



TOWN OF WEATHERSFIELD

LAND USE ADMINISTRATOR'S OFFICE

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Planning Commission Agenda

Martin Memorial Hall – 5259 Route 5, Ascutney, Vermont 05030

Monday, 26 November 2018 - 7 PM

1. Call to Order
2. Agenda Review – 26 November 2018
3. Approval of Meeting Minutes – 22 October 2018
4. Comments from Citizens
5. Zoning Bylaw Updates
 - (a) Driveway bylaw proposal
 - (b) Noise bylaw / ordinance discussion (continued from 10 September meeting)
 - * Case summary: *In re LaBerge NOV, 2016 VT 99 (Vt. Sept. 2, 2016)*
 - * Existing "Objectionable Noise Ordinance"
 - * Existing bylaws Performance Standards
 - * Proposed new bylaw
 - (c) Proposed final Conservation (C-10) district bylaw
 - (d) River Corridor
 - * Determination of whether interim bylaw required prior to State mapping of River Corridor along Connecticut River (Materials included: Entirety of current draft bylaws)
6. Brief summary of research on airport & zoning
7. Proposals for next meeting agenda
8. Adjourn

The next regularly-scheduled meeting of the Planning Commission will be

Monday, 10 December 2018 - 7 PM, Martin Memorial Hall

DRAFT
TOWN OF WEATHERSFIELD, VERMONT
MINUTES OF PLANNING COMMISSION MEETING
Monday, 22 October, 2018

I. Call to Order - Chair, Nancy Heatley called the meeting to order at 7:01pm.
Introductions: Howard Beach, Sven Fedorow (Land Use Administrator), Nancy Heatley, Paul Tillman, Michael Todd, Julia Lloyd Wright (Energy Coordinator, ex-officio)
Visitors: Allen Tate (EDF Renewables) Dusty and Diane Hodgdon (Weathersfield Solar Partners, LLC); Allan and Jean Swanson, Skyline Drive Subdivision; Jeff Epstein, (Eagle Times); Ed Morris, (Town Manager)

II. Agenda Review - 22 October, 2018

III. Approval of Meeting Minutes - 9 October, 2018

A motion was made by Michael Todd to accept amended Minutes of 9 October, 2018, seconded by Howard Beach. Voted: Unanimously.

IV. Comments from Citizens

A motion was made by Michael Todd to move the comments to a later point in the meeting following item VIII., seconded by Howard Beach. Voted: Unanimously.

V. Zoning Bylaw Hearing - 7:15 PM

(1) Habitat Areas, (2) Renewable Energy, (3) Buildings, Structures, Building Height, Structure Height, Minor Structures, (4) Federal/State law clause
Chair, Nancy Heatley opened a Public Hearing on Zoning Bylaws for the Town of Weathersfield at 7:15 PM and read the Notice of Public Hearing dated Monday, 10/22/2018.

The Commission reviewed a brief explanation of the proposed bylaws with minor changes suggested by Sven Fedorow.

Chair, Nancy Heatley closed the hearing at 7:30pm.

There were no written comments received and no citizens appeared to comment during the hearing

A motion was made by Michael Todd to accept the amendments and move the bylaws (listed above) to the Selectboard including the report accompanying the bylaws dated 10/22/2018 as reviewed, seconded by Paul Tillman. Voted: Unanimously.

VIII. Zoning Bylaw Updates

(a) Driveway/Private Road bylaw proposal: Review of West Windsor bylaw.
Commission members reviewed a copy of the West Windsor driveway bylaw and state standards and discussed access to private driveways and curb cuts. Sven Fedorow will draft a bylaw for the next meeting.

(b) Noise bylaw/ordinance discussion (continued from 10 September meeting)
Various noise ordinances from Vermont towns were reviewed plus a copy of the Weathersfield Ordinance adopted on 18 December, 2008 was discussed. Sven Fedorow said the selectboard are interested in noise bylaws but creating a bylaw requires a person assessing the complaint to have special training in the use of a decibel meter. Between three - four complaints are received a month by the Land Use Administrator, usually they involve shooting, dirt bikes and heavy machinery. Discussion will continue at the next meeting.

VI. Sketch Plan Review - 8:00 PM - Allan Swanson - Parcel #130102 - 482 Skyline Drive Chair, Nancy Heatley ran through a reformatted copy of the Town Final Plat Checklist. The subdivision consists of a 50 acre parcel with an existing house and a 9 acre parcel for a proposed new house; the property is zoned RR 3-5 acres. The entire property is 300ft from a deer wintering area and the ag. soils are okay.

Allan Swanson said the 9 acre lot does not need a road or driveway as the two properties will use the same access with a covenant put in the deeds. A building envelope needs to go on the plat with the zoning setbacks, pins need to be set on the boundaries and a date will be set for the final plat review.

VII. Review of materials received in support of Weathersfield Solar Partners, LLC application for net-metered solar electric generation facility located off US Route 5

(a) Excerpts from packet received from applicant attorneys.

Representative for EDF Renewables, Allen Tate, told the Commission that Green Mountain Power (GMP) has completed their study on the leased five-acre 500 kW net-metered solar array. EDF is looking for comments and feedback from the town. The group will clear three acres for the site, there will be no noise, there is only natural vegetation and screening is not necessary. Sven Fedorow said he had looked through the report for potential visibility indirect views. He questioned the sight from Route 5 which is a designated Scenic Byway.

Howard Beach also raised the question of wetlands in the area and asked about potential issues from a 'blowup' from transformers and safeguards from explosions and fluids and oil retainment. Tate said the solar panels are owned by GMP they may be sited on a pad or on a pole, there are no transformers and there will be an underground trench from the site for power cables.

When asked about the end of the project's life-span landowner Dusty Hodgdon said at the end of the 25-year contract "there will be none of it on the site" - panels and equipment will be removed.

Howard Beach asked about reclaiming the area and replanting trees, There is ledge in the area but vegetation will regrow. Sven Fedorow suggested in the Town's report to the State there be a recommendation for screening which is covered by language in the Town Plan.

A motion was made by Michael Todd to recommend 1) screening to eliminate sections of project visibility and 2) a surety bond to secure reclamation, seconded by Howard Beach. Voted: Unanimously.

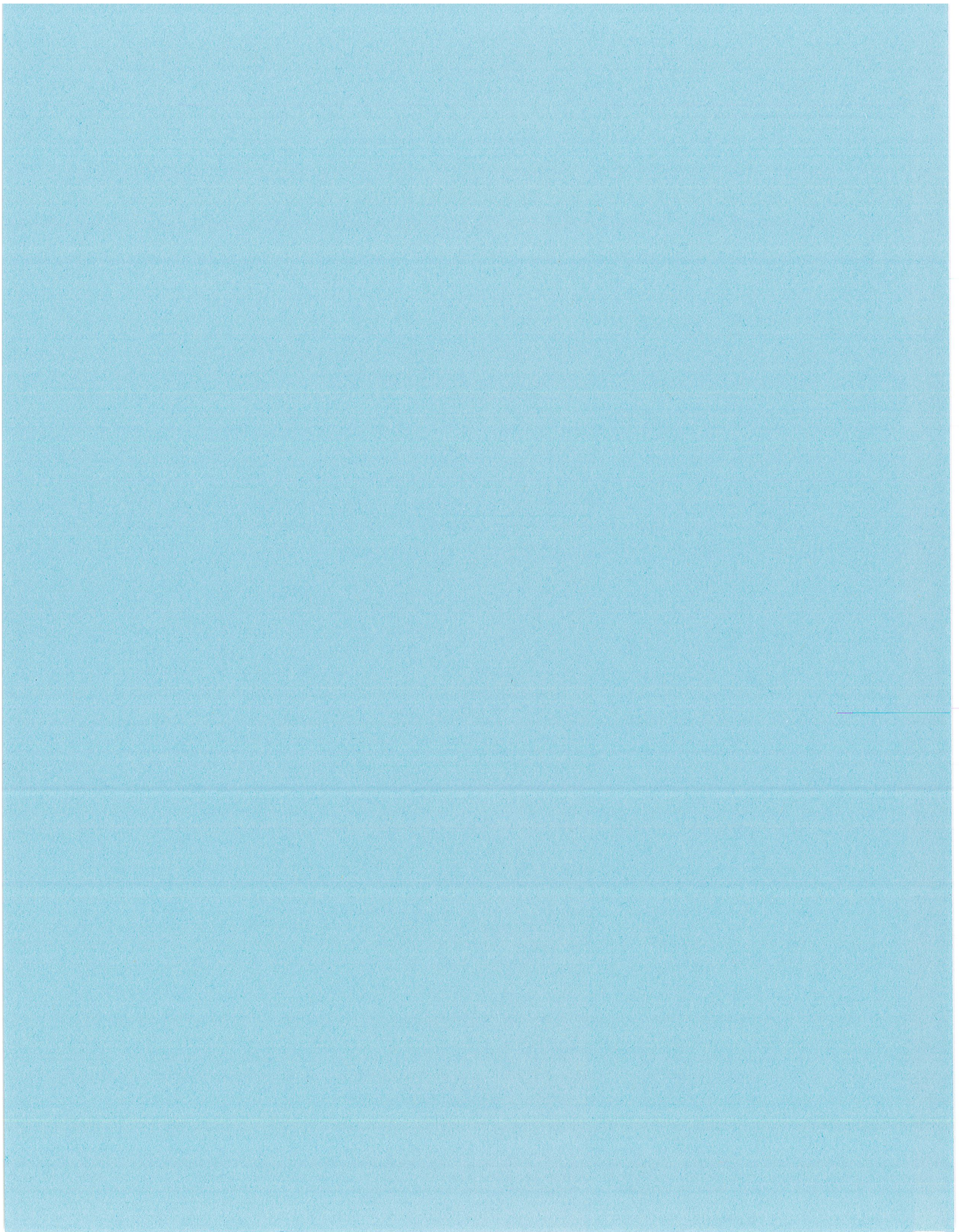
Sven Fedorow will draft a letter to GMP.

