

Planning Commission
Martin Memorial Hall
5459 Rte 5 Ascutney, VT
Planning Commission Meeting
DRAFT Monday, August 14, 2023 6:30 PM

Planning Commission Members Present:

Paul Tillman
Howard Beach
Michael Todd (arrived at 6:38 pm)
David (Hank) Ainley
Joseph Bublat

Ryan Gumbart, Land Use Administrator

Attendees: Julie Levy

Online Attendees: Brian Bosenberg

1. Call to Order made by Paul Tillman, Chair 6:33 pm.
2. Agenda Review
No Changes
3. Comments from the Chair and Land Use Administrator
Paul Tillman made note that he still owes Ryan Gumbart a sketch plan review for Danies.

Ryan Gumbart let the Planning Commission know that he accepted the Land Use position with the Town of Windsor and would still be working for the Town of Weathersfield, however the Town has also hired a new employee in the Land Use office for an additional 8 hours a week to help.

4. Comments from Citizens regarding items not on the agenda.
None
5. Approval of Meeting Minutes – July 24, 2023

Joseph Bublat made a motion to approve the minutes from July 24, 2023 with corrections as needed.

Howard Beach – 2nd

Discussion – Ryan Gumbart noted that Grace Knight needed to be added to the list of attendees and Julie Levy requested a correction to the spelling of her name.

Vote – 4 aye

1 absent (Michael Todd had not arrived at this time)

6. Public Hearing – Town Plan Amendment – Energy Section

Ryan Gumbart stated that he sent changes to Jason Rasmussen who then forwarded them to Martha Harrington for review. She returned the section with her suggestions. The Planning Commission had not had time to review the suggestions at the time of the meeting. It was decided to allow time for them to review all suggestions, make notes, questions, etc. and come back for another meeting to discuss further.

Paul Tillman made a motion to continue the Town Plan Amendment – Energy Section hearing to Monday September 11, 2023 at 6:30 pm.

Michael Todd – 2nd

No further discussion

Vote - unanimous

7. Aquifer Protection Overlay District: Discuss input from MARC

Town of Weathersfield, Vermont Model Groundwater Protection Ordinance

The following model ordinance is designed to be incorporated, as an overlay zone, into an existing zoning bylaw. An overlay zone functions within a zoning ordinance as a separate district that is placed over an existing district. The standards of the overlay zone do not exempt an applicant from meeting the standards of the underlying zone.

As the characteristics of all Source Protection Areas and all towns vary, it is recommended that municipalities consult with the Water Supply Division in tailoring this model ordinance to fit their specific needs.

GROUNDWATER PROTECTION OVERLAY DISTRICT

A. TITLE

This bylaw shall be known as the Groundwater Protection Overlay District Bylaw of the Town of Weathersfield ("GPOD Bylaw"). This bylaw is in addition to other districts already established through the Town of Weathersfield Zoning Ordinance.

B. PURPOSE AND INTENT

The Town of Weathersfield recognizes that many residents rely on groundwater for their safe drinking water supply, and that certain land uses can contaminate groundwater, particularly in shallow/surficial aquifers, or where contaminants can get into a bedrock aquifer. To ensure the protection of these drinking water supplies, this bylaw establishes a zoning overlay district to be known as the Groundwater Protection Overlay District (GPOD).

The purpose of the GPOD is to protect public health and safety by minimizing contamination of vulnerable aquifers and preserving and protecting existing and potential sources of drinking water supplies. It is the intent of the Town

of Weathersfield to accomplish this through the adoption of this GPOD. The GPOD allows for appropriate land use regulations, in addition to those currently imposed by existing zoning districts or other state and federal regulations. It is intended that public education and cooperation will complement this effort.

The GPOD is superimposed on all current zoning districts and shall apply to all new construction, reconstruction, or expansion of existing buildings and new or expanded uses. Applicable activities/uses allowed in a portion of one of the underlying zoning districts that fall within the GPOD must additionally comply with the requirements of this district. Uses prohibited in the underlying zoning districts shall not be permitted in the GPOD.

