



# TOWN OF WEATHERSFIELD

LAND USE ADMINISTRATOR'S OFFICE

(802)674-2626

P.O. BOX 550 ASCUTNEY, VT 05030

landuse@weathersfield.org

## Planning Commission Agenda

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

**Remote option – Zoom details below**

**Monday, June 27 – 6:30 PM**

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1. Call to Order
  2. Agenda Review
  3. Comments from the Chair and Land Use Administrator
  4. Comments from Citizens regarding items not on the agenda
  5. Comments from Town Manager on any items not on the agenda
  6. Approval of Meeting Minutes – May 9, 2022 & June 13, 2022
  7. Discussion on Bylaws and Future Land Use map based on June 20, 2022, Selectboard Hearing outcome
  8. Discussion on remote vs. in person board member participation
  9. Subdivision – Bylaws / PUD Review / Checklist – State mandated items to verify
  10. Discussion of plotter for Land Use office – to print maps for review and meetings
  11. Discussion of the Planning Commission page on the Town website – content / responsible parties
  12. Discussion of a mapping software program – read and change maps as needed
  13. Discussion of the role Regional Planning has with our board and what would be needed to move forward with any bylaw / map / town plan changes – State statute of legal obligations
  14. Town Plan – Energy section
  15. Town Plan- General
  16. Bylaws – 2<sup>nd</sup> round update
  17. Discussion of Items for Future Agendas
  18. Any other business that can be legally discussed
  19. Adjourn

The next regularly scheduled meeting of the Planning Commission will be **Monday, July 11, 2022 - 6:30 PM**, Martin Memorial Hall.

Due to public demand and COVID-19; the Town has changed its public meeting platform from GoToMeeting to Zoom. For computer access, please go to this website, where you will find instructions and links to the meeting: <https://www.weathersfieldvt.org/home/news/public-meetings-zoom>

To join any public meeting via phone, dial (929) 205-6099. When prompted, enter meeting ID 542-595-4364. You will not have a participant ID. Please press # when prompted to skip this section. The passcode for all meetings is 8021.

AGENDA ITEM

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1 Planning Commission  
2 Martin Memorial Hall  
3 5459 Rte 5 Ascutney, VT  
4 Planning Commission Meeting  
5 DRAFT Monday, May 9, 2022 6:00 PM  
6

7 Planning Commission Members Present:  
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9 Paul Tillman  
10 Howard Beach  
11 Tyler Harwell, Online  
12 Michael Todd, Online  
13 Joseph Bublat, Online  
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15 Ryan Gumbart, Land Use Administrator  
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17 1.) Call to Order made by Paul Tillman, Chair at 6:30 pm.  
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19 2.) Agenda Review  
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21 None  
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23 3.) Comments from the Chair and Land Use Administrator  
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25 Paul Tillman congratulated Ryan Gumbart on the arrival of his daughter.  
26

27 4.) Comments from Citizens regarding items on agenda.  
28

29 None  
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31 5.) Approval of Meeting Minutes –April 25, 2022  
32

33 Howard Beach made a motion to approve the minutes from 4-25-22.  
34 Michael Todd– 2<sup>nd</sup>

35 Discussion – no further discussion  
36

37 Vote – Roll Call Vote  
38

39 Tyler Harwell – Aye  
40

41 Michael Todd – Aye  
42

43 Joseph Bublat – Aye  
44

45 Howard Beach – Aye  
46

Paul Tillman – Aye

6.) Town Plan – Energy section update

Jason Rasmussen was not in attendance to review the Energy Section Update.

Ryan and Paul will reach out to Jason for a future meeting to review.

7.) Town Plan – Scenic Resources section update

Tyler Harwell had mentioned a possible addition to the scenic views, when you come back around the bend coming back into Ascutey from Perkinsville by the home that had the windmill.

Paul asked Ryan where he thought he was at with the scenic views. Ryan said that Howard Beach had presented them to the Conservation Committee last fall. He did get the GPS coordinates for a couple after that, however, has not really done any since them. He said getting the coordinates are rather easy and offered to show other members of the Planning Commission how to do them.

Ryan did say that he was missing the panoramic picture to correspond with the GPS coordinates.