IX. Proposals for next meeting agenda

- (a) Finalization of Zoning District sections
- (b) Zoning Bylaw Updates
 - (b) - Noise Ordinance and (c) River Corridor and flood areas
- (c) Setbacks in zoning districts for one-acre parcels in RR1

X. Adjourn

A motion to adjourn at 9:05pm was made by Howard Beach, seconded by Michael Todd. Voted: Unanimously.



Article 3: General Provisions

3.1 Required Frontage On, or Access To, Public Roads

(See 24 V.S.A. § 4412(3))

No land development may be permitted on lots which do not either have frontage on a public road or public waters or, with the approval of the Planning Commission, access to such a road or waters by a permanent easement or right-of-way at least fifty (50) feet in width. Frontage applies to all property lines bordering public or private roadways but not driveway easements. Permits may be granted for land that does not have frontage on a public road provided access is available by a permanent easement or right-of-way.

The location of the permanent easement or right-of-way must be shown on a Mylar. After approval by the Planning Commission, the Mylar and a deed which fully sets forth and describes the right-of-way must be recorded with the Town Clerk.

3.1.1 Driveways

(1) The minimum distance between a driveway entrance or exit and any road intersection or junction must be no less than the following:

- | | |
|---------------------------------|----------------------------------|
| One and two family residential: | 50 feet in Village District |
| | 100 feet for all other Districts |
| All other uses: | 100 feet |

(2) A parcel must not be served by more than one (1) driveway, unless:

- (a) Conditional use approval is obtained from the Zoning Board of Adjustment; or
- (b) The proposed use or development is one which is subject to site plan review, and the Planning Commission finds that the additional driveway will not have an undue adverse impact on public safety.

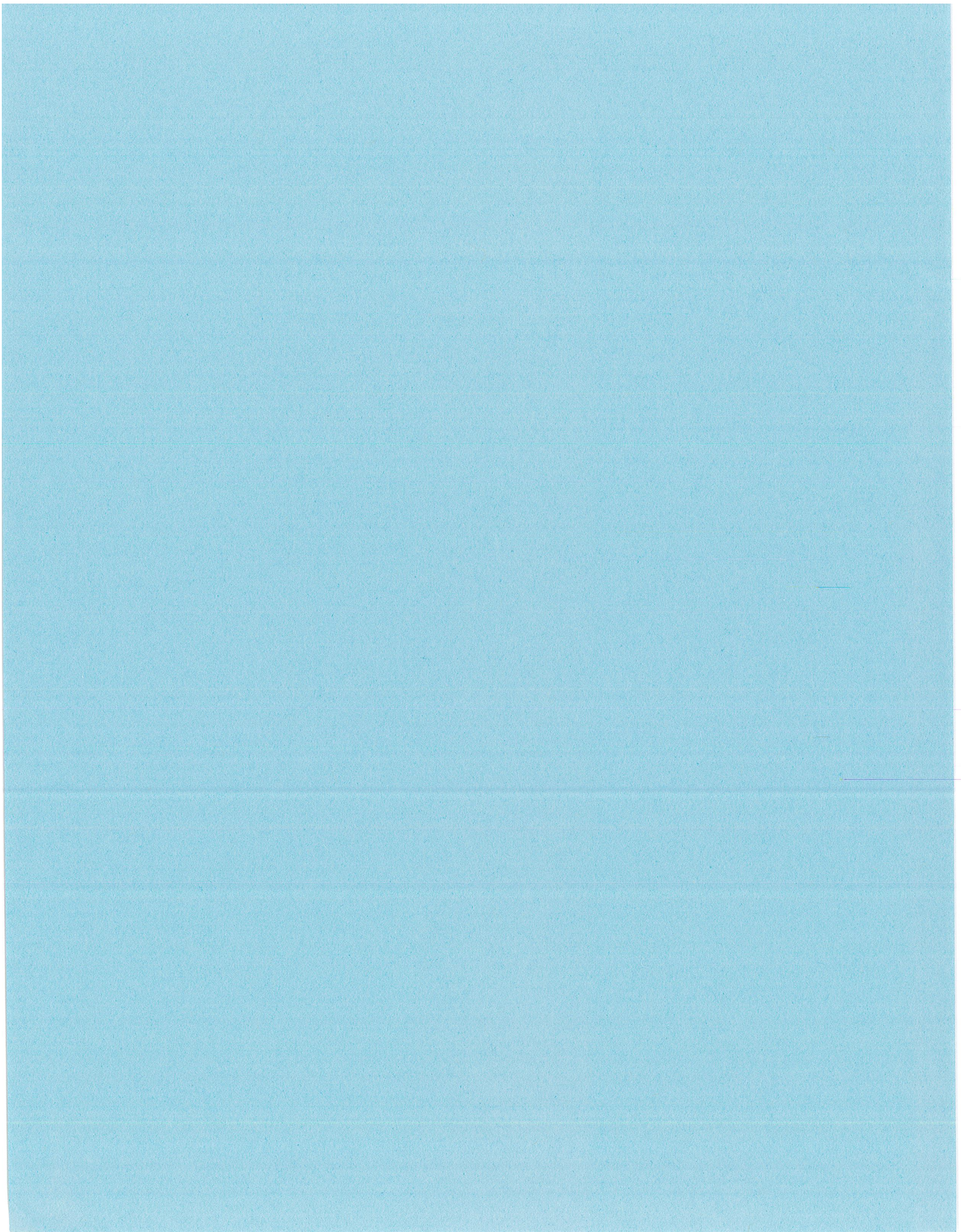
(3) Driveways must be constructed more than ten (10) feet from any property line, unless the driveway will be used as a shared driveway.

(4) All driveways must be constructed in accordance with the most recent version of the Vermont Agency of Transportation B-71 Standard and must not exceed a twenty five (25) percent grade in any portion.

(5) Temporary access to a parcel from a Town road by means of a driveway not conforming with the above requirements may be permitted during construction, forestry, land clearing or agricultural uses provided that prior written permission is obtained from the Highway Superintendent. Permission is not to exceed three (3) months, after which the applicant may reapply.

(6) The Zoning Board of Adjustment may grant a variance to any of the above requirements provided the following criteria are met in addition to those set forth in Section 6.10 (Variances):

- (a) The topography of the land makes compliance with the B-71 Standard impossible or unduly expensive; and
- (b) The variance, if granted, will not have an undue adverse impact on public safety.



VT Supreme Court Finds Landowners Violated Town Noise Ordinance

The LaBerges and the Fenwicks owned and lived on adjoining parcels of land in the Town of Hinesburg. The LaBerges maintained a motocross track on their property, and the track was situated near the parties' shared boundary line. The Zoning Administrator (ZA) found the noise levels exceeded 80 dBA for a period of ten to fifteen seconds every five minutes, during times when the motorcycles were closest to the common boundary line, and issued an NOV to the Laberges. In his notice, the ZA stated that the noise ordinance "contained no guidelines on what a reasonable duration or frequency might be," and said, as a consequence, "I recognize that my application of the regulations is arbitrary." The LaBerges timely appealed the ZA's NOV to the Development Review Board (DRB). The DRB found that: the LaBerges' motorcycle use constituted a "usual and customary residential activity"; and the noise emitted from the use of the motocross track was intense, but in light of its limited frequency and duration, it was not unreasonable. The Fenwicks appealed to the Environmental Division of the Superior Court, which concluded that the LaBerges violated the town noise ordinance.

On appeal, the LaBerges argued that the noise restrictions in Section 5.12.1 of the Town's noise ordinance were vague, ambiguous, and standardless and were void and unenforceable on their face. Specifically, they asserted that the noise ordinance did not contain sufficient guidance as to how the identified factors—intensity, duration, and frequency—should be analyzed, measured or weighted, therefore opening the door to arbitrary enforcement. Second, they argued that because of this lack of clarity, a landowner of common intelligence had no way of knowing what conduct was acceptable under the ordinance.

The court found that in addition to incorporating an objective "reasonableness" standard, the ordinance in this case identified key factors in assessing reasonableness: intensity, duration, and frequency—guidance that further focused the reasonableness inquiry, guards against arbitrary enforcement, and put individuals on notice of the law's requirements. The ZA's statement in his NOV letter to the LaBerges that his application of the ordinance was "arbitrary" did not change this outcome, since, in the same letter, the ZA described and considered the three listed factors. He stated that he observed noise measurements in the high 80 Db range coming from motorbikes ridden on your property for approximately 10 to 15 seconds, and its frequency was about every five minutes while he was present. The frequency of the use of the track, was reported to be on or about June 3, July 7 and July 22. The combination of all of these factors established that there was an unreasonable noise.

Additionally, the trial court did not rely exclusively on decibel measurements in reaching its conclusion. The court specifically credited Ms. Fenwick's testimony that the noise was "extremely loud, irritating, assaultive, and disruptive." The trial court also noted that the anticipated expert testimony could lend credibility to Mr. Fenwick's measurements, as Mr. Fenwick's 80 dBA reading was subsequently corroborated by an expert's measurements. Accordingly, the trial court's finding that the sound levels at the property line were 80 dBA was not clearly erroneous.