C. AUTHORITY

This bylaw has been prepared and adopted pursuant to the provisions of 24 V.S.A. Chapter 117 (§ 4414(2)), known as the Vermont Municipal and Regional Planning and Development Act.

2. Pursuant to 24 V.S.A. Chapter 117, the [Zoning Board of Adjustment] of the Town of Weathersfield is authorized to review, approve, conditionally approve, and deny applications for land development, including sketch, preliminary and final plans, and installation. Pursuant to 24 V.S.A. § 4440(d) the [Board] is authorized to hire qualified persons to conduct an independent technical review of applications and to require the applicant to pay for all reasonable costs thereof.

D. DEFINITIONS

For the purposes of this section, the following terms are defined below:

1. **Aquifer.** A geological formation, group of formations or part of a formation either composed of unconsolidated rock, sand, gravel, or other unconsolidated soils, or composed of bedrock with an interconnected series of crevasses, fractures, joints, faults, cleavages, bedding planes, porosity, or other geologic features which allow groundwater to move in the subsurface environment and are capable of storing and yielding groundwater to wells and springs.
2. **Contamination.** An impairment of water quality by chemicals, biologic organisms, or other extraneous matter whether or not it affects the potential or intended beneficial use of water.
3. **Land Development.** The division of a parcel into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, or of any mining, excavation or landfill, and any change in the use of any building or other structure, or land, or extension of use of land.
4. **Facility.** Something that is built, installed, or established for a particular purpose.
5. **Gray Water.** All domestic wastewater except toilet discharge water.
6. **Groundwater.** Water below the land surface in a zone of saturation.
7. **Groundwater Protection Overlay District.** A zoning district that is superimposed on all underlying zoning districts in the Town of Weathersfield. It includes all lands that are included in the definitions of Zones A and B of the GPOD, and is included in the Official Map of the Town of Weathersfield. This district may include specifically

designated recharge areas that collect precipitation or surface water and carry it to aquifers.

8. **Hazardous Material** means all petroleum and toxic, corrosive or other chemicals and related sludge included in any of the following:

(A) any substance defined in section 101(14) of the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980;

(B) petroleum, including crude oil or any fraction thereof; or

(C) hazardous wastes, as determined under subdivision (9) of this section;

15. **Stormwater Treatment Practice (STP).** A stormwater treatment practice that is a specific device or technique designed to provide stormwater quality treatment and or quality control.

16. **Stormwater Runoff.** Precipitation that does not infiltrate the soil, including material dissolved or suspended in it, but does not include discharges from undisturbed natural terrain or wastes from combined sewer overflows.

17. **Time-Of-Travel Distance.** The distance that groundwater will travel in a specified time. This distance is generally a function of the permeability and slope of the aquifer.

E. ZONES WITHIN THE GROUNDWATER PROTECTION OVERLAY DISTRICT

1. Zone A: Drinking Water Critical Impact Zone.

Zone A is defined as the area within the combined two-year time-of-travel distance and zones 1 and 2 as identified in an existing water system's Source Protection Plan where these zones have been mapped around a public water supply well(s) or around the location designated for a potential future water supply.

Permitted Uses:

Public water distribution systems and facilities, accessory structures (to other permitted uses), parks, greenways, publicly-owned recreation areas such as foot, bicycle, and/or horse paths, playgrounds, ballfields and tennis courts, conservation areas, forestry, agriculture, camp, recreation facilities, single- and/or two-family dwellings, group home, home child care, home occupation

Conditional Uses:

Accessory dwelling units, accessory uses, single- and/or two-family dwellings, schools (private and public), church, day care center, child care facility, kennel, garden center, health clinic, recreation, garden center, outdoor market, funeral home, cultural facility, agribusiness, agritourism, contractor's yard, restaurants, transit facility, telecommunications facility, office, inn, home industry, extraction and quarrying, community center, home business, home occupation, essential services, managed grazing of livestock, mobile home parks, recreation, forestry, telecommunications, wind energy conversion.