View #	Old Town Plan description	View Location		Contents of View		
		Coordinates	Description	*Left bearing	*Right bearing	View
View of Mount Ascutey from:						
1	Route 131 near the Joe Stoughton house					
2	Weathersfield Center Road, north of the Town line	43.350115, 72.467910	Corner of West Camp Hill Road & Weathersfield Center Road.	N 26° E	N 6° W	Northerly. Butterfield Hill on left and Mount Ascutey on right.
3	Gravelin Road					
4	Route 5 in the Bow					
5	Thrasher Road					
View of the Black River and Black River Valley from:						
6	Reservoir Road, including view of Hawks Mountain	43° 21.242', 72° 29.729'	Along Reservoir Road, about 900' north of intersection with Butterfield Hill Road.	S 60° W	N 8° W	Westerly. Hawks Mountain in distance. Black River Valley below.
7	Upper Falls Road Covered Bridge, upstream and downstream					
8	Tropical Storm Irene pulloff on Route 106, south of Downers					
9	Stoughton Pond Dam, including view of Stoughton Pond	43° 22.546', -72° 29.957'	West side of dam along Reservoir Road, south of Stoughton Pond.	N 54° E	N 2° W	Northerly. Little Ascutey Mountain on left, Mount Ascutey on right, Stoughton Pond below.
View of Little Ascutey Mountain from:						
10	Route 106					
11	Ascutey Basin Road					
12	The height of land on Route 131 looking west					
Other scenic views:						
13	View from the Weathersfield Center Road, looking west, near the Hunter residence					
14	View from Skyline Drive at the height of the land, looking east					
15	View of the Center Church and grove					
16	View of and from Cascade Falls, Weathersfield Trail, Mt. Ascutey State Park					

\*Bearing with magnetic north

Paul Tillman reviewed the spreadsheet and asked if that mirrored the Town Plan. Ryan said the plan has “Views from Mount Ascutey” 5 views and believes that everything listed on the spreadsheet is also in the Town Plan as well.

Paul asked if the Planning Commission wanted to add any others to the list. Ryan would like to start with the ones in the Town Plan and finish those and then potentially add more after. Ryan did ask if there was a deadline for when they wanted this completed. Paul said they were trying to mirror this with the map that Jason Rasmussen is giving them. They would like to have this completed by the end of the summer.

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8.) Zoning Bylaws – Administrative Questions

- 1. Does a change in use of space within building require a zoning permit?
  - a. Attic, basement, garage change to living space.
  - b. Require application but no permit?
  - c. Require letter of notification?
  - d. Should PC define “Change of Use”?

Short answer is “Yes” “d” – the PC should define what requires a permit. What level of modification or change of use will trigger needing a zoning permit? We will investigate the state definitions and language for this. What would be the legal ramifications for issuing a permit or not lets say for a bedroom in the basement and someone gets hurt. How will state building codes fit into this scenario?

- 2. What is required for projects exempt from permitting (minor structures, agricultural buildings)?
  - a. Require application but no permit?
  - b. Require letter of notification?
  - c. Minor structures language “Applicant must notify the Zoning Administrator in writing of the intent to build such structure(s) by providing such information as is required by the Zoning Administrator”
  - d. Agricultural buildings language “notify the municipality of the intent to build a farm structure ... must contain a sketch of the proposed structure and include the setback distances from adjoining property owners and the street right-of-way.”

Answer – Minor structures looks fine; do we need more? Agricultural should have a better definition of what justifies agricultural. Look into the state definition and language for this.

- 3. Do I need proof of State permits?

Yes

Michael Todd wanted to know whose job it is to keep track of this? They should be recorded in the clerk’s office. Is a notification sent to the state of development in the Town?

- 4. How is the estimated value of construction calculated?
  - a. Cost of labor and materials?

Answer – “Both”. We may want to break out “Labor and “Materials” to separate line items. What is someone is building this themselves then there would be no labor cost. Do we want a cost for this to then just be fixed value based on square footage?

- 5. If there is a discrepancy in listed acreage what takes precedence?
  - a. Deed, tax record, survey

Answer – This would be a civil issue and the responsibility would fall on the landowner to get it surveyed to prove the validity of any discrepancies.

- 6. How is selling cars on roadside regulated?
  - a. 1 car, 5 cars, 50 cars
  - b. Connected to maintenance garage business?

111 Answer – Registered or unregistered. Do we have a Town ordinance? They Planning Commission will  
112 look to see if there is a used car ordinance. We should look at the Frequency, could be a business, and  
113 number of cars. Can be a condition of a business permit. What is the State language for auto repair  
114 garages?  
115

- 116 7. Old permit review checklist contained check boxes for  
117 a. Copies of State permits  
118 b. Are all parties on deed represented on application?  
119 i. Check deed for development restrictions?