In re LaBerge NOV, 2016 VT 99 (Vt. Sept. 2, 2016)

TOWN OF WEATHERSFIELD, VERMONT

OBJECTIONABLE NOISE ORDINANCE

- I. AUTHORITY**
- II. PURPOSE**
- III. DEFINITIONS**
- IV. STANDARDS**
- V. EXEMPTIONS**
- VI. ENFORCEMENT AND PENALTIES**
- VII. INCONSISTENT ORDINANCES REPEALS**
- VIII. SEVERABILITY**
- IX. EFFECT**

ARTICLE I: AUTHORITY

This Ordinance is adopted under authority granted in Title 24, Section 2291(14), and Title 24, Chapter 59, of the Vermont Statutes Annotated.

ARTICLE II: PURPOSE

The purpose of this Ordinance is to protect, preserve and promote the health, safety, welfare, and peace and quiet for the citizens of Weathersfield through the reduction, control, and prevention of noise.

The intent of this Ordinance is to establish standards which will eliminate and reduce unnecessary noises which are physically harmful or otherwise detrimental to the enjoyment of life, property and maintenance of business.

ARTICLE III: DEFINITIONS

For purposes of this ordinance, the following words and/or phrases shall apply:

- (A) "Decibel" shall mean a unit of measurement of the sound pressure level as prescribed by the American National Standards Institute;
- (B) "Emergency" shall mean any occurrence or set of circumstances involving actual or imminent physical injury or property damage;
- (C) "Emergency Work" shall mean any work performed for the purpose of preventing or alleviating the physical injury or property damage threatened or caused by an emergency;
- (D) "Instantaneous maximum dBA" shall mean either a single pressure peak or a single burst [multiple pressure peaks] that has duration of less than one (1) second;

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- (E) “ Plainly audible” shall mean any sound that can be detected by a person using his or her unaided hearing faculties. As an example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the enforcement officer need not determine the title of a song, specific words, or the artist performing the song. The detection of the rhythmic base component of the music is sufficient to constitute a plainly audible sound;
- (F) “Property line” shall mean either:
- (1) A line dividing one lot from another or from a street or any public place;
 - (2) The vertical and horizontal boundaries of a dwelling unit that is part of a multi-dwelling unit building; or
 - (3) On a multi-use property, the interface between the two (2) portions of the property on which different categories of activity are being performed [as an example, if the multi-use property is a building which is residential upstairs and commercial downstairs, then the property line would be the interface between the residential area and the commercial area];
- (G) “ Receiving Property” shall mean the location that is receiving the sound in question;
- (H) “ Sound level” shall be determined in decibels, measured by a calibrated American National Standards Institute (ANSI) Type I or Type II sound level meter, using “ A” frequency weighting [expressed in dBA];

ARTICLE IV: STANDARDS

- (A) It shall be a violation of this Ordinance for anyone to create or allow the creation of noise in excess of the dBA sound limits during the stated time periods for noise specified in Table A below:

TABLE A

Time Period	Receiving Property	One (1) Hour Average dBA	Instantaneous Maximum dBA
6:00 A.M. to 10:00 P.M.	Industrial	75	90
6:00 A.M. to 10:00 P.M.	Residential	55 to 65	80
10:00 P.M. to 6:00 A.M.	Industrial	60	70
10:00 P.M. to 6:00 A.M.	Residential	45	60
6:00 A.M. to 10:00 P.M.	Other	65	80
10:00 P.M. to 6:00 A.M.	Other	60	70

- (B) All noise measurements shall be made at the property line.
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- (C) This standard shall not apply to unoccupied receiving properties.
- (D) Sound level measurements shall be taken with a sound level meter meeting the minimum American Standards Institute (ANSI) requirements for Type I or Type II accuracy, and shall use the fast response setting.

ARTICLE V: EXEMPTIONS

Sounds from the following sources shall be exempt from the prohibitions specified in this ordinance and shall not be included in any measurements performed to determine compliance with Table A of Article IV:

- (A) Any vehicle and equipment owned by and operated by any governmental unit or a utility in the performance of its duties;
- (B) Noise associated with routine snow removal activities where customary practices and equipment are used and where the snow removal or snow grooming equipment is operated within the manufacturer's specifications and in proper operating condition;
- (C) Construction or repair work which must be done to address an emergency health or safety concern and that can not be accomplished during daytime hours and which is not work which constitutes normal maintenance and repair.
- (D) All safety signals and warning devices or any other device used to alert persons to any emergency or used during the conduct of emergency work, including but not limited to law enforcement, fire, and emergency medical services vehicle sirens, and backup alarms required by OSHA, VOSHA, or other Federal or State agency;
- (E) Noise associated with a bona fide response to an emergency situation that poses a threat to the public health, safety or welfare;
- (F) Musical, recreational, or athletic events conducted by and on the site of a school, educational facility, or Town facility, or is sponsored by the Town, State or Federal government;
- (G) Equipment for maintenance of lawns and grounds during the hours of 6:00 A.M. to 10:00 P.M., including, but not limited to, lawn mowers, hedge trimmers, weed trimmers, chain saws, snow blowers, and leaf-blowers, assuming they are properly muffled;

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- (H) Motorized vehicles or aircraft that meet State and Federal standards, operating on the public right-of-way or air space, and operated in a manner consistent with State and Federal laws;
- (I) Noise associated with commonly accepted silvicultural or agricultural business practices;
- (J) Sound created by bells, carillons, or chimes associated with specific religious observances, or a Town clock;
- (K) Vocal disturbances, whether or not electronically amplified, by spectators or participants in a political protest or rally, or an athletic event or assembly sponsored by a public or private school.
- (L) The repair and maintenance of Town facilities, services or public utilities when such work must be accomplished outside of daytime hours.
- (M) Sport shooting ranges in existence as of May 5, 2006.

ARTICLE VI: ENFORCEMENT AND PENALTIES

- (A) This is a civil ordinance and shall be enforced by an enforcement officer in the Vermont Judicial Bureau in accordance with 24 V.S.A. §§ 1974a et seq. In addition to the enforcement procedures available before the Judicial Bureau, the Selectboard may commence civil action to obtain injunctive and any other appropriate relief authorized by law.
- (B) Any person who violates the provisions of this Ordinance shall be subject to the penalties and waiver penalties set forth below. Waiver penalties apply when an alleged violator pays the penalty without contesting the violation.
- (C) A civil penalty of not more than Five Hundred Dollars (\$500.00) may be imposed for a violation of this Ordinance.
- (D) The waiver fee shall be set at:
 - (1) Fifty Dollars (\$50.00) for the first offense;
 - (2) Seventy-five Dollars (\$75.00) for the second offense within a six (6) month period; and
 - (3) One Hundred Dollars (\$100.00) for each subsequent offense within a six (6) month period.
- (E) Each day of a violation shall constitute a separate violation of this Ordinance.

TOWN OF WEATHERSFIELD, VERMONT

OBJECTIONABLE NOISE ORDINANCE

ARTICLE VII: INCONSISTENT ORDINANCES REPEALED

Any provisions of any Ordinance of the Town of Weathersfield in effect at the time of enactment of this Ordinance governing any activity included in this Ordinance is hereby revoked.

ARTICLE VIII: SEVERABILITY

Each of the provisions of this Ordinance is severable. If any provision, section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Ordinance, or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof.

ARTICLE IX: EFFECTIVE DATE

This Ordinance shall be entered in the minutes of the Select Board's meeting, and posted in at least five (5) conspicuous places with the Town and published in a newspaper circulating in the Town on a day not more than fourteen (14) days following the date when the Ordinance is adopted.

This Ordinance will become effective on the tenth day of February, 2009, sixty (60) days after the date of its adoption by the Selectboard, unless a petition for a vote on the question of disapproving the ordinance is filed with the Town Clerk or the Selectboard by the thirty-first day of January, 2009, forty-four (44) days after the date of its adoption. The petition must be signed by not less than five per cent (5%) of the qualified voters of this municipality.

The foregoing Ordinance is hereby adopted by the Select Board of the Town of Weathersfield, Vermont, this eighteenth day of December, 2008.

Norman John Arrison, Chairperson
Daniel E. Boyer, Vice Chairperson
Patricia W. Daniels, Board Clerk

6.10.10 Steep Slopes and High Elevation

These lands are most often located in forested areas that serve as vital groundwater recharge and critical habitat and travel corridors for wildlife.

These areas are better left undisturbed.

Development shall be sited in a manner that will cause a minimum of disturbances to the natural landscape and is prohibited on land 1,500 feet or above elevation and on slopes greater than 25%.

These conditions make the land highly susceptible to erosion and should be protected from any development.

6.11 *(Repealed March 9, 2011)*

6.12 *(Repealed June 11, 2012)*

6.13 Performance Standards

In accordance with 24 V.S.A. Sect. 4414(5), the following standards of performance are to be met and maintained by all uses in all districts.

In determining ongoing compliance, the burden of proof shall fall on the applicant, property owner, and/or all successors and assigns.

(A) No land or structure in any zoning district shall be used or occupied in any manner so as to create dangerous, injurious, noxious or otherwise objectionable conditions which adversely affect the reasonable use of adjoining or nearby properties.

(B) The following standards apply to all uses, with the exception of agriculture and forestry. In determining ongoing compliance, the burden of proof shall fall on the applicant and/or all successors and assigns. No use, under normal conditions, shall cause, create or result in:

1. **Noise pollution**, as it is recognized that excessive noise is a serious hazard to the health, welfare and quality of life of all citizens and that each person has a right to an environment free from noise that may jeopardize their health, safety, or welfare. (See Section 8 for Definitions.)

a) **Noise Levels and Guidelines:** Noise zones within the Town of Weathersfield shall be classified according to the zoning applicable to the parcel or tract of land from which noise is emitted and surrounding parcels or tracts on which noise is received. Any parcel whose use is lawfully nonconforming to its zone at the time this bylaw is enacted shall be classified for noise emission purposes according to the zone appropriate for the nonconforming use. It shall be unlawful for any person to emit or cause to be emitted any noise beyond the boundaries of his/her premises in excess of the noise levels established in this Subsection. Measurements shall be taken at a point that is located approximately one (1) foot beyond the boundary of the emitter's premises within the receptor's premises. The emitter's premises include his/her

individual unit of land or ground or contiguous parcels under the same ownership, as indicated by the public land records.

