and the Army Corps of Engineers. Copies of such notice shall be provided to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation. A permit may be issued only following receipt of comments from the Vermont Agency of Natural Resources, or the expiration of 30 days from the date the application was mailed to the Vermont Agency of Natural Resources, whichever is sooner.

#### **Section 8.4 Certificate of Occupancy for Special Flood Hazard Area**

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- A. In accordance with Chapter 117 §4449, it shall be unlawful to use or occupy, or permit the use or occupancy of any land or structure, or part thereof, created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure within Special Flood Hazard Area until a certificate of occupancy is issued by the Zoning Administrator, stating that the proposed use of the structure or land conforms to the requirements of these bylaws. A certificate of occupancy is not required for structures that were built in compliance with the bylaws at the time of construction and have not been improved since the adoption of this bylaw.
- B. Within 14 days of the receipt of the application for a certificate of occupancy, the Zoning Administrator shall inspect the premises to ensure that all permits identified on the Project Review Sheet have been acquired and that all work has been completed in conformance with the Zoning Permit and associated approvals. If the Zoning Administrator fails to grant or deny the certificate of occupancy within 14 days of the submission of the application, the certificate shall be deemed issued on the 15th day. If a Certificate of Occupancy cannot be issued, notice will be sent to the owner and copied to the lender.



## Section 8.5 Flood Hazard Area Development Standards

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### A. All Development. All development in the Special Flood Hazard areas shall be:

1. Reasonably safe from flooding;
2. Designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure during the occurrence of the base flood;
3. Constructed with materials resistant to flood damage;
4. Constructed by methods and practices that minimize flood damage;
5. 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;
6. Adequately drained to reduce exposure to flood hazards;
7. Located so as to minimize conflict with changes in the river channel location over time and the need to intervene with such changes; and
8. Required to locate any fuel storage tanks (as needed to serve an existing building in the Special Flood Hazard Zone) a minimum of one foot above the base flood elevation and be securely anchored to prevent flotation; or storage tanks may be placed underground, if securely anchored as certified by a qualified professional.

### B. Residential Development.

1. New construction and existing buildings to be substantially improved that are located in Zones A1-30, AE, and AH shall have the lowest floor, including basement, elevated to at least **one (1) foot above the base flood elevation**.
2. The following types of manufactured homes shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to no less than **one (1) foot above the base flood elevation** and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement during the occurrence of the base flood:
  - a. New manufactured homes;
  - b. Existing manufactured homes to be substantially improved that are:
    - i. located in a new manufactured home park or subdivision;
    - ii. located outside of a manufactured home park or subdivision;
    - iii. in an expansion to an existing manufactured home park or subdivision; or

- iv. in a manufactured home park or subdivision which has incurred substantial damage from a flood.
3. Manufactured homes located in an existing manufactured home park, where elevating a replacement home to or above base flood elevation is not possible, the lowest floor shall be supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 48 inches in height above grade and be securely anchored to an adequately anchored system to resist floatation, collapse, and lateral movement.

**C. Non-Residential Development.**

1. New construction located in Zones A1-30, AE, and AH shall have the lowest floor, including basement, elevated to at least **one (1) foot above the base flood elevation**.
2. Existing buildings to be substantially improved located in Zones A1-30, AE, and AH shall have the lowest floor, including basement, elevated **one foot above the base flood elevation** or shall be designed together with attendant utility and sanitary facilities to be watertight to at least **two (2) feet above the base flood elevation** with walls substantially impermeable and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
3. A permit for a building proposed to be floodproofed 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.

**D. Enclosed Areas Below the Lowest Floor.**

1. Fully enclosed areas below grade on all sides (including below grade crawlspaces and basements) are prohibited.
2. Fully enclosed areas that are above grade, below the lowest floor, below base flood elevation and subject to flooding, shall:
  - a. Be solely used for parking of vehicles, building access, or storage, and such a condition shall be clearly stated on any permits; and
  - b. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Such designs must be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

- i. A minimum of two openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided;
  - ii. The bottom of all openings shall be no higher than one (1) foot above grade; and
  - iii. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- E. Recreational Vehicles.** Recreational Vehicles placed on sites within special flood hazard areas shall either be:
  1. On the site for fewer than 180 consecutive days;
  2. Fully licensed and ready for highway use; or
  3. Permitted in accordance with the elevation and anchoring requirements for “manufactured homes” in section B.2(b).
- F. Accessory Structures.** A small accessory building that represents a minimal investment need not be elevated to the base flood elevation provided the structure meets the following requirements:
  1. The structure must only be used for parking or storage;
  2. The structure must have the required openings to allow floodwaters in and out;
  3. The structure must be constructed using flood resistant materials below the Base Flood Elevation;
  4. The structure must be adequately anchored to resist flotation, collapse, and lateral movement; and
  5. All building utility equipment including electrical and heating must be elevated or floodproofed.
- G. Subdivisions.** New subdivision developments must be accessible by dry land access outside the special flood hazard area.
- H. Water Supply Systems.** New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- I. Sanitary Sewage Systems.** New and replacement 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.