120 This question was brought up when Ryan was reviewing a previous application and it says “Parcel # if  
121 known or acreage if known.” And deForest’s check list said if the applicant did not fill it out, refer to  
122 Lister’s card. This is why he is wondering if the Lister’s card is more prevalent than other sources.

123 Per Howard Beach, the Lister’s Card is not a legal document and it is up to the home owner to assume  
124 the liability and present the facts. If he signs the application, that is the legal document.

125 8. 4.8 Mobile homes - Bylaws say mobile homes only subject to same regulations as conventional  
126 dwellings.

127 a. Application check box states mobile homes must be placed on a concrete pad. – check the  
128 State law and make sure application/bylaws match.

129 b. Should that be in the bylaws? – – check the State law and make sure application/bylaws match.

130 9. Seasonal Roadside Stand is a permitted accessory use in all districts

131 a. How is a seasonal stand not by the roadside permitted? - if it is not a roadside stand then  
132 check the bylaws and see if they need a permit.

133 10. We do not have an application for a Boundary Line Adjustment.

134 a. Should that be added to the Zoning Permit Application form? Ryan found an old email from  
135 Sven saying write in a box for boundary line adjustment and make an entry for the fee. Howard Beach  
136 spoke with Terry who handles the Waste Water Program at the State level and their concern about  
137 boundary line adjustments is they want to make sure it doesn’t make either of the properties non-  
138 conforming in terms of set backs for septic systems or wells, for example, on either property.

139 Michael Todd suggested this be listed as a question on the form that Ryan is talking about creating.  
140 Ryan will create an updated permit application for review.

141  
142 9.) Highway Access Policy  
143

144 Ray Stapleton was not present at the meeting, however this was in regards to who was responsible for  
145 the culvert, the Town or the property owner. Per Ryan, the way Ray thought this should be worded and  
146 asked if it should be written down somewhere. And it was decided that yes it should be. In review of  
147 past records, Ryan found a Highway Access Ordinance from June 2019. The ordinance was approved by  
148 the Selectboard.  
149

150 10.) Zoning Permit Application – Amendment/Extension

- 151 • Non-permitted structures
- 152 • Box for boundary line adjustments

- Extensions if you needed one
- Municipal water
- 

Need to redraft and come back to the Planning Commission for review.

11.) Discussion of Items for Future Agendas

- Definition of Seasonal Roadside Stands
- Paul/Ryan to reach out Jason Rasmussen

12.) Any other business that can be legally discussed

Ryan Gumbart had a resident reach out to him regarding the parcel of land that abuts his land. He is concerned about a building on this land that may not meet the setback requirements. Is it appropriate to alert the sales people that there is an issue that he might need to investigate? The land owner asked Ryan to reach out.

Paul Tillman said if the land owner wants to reach out to the sales agent, that is his business, but regardless of being sold or not, Ryan can go out and see if it is too close to the property line. Howard Beach said we need to find out how long the structure has been there as it might have been there prior to zoning.

If it was put there after zoning, then the official timeline would be for that property owner to file an official complaint, Ryan would go and verify that it does not meet the setback requirements and then it would go to the ZBA.

13.) Adjourn

Tyler Harwell made a motion to adjourn at 8:16 pm

Michael Todd – 2<sup>nd</sup>

No discussion

Vote – unanimous

Next Planning Commission Meeting is scheduled for Monday, May, 23, 2022 at 6:30 pm at Martin Memorial Hall.

Respectfully,  
Chauncie Tillman  
Recording Secretary

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**Planning Commission**

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Howard Beach, Vice - Chair

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Joseph Bublat, Clerk

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Tyler Harwell, Chairperson

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Paul Tillman, Chair

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Michael Todd, Chairperson



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Planning Commission  
Martin Memorial Hall  
5459 Rte 5 Ascutney, VT  
Planning Commission Meeting  
DRAFT Monday, June 13, 2022 6:30 PM

Planning Commission Members Present:

Paul Tillman  
Howard Beach  
Michael Todd

Ryan Gumbart, Land Use Administrator

Planning Commission Members Not Present: Tyler Harwell, Joseph Bublat

Attendees: Bart Mair, Jeff Pelton, Scott Duffy

Online Attendees: Robert Sheryll, Todd Hindinger, David Fuller

- 1.) Call to Order made by Paul Tillman, Chair at 6:34 pm.
- 2.) Agenda Review  
None
- 3.) Comments from the Chair and Land Use Administrator

Paul Tillman let the Planning Commission know that the Bylaw hearing was closed and the vote was tabled until the June 20, 2022 Selectboard.