No person shall cause or allow the emission of impulse noise in excess of eighty (80) decibels peak sound pressure level during the nighttime to any residential zone. No person shall cause or allow the emission of impulse noise in excess of one hundred (100) decibels peak sound pressure level at any time to any zone.

A person conducting sound measurements shall have been trained in the techniques and principles of sound measuring equipment and instrumentation. Instruments used to determine sound level measurements shall be sound level meters, as defined in Section 8.

b) **High Background Noise Areas:** In those individual cases where the background noise levels caused by sources not subject to this Section exceed the standards contained herein, a source shall be considered to cause excessive noise if the noise emitted by such source exceeds the background noise level by 5dBA, provided that no source subject to the provisions of Subsection (a) shall emit noise in excess of 80dBA at any time, and provided that this Subsection does not decrease the permissible levels set forth in any other Subsection of this bylaw.

2. Noticeable, or clearly apparent **vibration** which, when transmitted through the ground, is discernible at property lines without the aid of instruments;

3. **smoke, dust, odors, noxious gases, or other forms of air** pollution which constitute a nuisance to other landowners, businesses, or residents; which endanger or adversely affect public health, safety, or welfare; which cause damage to property, business, or vegetation; or which are offensive or uncharacteristic of the area;

4. Releases of **heat, cold, moisture, mist, fog, precipitation or condensation** beyond the property lines of the property on which it is located, or to a height likely to be detrimental to the public safety, health, or welfare.

5. Any **electromagnetic disturbances, or any electronic emissions or signals** which will repeatedly and substantially interfere with the reception of radio, television, or other electronic signals, or which are otherwise detrimental to the public health, safety and welfare, beyond the property lines of the property on which it is located;

6. **glare, light or reflection** which constitutes a nuisance to other property owners or tenants, which impairs the vision of motor vehicle operators, or which is detrimental to the public health, safety, or welfare;

7. **liquid or solid wastes or refuse** in excess of available capacities for proper disposal; which cannot be disposed of by available or existing methods without undue burden to

Recap of Noise Discussions

- Current bylaw requires measurement by trained individual; ordinance requires use of meter meeting ANSI requirements for Type I or Type II accuracy.
- Not a large number of received noise complaints; the bulk of received complaints refer to shooting activities.
- Enforceability: "Reasonableness" standard versus measured decibel level standard

Existing Draft Noise Bylaw

3.7.2 The following standards apply to all uses, with the exception of agriculture and forestry. In determining ongoing compliance, the burden of proof shall fall on the applicant and/or all successors and assigns. No use, under normal conditions, shall cause, create or result in:

a) **Noise pollution**, as it is recognized that excessive noise is a serious hazard to the health, welfare and quality of life of all citizens and that each person has a right to an environment free from noise that may jeopardize their health, safety, or welfare. (See Section 8 for Definitions.)

1) **Noise Levels and Guidelines:** Noise zones within the Town of Weathersfield shall be classified according to the zoning applicable to the parcel or tract of land from which noise is emitted and surrounding parcels or tracts on which noise is received. Any parcel whose use is lawfully nonconforming to its zone at the time this bylaw is enacted shall be classified for noise emission purposes according to the zone appropriate for the nonconforming use. It shall be unlawful for any person to emit or cause to be emitted any noise beyond the boundaries of his/her premises in excess of the noise levels established in this Subsection. Measurements shall be taken at a point that is located approximately one (1) foot beyond the boundary of the emitter's premises within the receptor's premises. The emitter's premises include his/her individual unit of land or ground or contiguous parcels under the same ownership, as indicated by the public land records.

No person shall cause or allow the emission of impulse noise in excess of eighty (80) decibels peak sound pressure level during the nighttime to any residential zone. No person shall cause or allow the emission of impulse noise in excess of one hundred (100) decibels peak sound pressure level at any time to any zone.

A person conducting sound measurements shall have been trained in the techniques and principles of sound measuring equipment and instrumentation. Instruments used to determine sound level measurements shall be sound level meters, as defined in Section 8.

2) **High Background Noise Areas:** In those individual cases where the background noise levels caused by sources not subject to this Section exceed the standards contained herein, a source shall be considered to cause excessive noise if the noise emitted by such source exceeds the background noise level by 5dBA, provided that no source subject to the provisions of Subsection (a) shall emit noise in excess of 80dBA at any time, and provided that this Subsection does not decrease the permissible levels set forth in any other Subsection of this bylaw.

Zone in Which Emitter is Located	Zone in Which Receptor is Located					
	Industrial	Commercial I	Hamlet / Village Daytime Hours	Hamlet / Village Nighttime Hours	Residential Daytime Hours	Residential Nighttime Hours
Industrial	65 dB	60 dB	60 dB	45 dB	55 dB	45 dB
Highway Commercial	60 dB	60 dB	60 dB	45 dB	55 dB	45 dB
Village/Hamlet/RR1	60 dB	60 dB	60 dB	45 dB	55 dB	45 dB

Residential (RRR 3- 5,C10)	55 dB	55 dB	55 dB	45 dB	55 dB	45 dB
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Proposed Noise Bylaw

3.7.2 Unreasonable Noise

(1) The following standards apply to all uses, with the exception of agriculture, forestry, or uses within the Airport Overlay District. In determining ongoing compliance, the burden of proof shall fall on the applicant and/or all successors and assigns. No use, under normal conditions, shall cause, create or result in unreasonable noise.

(2) Unreasonable noise is any excessive or unusually loud sound which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of a reasonable person of normal sensibilities within the Town of Weathersfield.

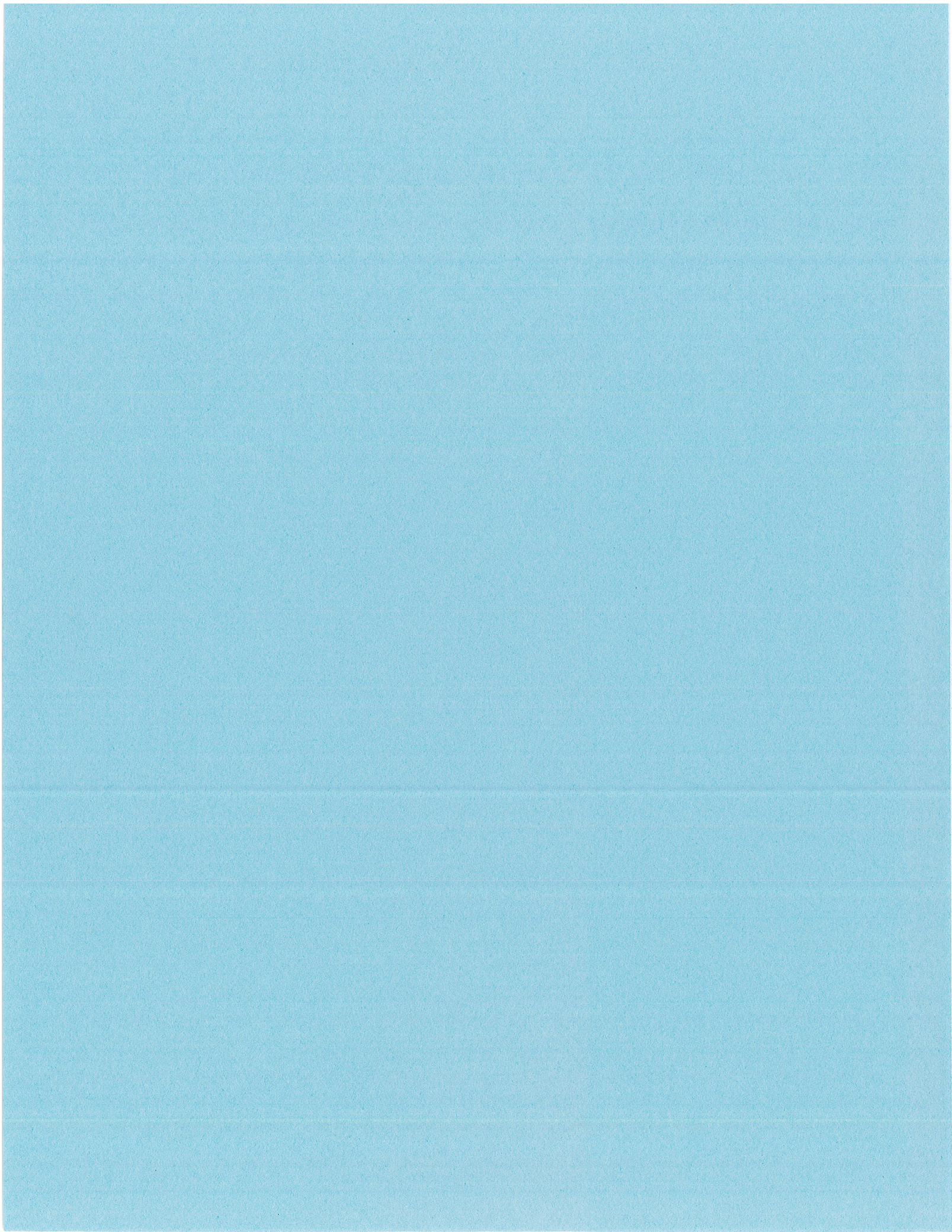
(3) In determining whether noise is unreasonable, no single element is determinative, and consideration may be given to:

- (a) Whether the noise is usual or unusual;
- (b) Whether the origin of the noise is natural or unnatural;
- (c) Whether the noise is continuous or intermittent;
- (d) The zoning district within which the noise emanates;
- (e) The time of day or night the noise occurs;
- (f) Whether alternate methods are available to achieve the objectives of the sound producing activity;
- (g) The decibel level of the noise;
- (h) Typical noise levels in the surrounding area; and
- (i) Any other relevant factor which tends to suggest the noise is unreasonable.