Prohibited Uses:

Fuel or hazardous material storage, hazardous waste management, underground fuel storage tanks, fueling station, repair garage, body shop, car wash, laundromat, dry cleaner, machine shops, contractor's yard, bus garage, highway maintenance facility, slaughterhouse, junkyard, landfill, recycling center, commercial compost facility, industrial/commercial earth resource/groundwater extraction, on-site wastewater disposal systems, wastewater treatment facilities, open storage of road salt or other deicing chemicals, disposal of snow which has been brought in from outside the district, commercial metal plating/finishing/polishing, chemical/medical/bacteriological laboratories or manufacturing facilities, manufacturing facilities for electrical

equipment/pharmaceuticals/plastic/fiber, glass/rubber goods/textiles, commercial food processing, commercial photographic processing, commercial wood processing, printing establishments, concrete plants, furniture stripping establishments, commercial feeding of livestock,

(D) "Hazardous material" does not include herbicides and pesticides when applied consistent with good practice conducted in conformity with federal, state and local laws and regulations and according to manufacturer's instructions.

(E) "Hazardous material" does not include livestock wastes.

9. Hazardous waste. Any waste or combination of wastes of a solid, liquid, contained gaseous, or semi-solid form, including, but not limited to those which are toxic, corrosive, ignitable, reactive, strong sensitizers, or which generate pressure through decomposition, heat or other means, which in the judgment of the Secretary of the Vermont Agency of Natural Resources may cause, or contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, taking into account the toxicity of such waste, its persistence and degradability in nature, and its potential for assimilation, or concentration in tissue, and other factors that may otherwise cause or contribute to adverse acute or chronic effects on the health of persons or other living organisms, or any matter which may have an unusually destructive effect on water quality if discharged to ground or surface waters of the state. All special nuclear, source, or by-product material, as defined by the Atomic Energy Act of 1954 and amendments thereto, codified in 42 U.S.C. § 2014, is specifically excluded from this definition. The storage and handling of livestock wastes and by-products are specifically excluded from this definition.

10. Primary Containment Facility. A tank, pit, container, pipe or vessel of first containment of a liquid or chemical, excluding the storage and handling of livestock wastes and by-products.

11. Public water supply. Any system(s) or combination of systems owned or controlled by a person, that provides drinking water through pipes or other constructed conveyances to the public and that has at least 15 service connections or serves an average of at least 25 individuals daily for at least 60 days out of the year. Such term includes all collection, treatment, storage and distribution facilities under the control of the water supplier and used primarily in connection with such system, and any collection or pretreatment storage facilities not under such control that are used primarily in connection with such system. In addition, this includes any water supply system with ten or more residential connections.

12. Release. Any unplanned or improper discharge, leak, or spill of a potential contaminant including a hazardous material and/or hazardous waste, excluding the storage and handling of livestock wastes and by-products.

13. Secondary Containment Structure. A double walled tank, catchment pit, pipe, or vessel that limits and contains a hazardous material or hazardous waste leaking or leaching from a primary containment area; monitoring

and recovery are required excluding the storage and handling of livestock wastes and by-products.

14. Spill Response Plans. Detailed plans for control, re-containment, recovery and clean up of hazardous material and/or hazardous waste releases, such as during fires or equipment failures.

pesticide/herbicide/fungicide storage, pesticide/herbicide/fungicide applications with the exception of those reviewed and approved by the Department of Health, industrial uses.

c. Two Year Time of Travel: Approval of septic disposal systems within the two-year time of travel boundary is prohibited unless it can be demonstrated that the discharge from the septic disposal site is not hydraulically connected to the drinking water aquifer, or that additional information is presented to document that a two-year time of travel is met or exceeded to the existing or potential water supply source.