- J. On-Site Waste Disposal Systems.** On-site wastewater disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- K. Watercourse Carrying Capacity.** The flood carrying capacity within any altered or relocated portion of a watercourse shall be maintained.
- L. Bridges and Culverts.** Bridges and culverts which by their nature must be placed in or over the stream, must have a stream alteration permit from the Agency of Natural Resources where applicable.
- M. Floodway Areas.**
1. Encroachments or development above grade and less than one foot above the base flood elevation, are prohibited unless hydrologic and hydraulic analyses are performed in accordance with standard engineering practice, by a registered professional engineer, certifying that the proposed development will:
    - a. Not result in any increase in flood levels (0.00 feet) during the occurrence of the base flood;
    - b. Not increase any risk to surrounding properties, facilities, or structures from erosion or flooding.
  2. Public utilities may be placed underground, and the analyses may be waived, where a registered professional engineer certifies that there will be no change in grade and the utilities will be adequately protected from scour.

## **Section 8.6 Standards for Review of Nonconforming Structures**

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- A.** The Development Review Board may approve the repair, relocation, replacement, or enlargement of a nonconforming structure within a flood hazard area provided that:
1. The proposed development is in compliance with all the Development Standards in Section 8.5 of these regulations;
  2. A nonconforming structure that is substantially damaged or destroyed may be reconstructed only in circumstances when the structure cannot be relocated to a less hazardous location on the parcel. The lowest floor of the reconstructed structure must be rebuilt to one foot or more above the base flood elevation and the structure must otherwise comply with all requirements of the National Flood Insurance Program;
  3. Nonconforming structures or uses shall be considered abandoned where such structures or uses are discontinued for more than 12 months; and
  4. An individual manufactured home lot in an existing manufactured home park that is vacated shall not be considered a discontinuance or abandonment of nonconformity.

Replacement manufactured homes must be placed so as to meet the development standards in these regulations.

### **Section 8.7 Variances to the Development Standards**

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- A. Variances shall be granted by the DRB only in accordance with 24 V.S.A. § 4469 and in accordance with the criteria for granting variances found in 44 CFR, Section 60.6, of the National Flood Insurance Program regulations. A decision in favor of the appellant shall be granted if all the following facts are found, and the supporting findings are specified in the decision:
1. Variances are generally limited to a lot size less than one-half acre relating to historical structures (provided the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure), or a necessary development functionally dependent on stream access.
  2. The variance, if authorized shall be issued by the AMP only upon:
    - a. Determination that failure to grant the variance would result in exceptional hardship to the applicant;
    - b. Determination that the variance will not result in increased flood heights, increased susceptibility to flooding or erosion, additional threats to public safety or infrastructure (including emergency services during flood events), or extraordinary public expense; and
    - c. The variance will not increase the potential of materials being swept onto other lands or into the stream and causing damage to others.
  3. The variance if granted will represent the minimum variance that will afford relief and will represent the least deviation possible from the bylaw and from the plan.
  4. Any variance issued in the Special Flood Hazard Area will inform the applicant in writing over the signature of a community official that the issuance of a variance to construct a structure below the base flood elevation increases risk to life and property and will result in increased flood insurance premiums up to amounts as high as \$25 for \$100 of coverage. Such notification shall be maintained with a record of all variance actions.

### **Section 8.8 Recording Requirements**

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- A. The Zoning Administrator shall maintain a record of development within the Flood Hazard Area Overlay District including:
1. All permits issued for development in the Special Flood Hazard Area;

2. Elevation Certificates with the as-built elevation (consistent with the datum of the elevation on the current Flood Insurance Rate Maps for the community) of the lowest floor, including basement, of all new or substantially improved buildings (not including accessory buildings) in the Special Flood Hazard Area;
3. All flood proofing and other certifications required under this regulation; and
4. All decisions of the DRB (including variances and violations) and all supporting findings of fact, conclusions and conditions.

## **Section 8.9 Violation of Flood Hazard Area Regulations**

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- A.** Where a violation of the Flood Hazard Overlay District standards and regulations has not been cured after a warning notice has been sent in accordance with Section 9.6 (Violations), 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, authorizes FEMA to deny flood insurance to a property declared by a community to be in violation of their flood hazard area regulations. The declaration shall consist of:
1. The name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
  2. A clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;
  3. A clear statement that the public body making the declaration has authority to do so and a citation to that authority;
  4. Evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and
  5. A clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

## **Section 8.10 Flood Hazard Definitions**

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- A.** Definitions in this section apply only to the Flood Hazard Regulations in this article. Additional definitions are found in Article 10.

**AREA OF SPECIAL FLOOD HAZARD:** See special flood hazard area.

**BASE FLOOD:** 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):** The height of the base flood, 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 average depth of the base flood, usually in feet, above the ground surface.

**BASEMENT:** Any area of the building having its floor elevation below ground level on all sides. A “walk-out” basement whose floor is at ground level on at least one side of the house, usually with a door on that side is not considered a "basement" for the purpose of the flood hazard regulations.

**COMMON PLAN OF DEVELOPMENT:** Where a structure will be refurbished over a period of time. Such work might be planned unit by unit.