Michael Todd let the Planning Commission know that after the hearing was closed, Susan Hindinger regarding addresses for which they could contact Board members. The hearing is closed and according to the Town's attorney the Board cannot take any testimony whatsoever, not even comments from anyone. If anyone sends any comments or emails, they will be ex parte communications and it cannot happen. If anyone on the Board receives anything they cannot read it.

- 4.) Comments from Citizens regarding items not on the agenda.

Bart Mair was in attendance and asked if Planning Board members could accept questions or comments. It was determined that Planning Board members that were not also Selectboard members could receive communications and/or questions, however they could not be shared with the Planning Commission members that were also on the Selectboard. It was also reiterated that at this point nothing could be changed as the hearing was closed.

5.) Approval of Meeting Minutes –May 9, 2022 and May 23, 2022

The revised minutes from May 9, 2022 were not in the packet so Paul Tillman asked that they be added to the next agenda and packet so that the Planning Commission members had time to review them.

Howard Beach made a motion to approve the minutes from 5-23-22

Michael Todd– 2<sup>nd</sup>

No discussion

Vote – unanimous

6.) Scott Duffy – PUD Sketch Plan Review

Scott Duffy submitted an application for sketch plan review Tax Map/Parcel Number 030117

This application is to build one single family structure on this Parcel on Weathersfield Parcel #030117. Parcel size is approximately 45 acres. There is currently one single family home on the parcel, as well as original barn structures connected to the existing home, now used in part for the family home-based wood working business.

The purpose of the second residential structure on this parcel is to facilitate retirement of the applicant and his spouse, providing residence for other family members or individuals on the property, in part to assist with property and personal care.

The new residence will be a single-family frame home, concrete foundation, 2 story, approximately 2,000 square feet, compatible with the surrounding neighborhood. Driveway access is from Ascutney Basin Road, using existing agricultural field access. New private water and septic systems will be installed. Structure will have 50 feet or more setback from all abutting parcels and public road.

This additional residence will be within the housing density intents of the Town Plan, presuming a planning housing density of at least 10 acres per home. Ownership of all current and proposed structures will be retained by the applicant as will maintenance of these structures and land.

We plan to start project Summer of 2022. Applicant has resided at this location for 35+ years and our family for nearly 100 years. We respectfully thank you for your consideration.

Included with the application was the site plan drawing.

Michael Todd asked Ryan Gumbart how this application qualified as a PUD as only one new structure was being added to the property.

Ryan Gumbart said it was because it had 2 primary uses on the same parcel.

Howard Beach said that he was under the impression to create a 2<sup>nd</sup> dwelling unit as of right, Ryan said you can have a secondary unit, however, it has to meet certain specs and this did not.

Ryan said it requires a PUD because in the use tables it says, only one principal use is allowed per parcel. Establishing multiple principle uses per parcel requires a PUD permit.

Ryan confirmed that this is the first step, the sketch plan review and the 2<sup>nd</sup> step would be the public hearing where people can make comments and asked if the Planning Commission could make changes. Michael Todd explained that typically with a subdivision they would go through the sketch plan and the check list which would originate with the applicant and the Land Use Administrator. Then it would come to the Planning Commission and usually would be accompanied by a mylar.

The Planning Commission would review the check list with the sketch plan and note anything that is needed. Then they would warn a hearing. They would provide a list of what is needed on the mylar to the applicant and they would then need to hire an engineer to create the mylar and everything gets put on the mylar. The Planning Commission opens the hearing, they review the mylar, continue the hearing if there is anything that needs to be changed or added or not.

Michael Todd noted that a PUD is a group of housing that is specifically set up as conditional use. He said there are some questions regarding a PUD that he would like to review and get answers on before setting a public hearing.

Paul Tillman asked Ryan to please find everything he could from the State as well as to have Ray Stapleton to go out to the site to make sure he has what he has as well as any maps and overlays and to continue this at the next meeting.