2. Zone B: Drinking Water Potential Impact Zone.

Zone B is established as the remainder of the GPOD not included in Zone A, but deemed necessary to ensure adequate protection of public drinking water supplies. (*Note: Zone B is generally equivalent to a public water supply's Zone 3 as identified in their water system's Source Protection Plan.*)

- a. **Permitted Uses:** All uses allowed in the underlying zoning districts provided that they can meet the Performance Standards as outlined for the GPOD.
- b. **Conditional uses:** All conditional uses permitted in underlying districts may be approved by the Town of Weathersfield Zoning Board of Adjustment provided they can meet performance standards outlined for the GPOD.
- c. **Performance Standards:** The following permitting standards shall apply to uses in Zones A and B of the GPOD:
 - Any conditionally permitted facility involving the collection, handling, manufacture, use, storage, transfer or disposal of hazardous material or hazardous wastes must have a secondary containment system that is easily inspected and whose purpose is to intercept any leak or release from primary containment vessel or structure. Underground tanks or buried pipes carrying such materials must have double walls and inspectable sumps.
Open liquid waste ponds containing hazardous material or hazardous wastes will not be permitted without a secondary containment system.

Storage of petroleum products in quantities exceeding (1,000) gallons at one locality in one tank or series of tanks must be in elevated tanks; such tanks must have a secondary containment system as noted above.

- All permitted facilities must adhere to appropriate federal and state standards for storage, handling and disposal of any hazardous material or hazardous waste.
All conditionally permitted facilities must prepare an acceptable contingency plan for preventing hazardous materials and/or hazardous wastes from contaminating the shallow/surficial aquifer should floods, fire, or other natural catastrophes, equipment failure, or releases occur:
 - (a) **All** conditionally permitted underground facilities shall include, but not be limited to a monitoring system and secondary standpipe 5-feet above the 100-year flood control level, for monitoring and recovery. For above-ground conditionally permitted facilities, an impervious dike, 5-feet above the 100-year flood level and capable of containing 110 percent of the largest volume of storage, will be provided with an overflow recovery catchment area (sump).

All conditionally permitted facilities shall include fire fighting plans and procedures, a fire retarding system, and provide for dealing safely with any other health and technical hazards that may be encountered by disaster control personnel in combating fire. Hazards to be considered are pipes, hazardous materials, hazardous wastes, or open flames in the immediate vicinity.

(b) For equipment failures, plans for conditionally permitted facilities that use, maintain, store, process or produce hazardous materials and/or hazardous wastes shall include, but not be limited to, below-ground level, removal and replacement of leaking parts, a leak detection system with monitoring, and an overfill protection system; and above-ground level, liquid and leaching monitoring of primary containment systems, the replacement or repair and cleanup and/or repair of the impervious surface.

(c) For any other release occurring, the owner and/or operator shall report all incidents involving liquid or chemical material to the Town of Weathersfield.

Since it is known that improperly abandoned wells can become a direct conduit for contamination of groundwater by surface water, all abandoned wells shall be properly plugged according to local and state regulations.

3. Liability.

Nothing in this ordinance shall be construed to imply that the Town of Weathersfield has accepted any of an owner/developer's liability if a permitted facility or use contaminates groundwater in any aquifer.

F. DISTRICT BOUNDARY DISPUTES

If the location of the GPOD boundary in relation to a particular parcel is in doubt and the application already requires conditional use approval because of the requirements of the underlying zone, the Town Zoning Administrative Officer, interpreting the municipal zoning bylaw literally, shall inform the applicant whether he/she believes the project is located within the GPOD. If the project would not need conditional use approval based on the requirements of the underlying district, the Zoning Administrative Officer may still determine, based on the official map, that such project is located within the GPOD. Such decision may be appealed to the [Zoning Board of Adjustment].

The burden of proof shall be upon the owner(s) of the land to demonstrate where the boundaries of the district should be located with respect to their individual parcel(s) of land. If the owner(s) request that the Town of Weathersfield determine more accurately the boundaries of the district with respect to individual parcels of land, the Town may engage a professional engineer, hydrologist, geologist, or soil scientist and charge the owner(s) for the cost of the investigation. If the location of the GPOD boundary in relation to a particular parcel is in doubt and the application already requires conditional use approval because of the requirements of the underlying zone, the Town Zoning Administrative Officer, interpreting the municipal zoning bylaw literally, shall inform the applicant whether he/she believes the project is located within the GPOD. If the project would not need conditional use approval based on the requirements of the underlying district, the Zoning Administrative Officer may still determine, based on the official map, that such project is located within the GPOD. Such decision may be appealed to the [Zoning Board of Adjustment].