**CRITICAL FACILITIES:** Include police stations, fire and rescue facilities, hospitals, shelters, schools, nursing homes, water supply and waste treatment facilities, and other structures the community identifies as essential to the health and welfare of the population and that are especially important following a disaster. For example, the type and location of a business may raise its status to a Critical Facility, such as a grocery or gas station that survive a flood and now are the only points for food and gas.

**DEVELOPMENT:** Any human-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

**ENCROACHMENT:** Any obstruction in a delineated floodway or adjacent land.

**EXISTING MANUFACTURED HOME PARK OR SUBDIVISION:** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the initial floodplain management regulations adopted by a community.

**EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION:** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**FILL:** Any placed material that changes the natural grade, increases the elevation, or diminishes the flood storage capacity at the site.

**FLOOD:** (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 INSURANCE RATE MAP (FIRM):** 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).

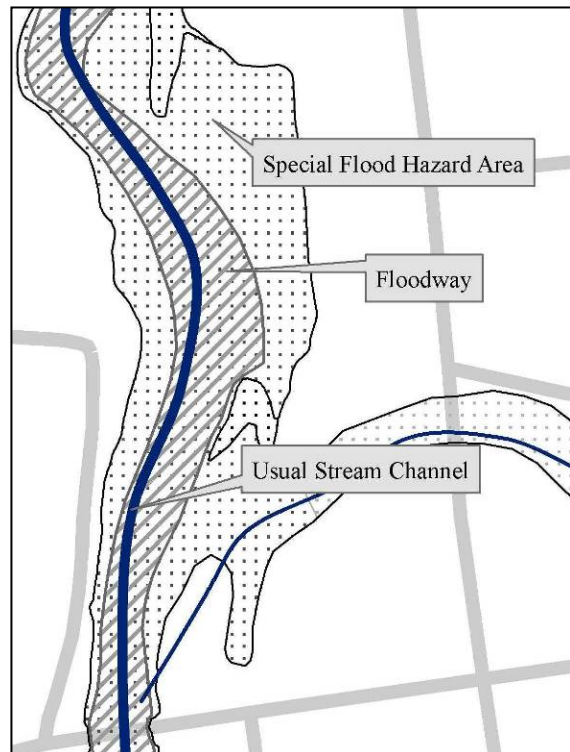
**FLOOD INSURANCE STUDY:** An examination, evaluation and determination of flood hazards and, if appropriate, the corresponding water surface elevations or an examination, evaluation and determination of mudslide (i.e., mudflow) and /or flood related erosion hazards.

**FLOODPLAIN OR FLOOD-PRONE AREA:** Any land area susceptible to being inundated by water from any source (see definition of “flood”).

**FLOOD PROOFING:** 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:** 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 where the Special Flood Hazard Areas have established base flood elevations, the extent of FEMA floodways may be shown on a separate series of panels.

**FUNCTIONALLY DEPENDENT USE:** A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water.



**Map 8.1 Floodplain Zones**



**HISTORIC STRUCTURE:** 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.

**LETTER OF MAP AMENDMENT (LOMA):** A letter issued by the Federal Emergency Management Agency officially removing a structure or lot from the flood hazard zone 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.

**LOWEST FLOOR:** The lowest floor of the lowest enclosed area, including basement, except 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 CFR 60.3.

**MANUFACTURED HOME:** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

**MANUFACTURED HOME PARK OR SUBDIVISION:** For development in the Flood Hazard Area Overlay District, a manufactured home park or subdivision shall mean a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale and a new manufactured home park or subdivision shall mean a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by a community.

**MINOR IMPROVEMENT:** Any repairs, reconstruction, or improvement of a structure (other than customary maintenance), the cost of which is less than fifty (50) percent of the market value of the existing structure.

**NEW CONSTRUCTION:** Structures for which the start of construction commenced on or after the effective date of the floodplain management regulation adopted by a community and includes any subsequent improvements to such structures. For the purposes of determining insurance rates, “new construction” means structures, including manufactured homes, for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.

**NON-RESIDENTIAL:** Includes, but is not limited to: small business concerns, churches, schools, nursing homes, farm buildings (including grain bins and silos), pool houses, clubhouses, recreational buildings, government buildings, mercantile structures, agricultural and industrial structures, and warehouses.

**RECREATIONAL VEHICLE:** 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.

**SPECIAL FLOOD HAZARD AREA:** The floodplain within a community subject to a 1 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 the Federal Emergency Management Agency. Maps of this area are available for viewing in the Town 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:** 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, regardless whether that alteration affects the external dimensions of the building.

**STRUCTURE:** A walled and roofed building, as well as a manufactured home, and any related built systems, including a gas or liquid storage tanks.

**SUBSTANTIAL DAMAGE:** 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:** Any reconstruction, rehabilitation, addition, or other improvement of a structure after the date of adoption of these regulations, the cost of which, over three years, or over a 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 specification which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (b) Any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”

**VIOLATION:** 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 CFR 60.3 is presumed to be in violation until such time as that documentation is provided.

## 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], an 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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### B. 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 days 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.

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

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

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

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

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

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

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

**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**.

**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.

**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.