(4) Temporary waivers of the applicability of these standards may be sought by application to the Selectboard in connection with a Large Gathering Permit, Fireworks Permit, or for any other temporary event as deemed appropriate by the Selectboard. Waivers may extend to multiple events or dates, but must specify a fixed expiration date and must not be granted for a recurring activity which would constitute a use requiring a zoning permit.

(5) Exemptions. The following activities are exempt from the applicability of this section:

- (a) All safety signals and warning devices or any other device used to alert persons to any emergency or used during the conduct of emergency work including but not limited to police, fire and medical/rescue vehicle sirens.
- (b) The repair and maintenance of municipal facilities, services or public utilities when such work must be accomplished outside of daytime hours.
- (c) Construction or repair work which must be done to address an emergency health or safety concern and that cannot be accomplished during daytime hours and which is not work which includes normal maintenance and repair.
- (d) Vehicles that meet State standards on the public right-of-way.
- (e) Noise generated by the discharge of firearms during legal hunting activities.
- (f) Musical, recreational, athletic or similar events conducted by the Town or a school belonging to the Windsor Southeast Supervisory Union.



2.5.6 Conservation (C-10)

(A) Purpose. In order to preserve large contiguous areas of forest and agricultural resource lands, lot sizes may be as small as one (1) acre within a parcel area in the C-10 District, provided the Lot Area Minimum in subsection (D) below is met. Any development involving more than one lot will require a subdivision application. The parcel areas are defined as the acreage on the effective date of this provision **<EFFECTIVE DATE>** of the contiguous taxable property under the same ownership or control. The C-10 District consists of areas in which sparse development is wise for one or more of the following reasons: remote from roads or utility services; location of scarce mineral resources, prime agricultural or forested land, significant or irreplaceable natural, historic, recreational or scenic resources; slope elevations exceeding 25%; land over 1,500 feet in elevation; severe soil limitations; risk of flooding; or the presence of flood ways.

(B) Permitted Uses:

1. Accessory Dwelling Unit (Section 4.1)
2. Accessory Use or Structure
3. Adult Day Care Service (Section 4.2.2)
4. Athletic Structures
5. Bed and Breakfast
6. Family Child Care Home (Section 4.2)
7. Home-based Business, Level 1 (Section 4.5)
8. Ponds (Section 3.2.5)
9. Seasonal Roadside Stand
10. Signs (Section 3.8)
11. Single-family Dwelling
12. Swimming Pool
13. Two-family Dwelling

No permit required, but must inform Land Use Administrator:

1. Agriculture/Forestry
2. Babysitting Service
3. Home-based Occupation
4. Minor Structures
5. Temporary Signs

(C) Conditional Uses:

1. Adult Day Care Facility^{A,B} (Section 4.2.2)
2. Campground, Children's Camp or Resort^{A,B}
3. Cemetery
4. Community Non-Profit^{A,B} (See definition)
5. Contractor's Storage^{A,B}
6. Dock
7. Family Child Care Facility^{A,B} (See definition)
8. Home-based Business, Level 2 (Section 4.5)
9. Inn or Small Hotel^{A,B}
10. Medical Facility^{A,B} (See definition)
11. Outdoor Recreation Facility^{A,B} (See definition)
12. Public Water or Sewage Treatment Plant^{A,B}
13. Resource Extraction^{A,B} (Section 4.3)
14. School^{A,B} (See definition)
15. Wireless Communication Facility^B (See Section 4.19 and definition)
- 16.*** **Other uses** (as determined by the Zoning Board of Adjustment to be of a similar type and character to the uses listed above and consistent with the purposes of this District)

^A Site Plan Review required

^B Certificate of Occupancy required

(D) Lot Area Minimum

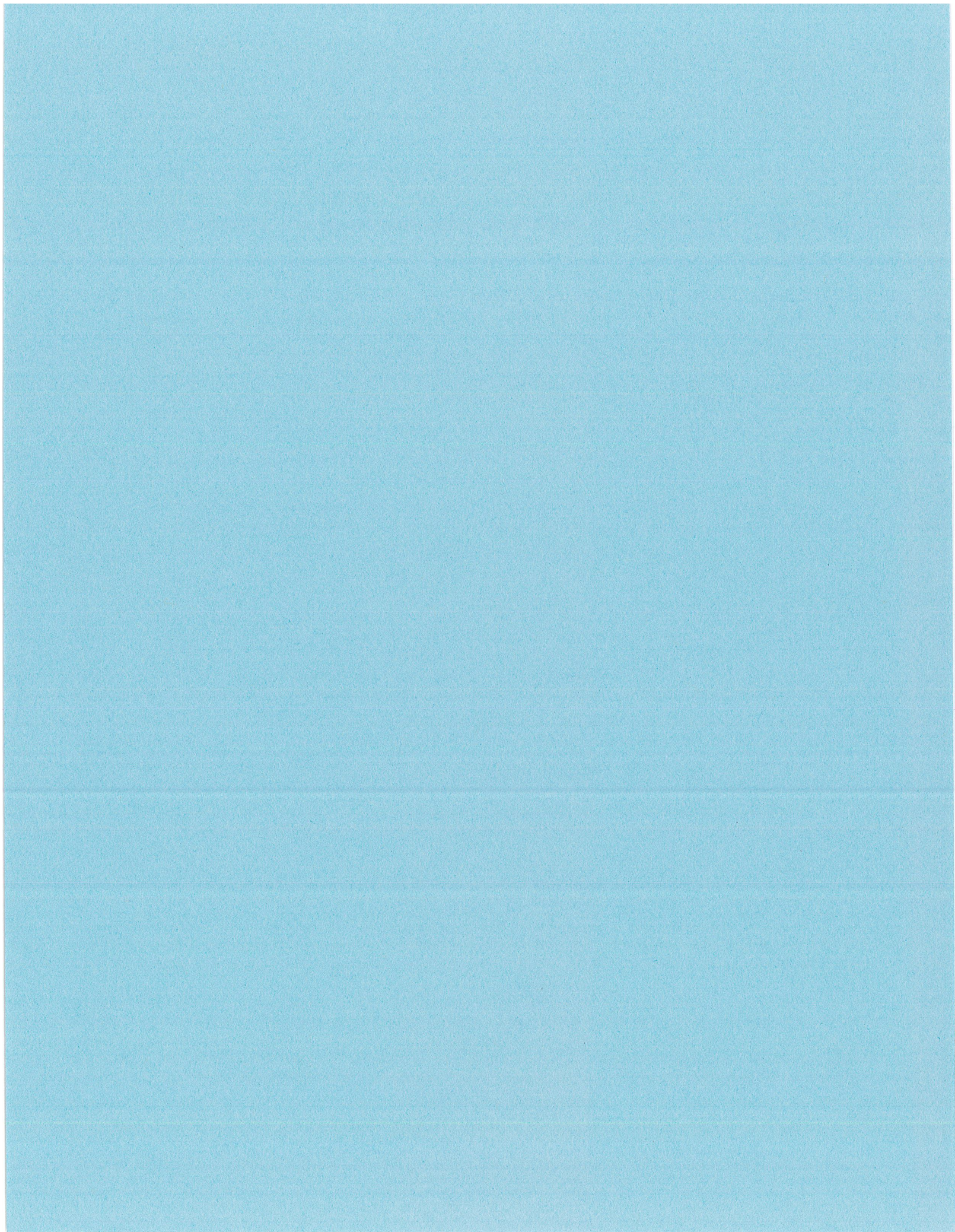
Parcel Area (Acres)	Permitted Number of Lots
1-9.9	1
10-19.9	2
20-29.9	3
30-39.9	4
40-49.9	5
50-59.9	6
60-99.9	10
100+	15

(E) Dimensional Standards

Minimum Lot Size	<i>See Table (D)</i>
Minimum Frontage	200 feet
Minimum Front Setback	40 feet
Minimum Rear Setback	25 feet
Minimum Side Setback	25 feet
Maximum Height	35 feet (see Height definition)

(F) Supplemental District Standards

- (1) Only **one principal residential use** is allowed per parcel of land.
- (2) All uses within this district must meet the requirements of **Off-Street Parking** (Section 3.5), **Outdoor Lighting** (Section 3.6), and **Performance Standards** (Section 3.7).
- (3) A Driveway Access Permit is required for any use or development of a parcel with frontage on a town road without existing road access. The VTrans B-76 Standard applies to the construction of all driveways. See Section X.X.X for a complete list of requirements.
- (4) Special rules apply to uses or developments in or near the following areas: **Prime Agricultural Soils** (Section 3.2.1), **Connecticut River** (Section 3.2.3), **Habitat Areas** (Section X.X.X), **Streambank Conservation Areas** (Section 3.2.8), **Wetlands Areas** (Section 3.2.9), and **Flood Plains and Floodways** (Section 5.7).
- (5) Minimum lot size for resorts, bed and breakfasts, hotels, other paying guest or multi-family complexes may be expanded by one acre per guest room, or per family, above the minimum lot size by the Zoning Board of Adjustment.