G. ENFORCEMENT AND PENALTIES

1. A violation of this ordinance shall be a civil matter enforced in accordance with the provisions of 24 V.S.A. §§ 4451, 4452 and 4454 or 24 V.S.A. §§ 1974a and 1977, et seq., in the discretion of the zoning administrator. A civil penalty of not more than \$200.00 per violation may be imposed for violation of this ordinance. The Zoning

Administrative Officer shall issue a notice of alleged violation, which shall include the opportunity to cure the violation within seven days. If it is not cured after seven days, a municipal ticket may be issued immediately. The Zoning Administrative Officer may institute, in the name of the municipality, any appropriate action seeking an injunction, or other appropriate relief to prevent, restrain, correct, or abate that construction or use. Such action may be initiated in either the Vermont Environmental Court, or in the Vermont Judicial Bureau, as appropriate. Each day that the violation continues shall constitute a separate violation of this ordinance.

H. ENFORCEMENT OFFICIALS

1. The town zoning administrator and health officer shall be the designated enforcement officer(s). Said designee(s) shall issue tickets and may be the appearing officer at any hearing.

I. ENFORCEMENT

J. SEVERABILITY. If any portion of this ordinance is held unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected. **K. EFFECTIVE DATE.** This zoning bylaw shall become effective 21 days after its adoption by the legislative body. (Unless the town has determined to adopt, amend, and repeal zoning bylaws by Australian ballot, in which case, the bylaw shall become effective upon adoption by the voters of the Town of Weathersfield.

This zoning bylaw shall become effective 21 days after it has been adopted by a majority of the Selectboard of the Town of Weathersfield.

8. Airport Overlay District: Review map from MARC

AAOD - Airport Approach Overlay District

Purpose: The purpose of the Airport Approach Overlay District (AAOD) is to provide an area of restricted use which protects the airport from injurious encroachment, and from nearby uses harmful to the operation of the airport and aircraft using it, pursuant to §4414(1)(C) of the Act.

This district also provides for the safe and convenient use of lands within the district, and allows the airport to successfully coexist with its neighbors within and without the district.

(A) Applicability. The AAOD consists of the airport approach zones that are shown on the Official Zoning Map of Weathersfield and defined below. All properties affected by this overlay district shall be subject to Site Plan Review per Section 5.3 and the Special Provisions in this Section. The 11/29 runway is 75 feet wide and 3,000 feet long. The 5/23 runway is 100 feet wide and 5,498 feet long, and extends into the Town of Weathersfield. The airport approach zones are defined as follows:

- 1. **Primary Surface** is the area longitudinally centered on a runway, and extends 200 feet beyond each end of the paved runway surface. The vertical elevation of the Primary Surface is the same as the elevation of the nearest point on the runway centerline. The Primary Surface for the 11/29 runway is 250 feet. The Primary Surface for the 5/23 runway is 500 feet.

2. **Approach Cones** are the areas longitudinally centered on the extended runway centerline and extend outward and upward from each end of the Primary Surface.
 - a. The Approach Cones for the 11/29 runway, extend outward from the Primary Surface for a distance of 5,000 feet, and are 1,250 feet wide at the end of each Approach Cone. The Approach Cones extend upward at slope of 20 to 1 beginning at the elevation of the Primary Surface.
 - b. The Approach Cones for the 5/23 runway, extend outward from the Primary Surface for a distance of 10,000 feet, and are 3,500 feet wide at the end of each Approach Cone. The Approach Cones extend upward at slope of 34 to 1 beginning at the elevation of the Primary Surface.
 - 1) **Horizontal Zone** is the horizontal plane 150 feet above the established airport elevation, the perimeter of which is determined by swinging arcs of specified radii (10,000 feet) from the center of each end of the Primary Surface of each runway, and connecting the arcs by lines tangent to those arcs. The horizontal zone does not include the approach cones or primary surface.
 - 2) **Conical Zone** is the surface extending outward for a horizontal distance of 4,000 feet, and upward from the periphery of the horizontal surface at a slope of 20 to 1.