#### 7.) Jeff Pelton – Waterway naming project presentation

Jeff Pelton from the Conservation Committee was in attendance to present a draft of the Waterway naming project. Paul Tillman clarified that there was nothing that was needed from the Planning Commission in order to proceed. Jeff confirmed that was correct. He provided historical maps, petitions for each water way, supporting documentation and pictures of these waterways for review by the Planning Commission.

### *Petitions to Name Waterways in Weathersfield, VT*

Weathersfield Conservation Commission

**May 31, 2022**

## **INTRODUCTION**

### **Purpose**

These petitions to name major waterways in the town of Weathersfield, Vermont is a project undertaken by the Weathersfield Conservation Commission (WCC) for the purpose of standardizing waterway names, locations, and watershed areas at the local, state, and federal levels.

## **Scope**

The focus of this project is on streams, but does include other water bodies such as wetlands, ponds, springs, waterfalls, and gorges. These are permitted by the U.S. Geological Survey, (USGS) Board on Geographic Names (BGN) which is the official repository of geographic place names in the United States.

## **Background**

The WCC was asked by Marie Levesque-Caduto, Basin 10 Coordinator for the State of Vermont Department of Environmental Conservation (DEC) Springfield Office to compile Weathersfield waterway names for its water quality monitoring program. The Black River Action Team, a local environmental organization, also asked for stream name data, and ecologist, Elizabeth Thompson, author of the study "Biological Natural Areas of Weathersfield, Vermont" urged that the major wetlands be considered for this project. And not the least, inquiries have been made to use these waterways for dragonfly research, invasive species identification, and the study of the natural community, forested wetland. Standardizing names is intended to end any confusion about the names and locations of these geographic features. Related benefits accruing from this project are the facilitation of planning infrastructure projects, flood mitigation, emergency response, and aesthetic and recreation enjoyment, although naming in no way implies access across private lands without permission. Because the names largely derive from Weathersfield's early settlers and industries, the history of Weathersfield's settlement may be accessed.

## **Federal and State Rules for Naming Geographic Places**

At the federal level the BGN Domestic Names Committee (DNC) prescribes how geographic features such as waterways may be named, and is the ultimate adjudicator of these petitions. Preliminary approval must be granted by Vermont Department of Libraries (VDL) which has statutory authority (10 V.S.A., Chapter 9, Paragraphs 151-154) over petitions for new or changes to Vermont place names. At the local level, approval is urged to be sought from town select boards and town and regional planning commissions.

Under the BGN prescriptions, names of living people may not be used and deceased people named must be deceased more than five years. Commemorative names may be used but only in special circumstances and carefully justified. Multiple names, duplicate names, and very long names must be avoided. Man-made and administrative structures may not be named.

A former name may be recorded as a Variant Name to preserve its historical context. Names in present-day local usage is emphasized. Recommended are names connected to historic persons, activities, folklore, natural history, and geographic places. Indigenous-American (Abenaki) names must be considered where present. The waterways to be named in this petition satisfy these requirements.

## Methods

The process of assigning names took a number of forms: location of prospective waterways on topographic maps; review of names already existing at the federal level; examination of historic and current maps and atlases; review of the study of the wetland areas of Weathersfield; consultation with State and local agencies and boards, and outreach to Weathersfield residents. Because of the large number of small streams and wetlands in Weathersfield, at the outset it was decided to name only unnamed streams whose watershed areas were 200 acres and wetlands whose areas were 10 acres. Stream watershed areas were measured by using the USGS Stream Stats computer software, and wetland areas were measured by using tools of the online Vermont Agency of Natural Resources (ANR) Atlas.

By considering the project's criteria, studying contemporary topographic maps, other maps, studies, histories, and residents' accounts, 60 prospective waterways were found. Of these, 13 (22%) already had names in the BGN official database, the Geographic Names Information System (GNIS), and will not be petitioned in this project. The balance of 47 (78%) waterways did not have names in GNIS. The wee has assigned names to these waterways and they will be listed in this project.

Most historic maps yielded few waterway names: Whitelaw (1796) named 3; Walling (1860) and found in the Weathersfield Proctor Library named 4; and Beers (1869) named 3. The one historic map found that was of great benefit to this project was historian Ernest Warren Butterfield's 1940 map "Weathersfield Vermont." Butterfield named 30 waterways to which, fortuitous for this project's requirements, he gave names of historic settlers, functions, or geographic places. However, 7 of his are already named in GNIS. Not meeting the project requirements were 4. The WCC adopted the balance of his named waterways and they appear in the accompanying petitions. Twelve waterways that Butterfield did not name, but which met other requirements, including 3 named by VT DEC, were listed or assigned names by the WCC.