5.7 Flood Plains and Floodways

5.7.1 Statutory Authorization and Effect

In accordance with 10 V.S.A. Chapter 32, and 24 V.S.A. §§ 4411, 4414 and 4424 there is hereby established a bylaw for areas at risk of flood damage in the Town of Weathersfield, Vermont. Except as additionally described below, all administrative procedures follow municipal procedures under 24 V.S.A. Chapter 117.

5.7.2 Statement of Purpose

It is the purpose of this bylaw to:

- A. Implement the goals, policies, and recommendations in the municipal plan;
- B. Avoid and minimize the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public services that result from flooding related inundation and erosion;
- C. Ensure that the selection, design, creation, and use of development in hazard areas is reasonably safe and accomplished in a manner that is consistent with public wellbeing, does not impair fluvial geomorphic equilibrium, flood plain services, and ensures that cumulative development in the hazard zone does not adversely affect others;
- D. Manage all flood hazard areas designated pursuant to 10 V.S.A. § 753; the municipal hazard mitigation plan; and make the Town of Weathersfield, its citizens, and businesses eligible for federal flood insurance, federal disaster recovery funds, and hazard mitigation funds as may be available.

5.7.3 Other Provisions

A. Precedence of Bylaw

The provisions of these flood hazard bylaws 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. Validity and Severability

If any portion of this bylaw is held unconstitutional or invalid by a competent court, the remainder of this bylaw shall not be affected.

C. Warning of Disclaimer of Liability

This bylaw does not imply that land outside of the areas covered by this bylaw will be free from flood or erosion damages. This regulation shall not create liability on the part of the Town of Weathersfield, or any municipal official or employee thereof, for any flood or erosion damages that result from reliance on this regulation, or any administrative decision lawfully made hereunder.

5.7.4 Lands to Which these Regulations Apply

A. Regulated Flood Hazard Areas

These regulations shall apply to the River Corridors and Special Flood Hazard Areas (hereafter called "hazard areas") in the Town of Weathersfield, Vermont as described below. These hazard areas overlay any other existing zoning districts and the regulations herein are the minimum standards that must be met before meeting the additional standards applicable in the underlying district. These hazard areas include:

1. **River Corridors:**

- a) River Corridors as mapped and published by the Vermont Agency of Natural Resources, as most recently amended, are hereby adopted by reference.
- b) Where River Corridors are not mapped, the standards in 5.7.6(C) shall apply to the area measured as fifty (50) feet from the top of the stream bank or the top of slope in steep valleys with no bank top.

[Note that stream buffer provisions also apply in accordance with Section 3.2.8.]

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

B. Base Flood Elevations and Floodway Limits in Special Flood Hazard Areas

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 administer and enforce 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.

C. Interpretation

The information presented on any maps, or contained in any studies, adopted by reference, is presumed accurate.

1. If uncertainty exists with respect to the boundaries of the Special Flood Hazard Area or the floodway, the location of the boundary shall be determined by the Zoning Administrator. If the applicant disagrees with the determination made by the Zoning Administrator, a Letter of Map Amendment from FEMA shall constitute proof.
2. If uncertainty exists with respect to the boundaries of the River Corridor, the location of the boundary shall be determined by the Zoning Administrator. If the applicant disagrees with the determination made by the Zoning Administrator, a letter of determination from the Vermont Agency of Natural Resources shall constitute proof.

5.7.5 Development Review in Hazard Areas

A. Permit

A permit is required from the Zoning Administrator for all development in all areas defined in Section 5.7.4 as indicated below. Development that requires conditional use approval, non-conforming use approval, or a variance from the Zoning Board of Adjustment under these flood hazard regulations, must have such approvals prior to the issuance of a permit by the Zoning Administrator. Any development subject to municipal jurisdiction in the designated hazard areas shall meet the criteria in Section 5.7.5 and 5.7.6. Any permit issued will require that all other necessary permits from State or Federal Agencies have been received before work may begin.

B. Permitted Use Review

For the purposes of review under these regulations, the following development activities in the River Corridor and/or Special Flood Hazard area where outside of the floodway, and meeting

the Development Standards in Section 5.7.6, require only an administrative permit from the Zoning Administrator:

Special Flood Hazard Areas:	River Corridors:
(1) Non-substantial improvements to existing buildings;	(1) At-grade parking for existing buildings
(2) Small accessory structures;	(2) Small accessory structures;
(3) New or replacement fuel storage tanks;	(3) Channel management activities; and,
(4) New or replacement building utilities;	(4) New or replacement bridges and culverts.
(5) New or replacement bridges and culverts;	
(6) At-grade parking for existing buildings; and,	
(7) Recreational vehicles, provided they are fully licensed and ready for highway use.	

C. Prohibited Development in Special Flood Hazard Area and River Corridors

Special Flood Hazard Areas:	River Corridors:
(1) Junk yards or outdoor storage;	(1) Junk yards or outdoor storage;
(2) New manufactured home parks; and,	(2) New manufactured home parks;
(3) New fill/piers except as necessary to elevate structures to the required elevation.	(3) New fill/piers except as necessary to elevate structures to the required elevation;
(4) New development within the Floodway except as allowed in Section 5.7.6(B).	(4) New residential or non-residential structures (including the placement of manufactured homes), except as allowed under Section 5.7.6(C)(3); and,
	(5) New encroachments, except for floodplain restoration projects; channel management activities; health and safety measures; public utilities; and minor improvements to existing structures or relating to bridges, culverts, roads.

D. Conditional Use Review

Conditional use review and approval by the Zoning Board of Adjustment is required prior to the issuance of a permit by the Zoning Administrator for the following proposed development:

Special Flood Hazard Areas:	River Corridors:
------------------------------------	-------------------------

(1) New buildings;	(1) New residential or non-residential structures (including the placement of manufactured homes) as allowed for under Section 5.7.6(C)(3);
(2) Substantial improvement of existing buildings;	(2) Any increase in footprint to existing structures;
(3) Non-substantial improvement to existing buildings within a floodway;	(3) New fill/piers necessary to elevate structures to the required elevation;
(4) Development in a floodway;	(4) New or replacement water supply or septic systems;
(5) Recreational vehicles that are to be used as single-family dwellings;	(5) Grading, excavating or fill;
(6) Any increase in footprint to existing structures;	(6) Rebuilding an existing structure; and,
(7) New or replacement water supply or septic systems;	(7) Recreation facilities in accordance with Section 5.7.6(C).
(8) Grading, excavating or fill;	
(9) Rebuilding after substantial damage;	
(10) Roadway improvements;	
(11) Subdivisions;	
(12) Channel management; and,	
(13) All other development as defined in Article 7 that is not allowed under permitted use review or exempted under Section ____.	

E. Exempted Activities

The following are exempt from regulation under Section 5.7 of this bylaw:

1. Insignificant activities and/or repairs as defined in Article 7;
2. Maintenance of existing roads and existing stormwater drainage systems;
3. Agricultural activities conducted in accordance with the Vermont Department of Agriculture's Required Agricultural Practices;
4. Silvicultural (forestry) activities conducted in accordance with the Vermont Department of Forests and Parks Acceptable Management Practices;
5. Facilities owned and operated by the State of Vermont in accordance with 24 V.S.A. § 4413;
6. Public utility power generating plants and transmission facilities that are regulated under

30 V.S.A. § 248.

7. Improvements to an existing structure – located within a River Corridor, but not within the Special Flood Hazard Area – that does not involve an increase in the existing footprint.

F. Variances

Variances may be granted in writing by the Zoning Board of Adjustment only in accordance with all the criteria in 24 V.S.A. § 4469, and 44 CFR 60.6, after a public hearing noticed as described in **Section VIII.**

In addition:

1. A variance for development within the River Corridors may be allowed if, based on a review by VT ANR, it is determined that the proposed development will not obstruct the establishment and maintenance of fluvial geomorphic equilibrium for the watercourse.
2. Any variance issued in the Special Flood Hazard Area will not increase flood heights or velocities, and 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.

G. Nonconforming Structures and Uses

In addition to meeting the nonconformity provisions **in Section 3.4** of these bylaws, the Zoning Board of Adjustment may, after public notice and hearing, approve the repair, relocation, replacement, or enlargement of a nonconforming structure within a hazard area provided that:

1. The proposed development is in compliance with all the Development Standards in **Section 5.7.6** of this bylaw;
2. A nonconforming structure within the Special Flood Hazard Area that is substantially damaged or destroyed may be reconstructed in place only in circumstances when the structure cannot be relocated to a less hazardous location on the parcel. For structures within the SFHA, 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. A nonconforming structure within the River Corridor is subject to the provisions of Section 5.7.6(C)(3);
4. Nonconforming uses shall be considered abandoned where such structures or uses are discontinued for more than 12 months (**Section 3.4.3 specifies 3 years**); and
5. An individual manufactured home lot in an existing manufactured home park (**see definition**) 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 this bylaw.

5.7.6 Development Standards

The criteria below are the minimum standards for development in the flood hazard areas. Where more than one zone or area is involved, the most restrictive standard shall take precedence, but all applicable standards apply. For example, a property that is located within both the River Corridor and Special Flood Hazard Area must avoid encroachment into the river corridor in

accordance with Section 5.7.6(C), and the structure must also be elevated or flood-proofed and meet all other applicable flood hazard standards in accordance with Section 5.7.6(A).