(B) **Allowed Uses.** All permitted or conditional uses in the AAOD shall be limited to those uses permitted in the underlying zoning districts.

(C) **Special Provisions.** All properties affected by this overlay district shall be subject to the following Special Provisions:

1. No use, structure or trees shall be permitted which could obstruct the aerial approaches to the airport (i.e. extend above tree line or otherwise restrict airport operations).
2. All uses shall comply with applicable FAA or other federal and state regulations.
3. No lights or glare shall be permitted which could interfere with vision or cause confusion with airport lights.
4. No use shall be permitted which will produce electrical interference with radio communication or radar operations at the airport.

(D) **Implementation.**

1. When granting Site Plan Approval for projects located all or in part within the AAOD, in accordance with Section 5.3 of these Bylaws, the Zoning Board of Adjustment shall establish conditions designed to implement the requirements of this Section.
2. Site plans for the Airport Overlay District shall include topographic elevations at structure locations and structure height in addition to the application requirements listed in Table 5.1.2.
3. The Zoning Board of Adjustment may consult with the Springfield Airport Commission and/or the Aviation Section of the Vermont Agency of Transportation to determine the potential impacts of a proposed use on the operations of the Hartness State Airport.
4. Complaints of violation of this Section shall be administered by the Zoning Administrator in accordance with all applicable provisions of these Bylaws and the Vermont Planning Statute.

9. Act 47 (Home Act): Review changes to statutes and implications for zoning bylaws

S. 100 implications for Municipal Zoning Regulations:

Parking (changes to 24 VSA 4414 (4) go into effect on December 1, 2024)

In residential districts served by municipal sewer & water, regulations may only require one parking space per dwelling unit, except in areas that are located more than one-quarter mile from public parking and then the regulations may require 1.5 parking spaces per unit for duplexes and multi-unit dwellings.

In residential areas not served by both sewer and water, regulations may require 1.5 parking spaces per dwelling unit for duplexes and multi-unit dwellings.

Deed restrictions or covenants added after July 1, 2023 that conflict with these provisions shall not be valid, nor will they be valid if they require a minimum dwelling unit size.

Duplexes & Multi-unit Dwellings (changes to 24 VSA 4412 (1)(D) go into effect on July 1, 2023)

In residential districts served by municipal sewer & water, multi-unit dwellings with four or fewer units shall be a permitted use (unless the district requires multi-unit dwellings to have more than four units).

In all residential districts, duplexes are an allowed use with the same dimensional standards as single-unit dwellings.

Note: 24 VSA 4303 (39) has new definitions for “duplex” and “multi-unit (or multi-family) dwelling” which take effect on July 1, 2023.

Accessory dwelling units (changes to 24 VSA 4412 (1)(E) go into effect on July 1, 2023)

Except in flood hazard/fluviat erosion areas, single-family dwellings with ADUs are subject to the same requirements as single-family dwellings without ADUs. The criteria for converting an existing, detached, non-residential building to an ADU shall not be more restrictive than the criteria for a single-family dwelling without an ADU.

However, owner-occupied single-family dwellings with an ADU are considered public buildings (per 20 VSA 2730 (b)(4)) for fire safety purposes if any part of the structure is rented out (short-term or long-term).

Note: 24 VSA 4303 (38) has a new definition for “accessory dwelling unit” which takes effect on July 1, 2023.

Hotels (changes to 24 VSA 4412 (1)(H) go into effect on July 1, 2023)

Hotels shall not be prohibited from participating in the State’s General Assistance Program.

Density (changes to 24 VSA 4412 (12) go into effect on July 1, 2023)

In residential areas served by municipal sewer & water, the lot size for residential uses shall be 1/5 of an acre (8,712 sq. ft) or less, and building dimensional standards shall allow 5+ dwelling units per acre.

Density standards for multi-unit dwellings shall not be more restrictive than density standards for single-family dwellings.

Affordable Housing (changes to 24 VSA 4412 (13) go into effect on July 1, 2023)

In residential areas served by municipal sewer & water, bylaws shall permit affordable housing developments to exceed density limitations by 40% and height limitations by one floor (provided that the structure complies with fire safety code). So, lot size for affordable housing in these areas cannot exceed 6,222 sq. ft. and multi-unit dwellings can have four floors and 7 units/acre.