Another important contribution to this project was the work of ecologist Elizabeth Thompson, whose 1992 study, "Biological Natural Areas of Weathersfield, Vermont," described eighteen important wetlands. Wetlands are now increasingly recognized for their many values: flood water storage, plant and wildlife diversity, rare plant communities, water sources, recreation, and aesthetic qualities. Because listing all the wetlands in this study and all the wetlands in Weathersfield would have made the project too unwieldy, the WCC decided to include only 13 of those 10 acres. Two of Thompson's names did not meet the state and federal naming requirements and she failed to list 5 wetlands that met the WCC's size requirement. So, in these cases, the WEE assigned names.

Finally, we reached out to Weathersfield residents for their suggestions and comments in a

variety of ways. A table with a map and information was placed at the 2020 and 2022 annual public Town Meetings. Notices about the project were posted at two town post offices and two local stores. Articles were placed in local newspapers, in a letter-to-the-editor, and in the local Front Porch Forum. The Weathersfield Historical Society (WHS) became an invaluable partner by providing the historical context of most of the names, and the Society placed articles about this project in its member newsletter. Another significant partner, the Weathersfield Proctor Library (WPL), hosted a project display throughout the summer and early fall of 2020 and the spring of 2022. We made personal contacts with long-time Weathersfield residents from whom we garnered much history and lore about various waterways in town. To complete our outreach, we contacted ethnohistorian John Moody, co-founder of the Institute for Indigenous Traditions, who gave us the source of three Abenaki waterway names.

### **Summary**

In the accompanying petitions are 46 proposed waterway names. Table 1 lists all proposed names and the latitude and longitude of their outlets for locating on a map. Table 2 lists all streams named, the sources of the names, where the names are referenced, and their watershed areas. Following these is a more in-depth description of each stream, including Variant Names. Table 3 lists all wetlands named with their sources, references, and areas. Following this table are more in-depth descriptions of each feature, including Variant Names. Table 4 lists the other waterways such as ponds, waterfalls, a spring, a gorge, and a gulf. Table 5 lists waterways already in GNIS to account for all the waterways studied. Appendix A is a map that shows these waterway locations.

Jeff stated that purpose was to standardize the waterway names to avoid confusing at the local level, the State level and at the Federal level.

#### 8.) Town Plan – Energy Section

Paul Tillman had sent an email to Jason Rasmussen. The Planning Commission is still waiting to get together to work on this with Jason.

#### 9.) Town Plan - General

The Planning Commission is going to start looking at other areas that they want to start focusing on.

#### 10.) Bylaws – 2<sup>nd</sup> round updates

Ryan provided the Planning Commission with a list of other bylaws to review.

- Airport Uses
- PUD
- Flood Plains and Floodways
- Article 6: Administration and Enforcement
  - 6.2 Permit Requirements
    - 6.2.2 Exemptions
      - P
      - Q
    - 6.2.3 Limitations
      - B.1
      - C.1
      - C.2
        - C.2.A
        - C.2.B
    - 6.9.2 Allowable Waivers
      - A.4

11.) Discussion of Items for Future Agendas

- Town Energy Plan
- Bylaws
- PUDs

12.) Any other business that can be legally discussed

None

13.) Adjourn

Michael Todd made a motion to adjourn at 8:47 pm

Howard Beach – 2<sup>nd</sup>

No discussion

Vote - unanimous

Next Planning Commission Meeting is scheduled for Monday, June, 27, 2022 at 6:30 pm at Martin Memorial Hall.

Respectfully,  
 Chauncie Tillman  
 Recording Secretary



**Planning Commission**

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Howard Beach, Vice - Chair

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Joseph Bublat, Clerk

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Tyler Harwell, Chairperson

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Paul Tillman, Chair

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Michael Todd, Chairperson

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AGENDA ITEM

9

# The Vermont Statutes Online

## Title 24 : Municipal And County Government

### Chapter 117 : Municipal And Regional Planning And Development

#### Subchapter 007 : Bylaws

(Cite as: 24 V.S.A. § 4418)

#### § 4418. Subdivision bylaws

In order to guide community settlement patterns and to ensure the efficient extension of services, utilities, and facilities as land is developed, a municipality may regulate the division of a lot or parcel of land into two or more lots or other division of land for sale, development, or lease. Subdivision bylaws shall establish standards and procedures for approval, modification, or disapproval of plats of land and approval or modification of plats previously filed in the office of the municipal clerk or land records.