A. Special Flood Hazard Area

1. *All development* shall be:
 - a. Reasonably safe from flooding;
 - b. Designed, operated, maintained, modified, and adequately anchored to prevent flotation, collapse, release, or lateral movement of the structure;
 - c. Constructed with materials resistant to flood damage;
 - d. Constructed by methods and practices that minimize flood damage;
 - e. 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;
 - f. Adequately drained to reduce exposure to flood hazards;
 - g. Located so as to minimize conflict with changes in channel location over time and the need to intervene with such changes; and,
 - h. 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.
2. In Zones AE, AH, and A1 – A30 *where base flood elevations and/or floodway limits have not been determined*, development shall not be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated encroachment, will not increase the base flood elevation more than 1.00 foot at any point within the community. The demonstration must be supported by technical data that conforms to standard hydraulic engineering principles and certified by a licensed professional engineer.
3. *New, substantially improved or replacement primary structures in the special flood hazard area* must not increase base flood elevations or flood velocities. Such development shall not be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated encroachment, will not increase the base flood elevation more than 0.1 foot at any point within the community. The demonstration must be supported by technical data that conforms to standard hydraulic engineering principles and certified by a licensed professional engineer; or,
 - a. the proposal provides compensatory storage for floodwater (in the same reach and at elevations up to one foot above the base flood elevation) to offset the impacts of the proposal. A volumetric analysis and supporting data must be provided by the applicant and certified by a registered professional engineer; or,
 - b. The volumetric analysis will be waived for replacement or relocated primary structures where the proposal indicates no increase in the structure's footprint; or for new structures proposing a lowest floor elevation of at least two feet above the base flood elevation, an open foundation design, and no new fill.
4. *New, substantially improved, rebuilt or relocated structures* in Zones A, A1-30, AE, and

AH shall be located such that the lowest floor is at least one foot above base flood elevation, this must be documented, in as-built condition, with a FEMA Elevation Certificate;

5. *New or substantially-improved non-residential structures* shall:
 - a. Meet the standards in 5.7.6(A)(4); or,
 - b. Have the lowest floor, including basement, together with attendant utility and sanitary facilities be designed so that two feet above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; A permit for flood proofing shall not be issued until a licensed 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.
6. *Fully enclosed areas below grade* on all sides (including below grade crawlspaces and basements) are prohibited.
7. *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, storage, or building access, and such a condition shall clearly be 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 licensed professional engineer or architect, or meet or exceed the following minimum criteria: A minimum of two openings on two walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
7. *Recreational vehicles* must be registered and ready for highway use;
8. A *small accessory* structure of 500 square feet or less that represents a minimal investment need not be elevated to the base flood elevation in this area, provided the structure is placed on the building site so as to offer the minimum resistance to the flow of floodwaters and shall meet the criteria in 5.7.6(A)(6) above.
9. *Water supply systems* shall be designed to minimize or eliminate infiltration of flood waters into the systems.
10. *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.
11. *On-site waste disposal systems* shall be located to avoid impairment to them or contamination from them during flooding.
12. *The flood carrying and sediment transport capacity* within the altered or relocated portion of any watercourse shall be maintained, and any alteration or relocation shall not result in any decrease of stream stability;
13. *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.

14. *Subdivisions and Planned Unit Developments must be accessible by dry land access outside the special flood hazard area.*
15. *Existing buildings, including manufactured homes, to be substantially improved in Zone AO shall have the lowest floor, including basement, elevated above the highest adjacent grade, at least as high as the depth number specified on the community's FIRM, or at least two feet if no depth number is specified.*
16. Minor above-ground improvements outside of the floodway, such as poles or fences that minimally displace or divert floodwaters, do not require compensatory storage.

B. Floodway Areas

1. New encroachments within the regulatory floodway, except for minor improvements to existing structures or relating to bridges, culverts, roads, stabilization projects, access to water, public utilities or health and safety measures, are prohibited.
2. 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 licensed 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 flood velocities; and
 - c) Not increase flood or erosion risk to surrounding properties, facilities, or structures.
3. Public utilities may be placed underground, and the analyses may be waived, where a licensed professional engineer certifies that there will be no change in grade and the utilities will be adequately protected from scour.
4. For any proposed encroachment within the regulatory floodway where hydrologic and hydraulic analyses are required, the applicant should provide a FEMA Conditional Letter of Map Revision (CLOMR) as proof to demonstrate that the proposed activity, if completed as proposed, will not result in any increase in flood levels (0.00') during the occurrence of the base flood.

C. River Corridors

1. *All development* in River Corridors is subject to the following standards:
 - a. Development shall not increase the susceptibility of that or other properties to fluvial erosion damage;
 - b. Development shall not increase the potential of materials being swept onto other lands or into the stream and causing damage to other properties from fluvial erosion; and,
 - c. Development shall not cause an undue burden on public services and facilities including roads, bridges, culverts, and emergency service providers during and after fluvial erosion events.
2. Except as provided for in Section 5.7.5 and Section 5.7.6(C)(3), new development shall not be allowed within the River Corridor.
3. The following types of development are allowable within the River Corridor subject to the applicable standards:

- a. The replacement of structures within a comparable footprint of legally existing structures or immediately adjacent to an existing structure, provided that the replacement structure is no closer to the river than the structure that is being removed.
- b. Redevelopment and infill development within State-Designated Village Centers is subject to conditional use review by the Zoning Board of Adjustment, and shall meet the performance standards in subsection (d) below provided that the distance between the redevelopment or infill development and the river or stream is no less than the shortest distance between immediately adjacent existing above ground development and such river or stream.
- c. Development within or adjacent to areas of existing development is subject to conditional use review by the Zoning Board of Adjustment, and shall meet the performance standards in subsection d below provided that the proposed development will not cause or contribute to fluvial erosion hazards.
- d. One of the following performance standards must be met for all developments under Sections 5.7.6(C)(3) (b) and (c):

1) **In-Fill Between Existing Development:**

Development must be located no closer to the the channel than the average of the adjacent existing primary structures, within a gap that is no more than 300 feet, or 50 feet from top of bank, whichever is greater (see Figure 1).

Appendix A of the *Vermont DEC Flood Hazard and River Corridor Procedures* shall be used as guidance to meet this performance standard; or,

2) **Down-River Shadow:**

New development that is proposed adjacent to existing structures shall be located in the shadow area directly behind and further from the channel than the existing structure, or within 50 feet to the downstream side and no closer to the top of bank; below-ground utilities may be placed within the same shadow dimensions of an existing below-ground system (see Figure 2). Appendix B of the *Vermont DEC Flood*

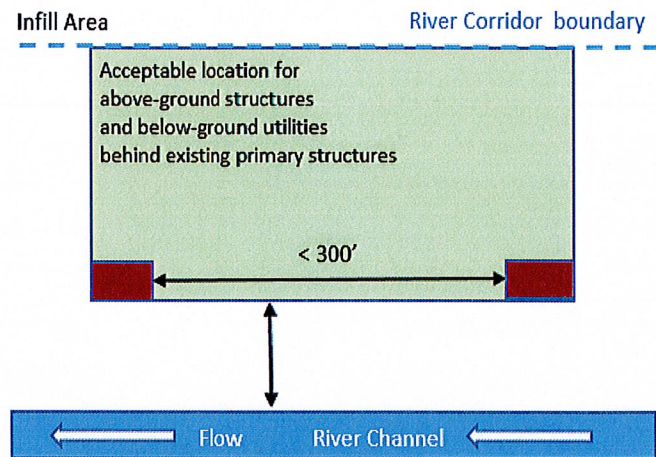


Figure 1: In-fill Development Standard

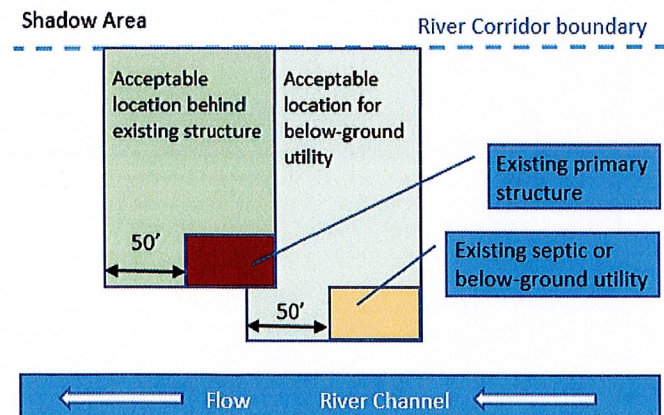


Figure 2: Shadow Area Development Standard

Hazard and River Corridor Procedures shall be used as guidance to meet this performance standard.

- e. Accessory structures may be located within 50 feet of the existing primary building provided that the location does not decrease the distance between the existing primary structure and the top of bank.
 - f. Additions to existing structures shall not decrease the distance between the existing primary building and the top of bank.
 - g. Any improvements to existing buildings or the associated fill as needed to comply with elevation requirements in the Special Flood Hazard Area shall not decrease the distance between the existing primary building and the top of bank.
 - h. Public recreation facilities that represent a minor investment, such as soccer fields, snowmobile trails, hiking or mountain bicycling trails, or multi-use paths, as long as they meet the standards in subsection (C)(1) above. Recreational-related structures such as public bathrooms, stadiums, concession stands and similar buildings must meet the same standards for structures.
4. Bridge, culvert, roadway and utility crossings, and channel management projects are allowed as authorized by a Stream Alteration Permit from the Agency of Natural Resources. A copy of the Stream Alteration Permit shall be provided as part of a complete application in order to demonstrate that the project meets the applicable standards.