Emergency Shelters (changes to 24 VSA 4413 (a)(1)(G), (a)(2) and (a)(3) go into effect on September 1, 2023)

Emergency shelters join the list (state or community owned & operated institutions & facilities; schools; places of worship; hospitals; solid & hazardous waste facilities) of uses that may only be regulated with respect to: location, size, height, building bulk, yards, courts, setbacks, density, parking, loading, traffic, noise, lighting, landscaping, and screening. And only if regulations do not interfere with intended use.

Except for state owned & operated facilities, the above uses may be regulated for compliance with flood hazard/river corridor regulations, as long as the regulations do not interfere with the intended use.

Regulating the daily or seasonal hours of operation of an emergency shelter shall constitute interfering with the intended use.

Note: 24 VSA 4303 (40) has the following definition for “emergency shelter” which goes into effect on July 1, 2023: Any facility the primary purpose of which is to provide a temporary shelter for the homeless in general or for specific populations of the homeless and that does not require occupants to sign leases or occupancy agreements.

Areas served by municipal sewer & water (change to 24 VSA 4303 (42) goes into effect on July 1, 2023)

A definition for “area served by municipal sewer and water infrastructure” was added (see statute for exact wording). Basically it means an area where residential connections to municipal water and wastewater systems are not prohibited by state regulations/permits; identified capacity constraints; or municipally adopted service & capacity agreements.

Such areas established by municipal ordinance or bylaw may exclude:

- Flood hazard/river corridor/fluvial erosion areas
- Areas (e.g. overlay districts) established to protect natural resources
- Areas where year-round residential development is not allowed
- Areas where connections are limited by state regulations/permits, identified capacity constraints, or municipally adopted service & capacity agreements
- Areas that are serviced by sewer & water to address a public health or environmental hazard
- Areas that serve a mobile home park that is not within an area planned for year-round residential growth
- Areas that serve an industrial site/park

- Areas where service lines are located to address a public health/environmental hazard, or to serve a mobile home or industrial park, but no connections or expansions are permitted
- Areas that, pursuant to a PUD or a Transfer of Development Rights, prohibit year-round residential development

24 VSA 4303 (42)(B) specifies that “Municipally adopted areas served by municipal sewer and water infrastructure that limit sewer and water connections and expansions shall not result in the unequal treatment of housing by discriminating against a year-round residential use or housing type otherwise allowed in this chapter.”

Preparation of Bylaws, Amendments or Repeals (changes to 24 VSA 4441 (c) & (h) and 4442(c) go into effect on July 1, 2023)

4441 (c) The written report that Planning Commissions are required to prepare when they consider bylaws, amendments, or repeals, must include findings regarding how the proposal effects the availability of safe and affordable housing and sections 4412, 4413 and 4414 of 24 VSA, Chapter 117.

4441 (h) Upon adoption of a bylaw or amendment, the Planning Commission shall prepare an adoption report that:

1. Confirms that zoning district GIS data has been submitted to DHCD.
2. confirms that the bylaw has been uploaded to the bylaw database.
3. Demonstrates conformity with sections 4412, 4413, and 4414.
4. Provides information on the municipal application of 24 VSA Chapter 117, subchapters 7, 9 and 10.

4442(c) Rural towns may no longer adopt bylaws by vote of the town. Bylaws shall be adopted by the legislative body.

Appeals of Administrative Officer decisions (Changes to 24 VSA 4465 (b)(4) to into effect on July 1, 2023)

Appeals shall not include the character of the area affected if the project has a residential component that includes affordable housing.

Subdivision Review (changes to 24 VSA 4418 & 4463 go into effect on July 1, 2023)

Bylaws may allow administrative officers to approve minor subdivisions.

Appeals to Environmental Division (changes to 24 VSA 4471 go into effect on July 1, 2023)

A determination by an AMP that a residential development will not result in an undue adverse effect on the character of the area shall not be subject to appeal if the development is within a designated downtown development district (*Springfield, Windsor*), designated growth center, or designated neighborhood development area.

Decisions (additions to 24 VSA 4464 (b) go into effect on July 1, 2023)

A decision rendered by an AMP for a housing development (or the housing portion of a mixed-use development) shall not:

- Require a lot size larger than the minimum
- Require more parking than the minimum established in the bylaws and in section 4414
- Limit building size (or reduce height or footprint) to less than that allowed in the bylaws
- Limit density to below that allowed in the bylaws
- Otherwise disallow a development to abide by the minimum or maximum applicable standards.

Except, a decision may require adjustments to the standards if the AO or the AMP issues a written finding stating: why the modification is necessary to comply with a local, state or federal permit, or a nondiscretionary standard in a bylaw or ordinance (e.g. setbacks from wetlands, SFHA/river corridors); and how the restrictions do not result in an unequal treatment of housing or an unreasonable exclusion of housing otherwise allowed.

Definition of Development (the additions to 10 VSA 6001 (3)(A) and (3)(D) go into effect on July 1, 2023)

Until July 1, 2026, the definition of development includes the construction of housing projects with 25+ units located entirely within a designated downtown, NDA, village center (with zoning & subdivision bylaws), or growth center, within five miles and within five years. For the purposes of this subsection, the construction of 4 or fewer units in an existing structure only counts as one unit.

Also until July 1, 2026, the definition of development does not include the construction of a priority housing project located entirely within a designated downtown, NDA or growth center.

To qualify for these exemptions, a person shall request a jurisdictional opinion under 10 VSA 6007 on or before June 30, 2026, and shall substantially complete construction on or before June 30, 2029.

Master Plan Permits (the addition to 10 VSA 6086b goes into effect on July 1, 2023)

A municipality with a designated downtown or NDA may apply to the District Commission for a Master Plan permit for (any portion of) that area. Municipalities are not required to own or control the affected property. Development of a lot within the Master Plan area shall only require a permit amendment. In NDAs, permit amendments shall only be issued for housing development.

In approving a Master Plan permit, and subsequent amendments, the District Commission may include specific conditions. An application for an amendment may use the findings in the Master Plan permit as a rebuttable presumption.

Discrimination

A person who violates a provision of Chapter 139 (Discrimination; Public Accommodations; Rental and Sale of Real Estate) of Title 9 shall be fined not more than \$10,000 per violation.

**** Please see Planning Commission packet dated 8-14-23 for list of definitions ****

10. Grant opportunities: Discuss various grants and options including consortium

- FY2024 Municipal Planning Grant – VT Department of Housing and Community Development will grant funds to municipalities to promote planning, revitalization and development activities that maintain VT's land use goal of compact settlements separated by rural lands.
- FY2024 Bylaw Modernization Grant - the Vermont Department of Housing and Community Development has funding to grant to municipalities for land use, development, and zoning bylaw updates in support of a pedestrian-oriented development pattern that increase housing choice, affordability, and opportunity in areas planned in accordance with Vermont's smart growth principles. This funding is intended to help municipalities confront the State's housing shortage and ready areas for new housing investments.
- 2023 Community Partnership for Neighborhood Development Grant Program Overview - The Community Partnership for Neighborhood Development Program is a competitive reimbursement grant program available to Vermont municipalities and non-profit organizations. The Program supports investments in the development of inclusive, smart-growth neighborhoods by funding municipal planning, site control, design, scoping, and surveying for the development of a pilot neighborhood.

11. Discussion of items for future agendas

- Public hearings
 - PUD
 - Town Plan

12. Any other business that can be legally discussed

13. Adjourn

Michael Todd made a motion to adjourn at 8:06 pm
Howard Beach – 2nd
No discussion
Vote – unanimous

Next Planning Commission Meeting is scheduled for Monday, August 28, 2023 at 6:30 pm at Martin Memorial Hall.

Respectfully,
Chauncie Tillman
Recording Secretary

Planning Commission

David Hank Ainley, Chairperson

Joseph Bublat, Clerk

Howard Beach, Vice - Chair

Paul Tillman, Chair

Michael Todd, Chairper

DRAFT