5.7.7 Administration

A. Application Submission Requirements

Applications for development shall include:

1. Where applicable, a site plan that depicts the proposed development, all water bodies, special flood hazard areas, floodways, river corridors, the shortest horizontal distance from the proposed development to the top of bank of any stream, any existing and proposed drainage, any proposed fill, and pre and post development grades, and the elevation of the proposed lowest floor, as referenced to the same vertical datum as the elevation on the current Flood Insurance Rate Maps;
2. 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 Zoning Administrator and attached to the permit before work can begin;

B. Referrals

1. Upon receipt of a complete application for new construction, a substantial improvement or development in the floodway, the Zoning Administrator shall submit a copy of the application and supporting information to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources, in accordance with 24 V.S.A. § 4424. A permit may be issued only following receipt of comments from the Agency, or the expiration of 30 days from the date the application was mailed to the Agency, whichever is sooner.
2. If the applicant is seeking a permit for the alteration or relocation of a watercourse,

copies of the application shall also be submitted to the adjacent communities, the 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. The Board should consider comments from the NFIP Coordinator at ANR.

C. Decisions

The Zoning Board of Adjustment shall consider comments from the NFIP Coordinator at ANR. The Zoning Board of Adjustment may recess the proceedings on any application pending submission of additional information.

D. Records

The Administrative Officer shall properly file and maintain a record of:

1. All permits issued in areas covered by this bylaw;
2. An Elevation Certificate 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, substantially improved, or flood proofed buildings (not including accessory buildings) in the Special Flood Hazard Area;
3. All flood proofing and other certifications required under this regulation;
4. All determinations related to Substantial Damage and Substantial Improvement; and,
5. All decisions of the Zoning Board of Adjustment (including variances and violations) with the supporting findings of fact, conclusions and conditions.

5.7.8 Certificate of Occupancy

In accordance with 24 V.S.A. § 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 or River Corridors until a Certificate of Occupancy is issued therefore by the Administrative Officer, 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. 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 all 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.

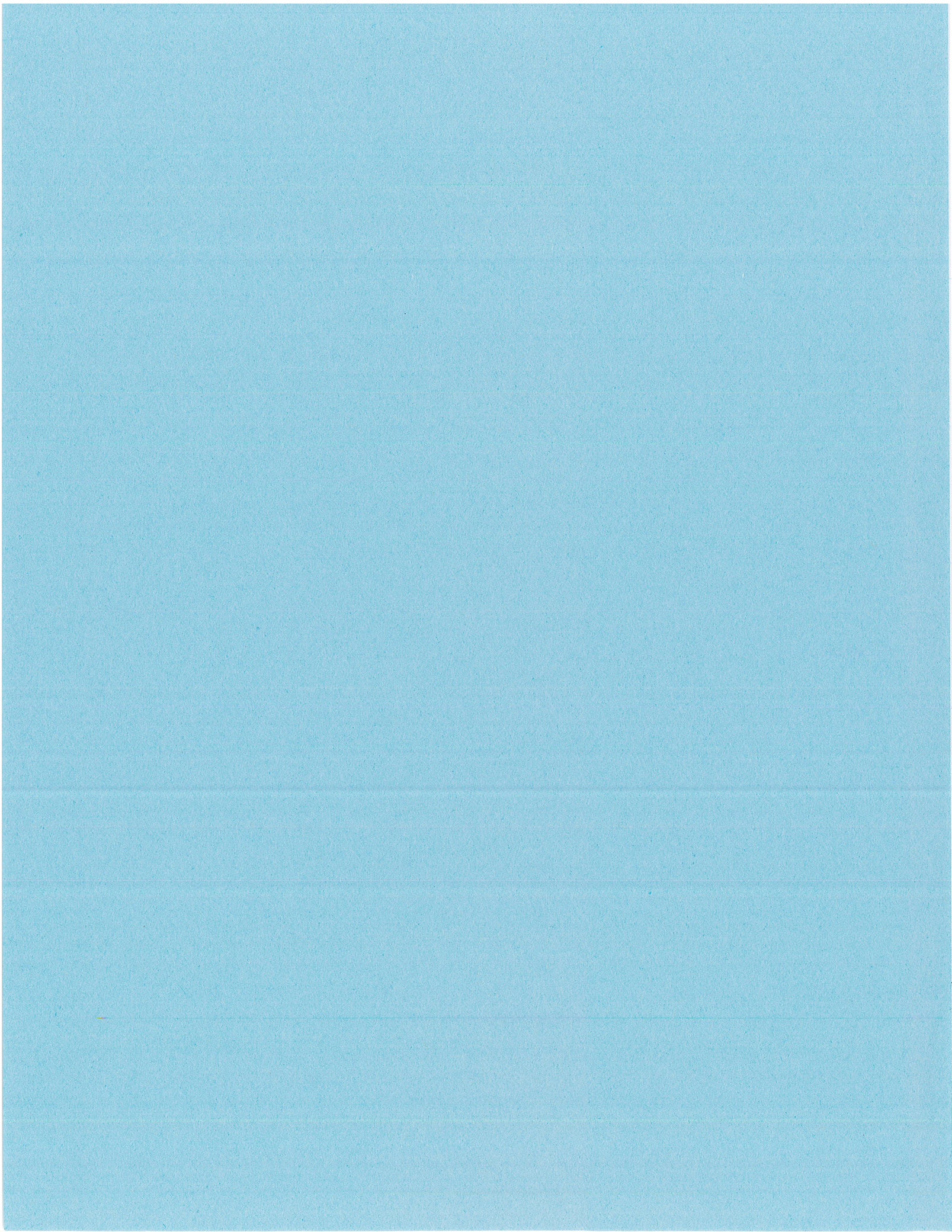
5.7.9 Enforcement and Penalties

A. This bylaw shall be enforced under the municipal zoning bylaw in accordance with 24 V.S.A. §§ 4451 and 4452. A copy of the notice of violation will be mailed the State NFIP Coordinator.

B. If any appeals have been resolved, but the violation remains, the Zoning Administrator shall submit a declaration to the Administrator of the National Flood Insurance Program requesting a

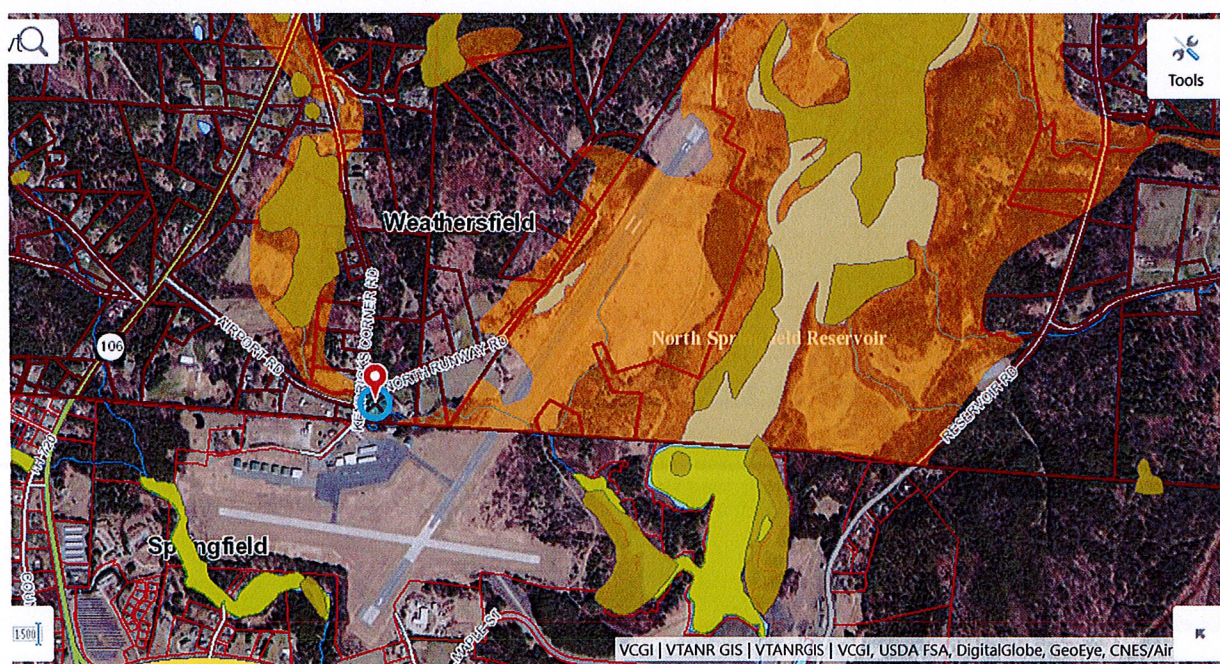
denial of flood insurance to the property pursuant to § 1316 of the National Flood Insurance Act of 1968, as amended.

C. Violations of the Accepted Agricultural Practices shall be enforced under this Section as violations of this bylaw. Such violations shall also be immediately reported to the Secretary of Agriculture for enforcement under 6 V.S.A. § 4812.



Airport Research Points

- Hartness Airport Business Plan identifies insufficient hangar space, parking, rental car availability, lack of NAVAIDS and no parallel taxiway as concerns.
- Other towns, including Springfield, provide Airport Approach Overlay District which e.g. restrict heights, waive noise restrictions, impose lighting requirements (to avoid interference or confusion with runway/navigational lights). However, Lyndonville (Caledonia County Airport), Thetford (Post Mills Airport), Newport (Northeast Kingdom Airport) have no specific airport zoning bylaws. Highgate (Franklin County State Airport) only has a height restriction in its Airport Overlay District and no other requirements.
- Hartness Airport runway is the second longest in Vermont after Burlington, at 5498 ft. The second runway is 3000 ft. There are currently approximately 6600 flights per year. Gibraltar's 5511 ft. runway can accommodate Airbus A320s which house 200+ passengers.
- The closest comparable airport in Vermont is the Northeast Kingdom Airport, with a 5300 ft. & 4000 ft. runway, and 9452 flights per year.



- Development somewhat restricted by wetlands (green layers above) and flood zones (orange layers)