(1) Subdivision bylaws shall be administered in accordance with the requirements of subchapter 10 of this chapter, and shall contain:

(A) Procedures and requirements for the design, submission, and processing of plats, any drawing and plans, and any other documentation required for review of subdivisions.

(B) Standards for the design and layout of streets, sidewalks, curbs, gutters, streetlights, fire hydrants, landscaping, water, sewage and stormwater management facilities, public and private utilities, and other necessary improvements as may be specified in a municipal plan. Standards in accordance with subdivision 4412(3) of this title shall be required for lots without frontage on or access to public roads or public waters.

(C) Standards for the design and configuration of parcel boundaries and location of associated improvements necessary to implement the municipal plan and achieve the desired settlement pattern for the neighborhood, area, or district in which the subdivision is located.

(D) Standards for the protection of natural resources and cultural features and the preservation of open space, as appropriate in the municipality.

(2) Subdivision bylaws may include:

(A) Provisions allowing the appropriate municipal panel to waive or modify, subject to appropriate conditions, the provision of any or all improvements and requirements as in its judgment of the special circumstances of a particular plat or plats are not requisite in the interest of the public health, safety, and general welfare, or are inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the subdivision.

(B) Procedures for conceptual, preliminary, partial, and other reviews preceding submission of a subdivision plat, including any administrative reviews.

(C) Specific development standards to promote the conservation of energy or to permit the utilization of renewable energy resources, or both.

(D) State standards and criteria under 10 V.S.A. § 6086(a). (Added 2003, No. 115 (Adj. Sess.), § 95.)

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**Section 230. Sketch Plan Review (all subdivisions)** - Discussion sheet

Sketch Plan # \_\_\_\_\_

Subdivider's Name \_\_\_\_\_

Date of Sketch Plan Review \_\_\_\_\_

*NOTE: The purpose of this sketch plan review is to have a preliminary discussion with the subdivider about the proposed project.*

1. Ask the subdivider to present the project to the Commission. Focus the discussion on:
  - the overall project concept
  - the project's context with the surrounding neighborhood and related resources.
  
2. Is there anyone from the general public here with input on this project? ( ) Yes ( ) No  
Have any written comments from the general public on this project been received?  
( ) Yes ( ) No
  
3. Is there anyone from the municipality here with input on this project? ( ) Yes ( ) No  
Have any written comments from the municipality regarding this project been received?  
( ) Yes ( ) No
  
4. Review the project taking into consideration the requirements of:
  - the subdivision regulations
  - the zoning bylaws
  - other ordinances and policies in effectDoes the proposed project conform to the subdivision regulations? ( ) Yes ( ) No  
Does the proposed project conform to the zoning bylaws? ( ) Yes ( ) No  
Does this project conform to all other ordinances and policies in effect? ( ) Yes ( ) No  
Are waivers being sought to resolve conflicts? ( ) Yes ( ) No
  
5. Does the sketch plan conform to the Town Plan? ( ) Yes ( ) No



6. Will the project be in conflict with developments proposed by any public agency, existing private and public development, facilities and services? ( ) Yes ( ) No
7. Are there any special problems with the project? ( ) Yes ( ) No
8. Is this the best possible design for both the applicant and the Town? ( ) Yes ( ) No

**Planning Commission Recommendations**

Within thirty (30) days of the final meeting with the applicant, the Planning Commission, **based on the information provided in the application**, shall issue recommendations in writing:

(1) A preliminary determination that the proposed subdivision generally ( ) conforms ( ) does not conform

to applicable planning and design standards pursuant to Article 3 of these regulations, and with the goals, objectives and policies of the Town Plan, and other municipal regulations currently in effect.

(2) Recommendations for changes in the design of this project include:

---

(3) The following additional information is requested for the final subdivision application for this project (see Table 2.1).

---

(4) The following additional studies or supporting documentation is required for this project:

---

(5) A preliminary plan review ( ) is ( ) is not required for this project in accordance with Section 240.

(6) A master plan ( ) is ( ) is not required for this project because the land may support subsequent subdivisions or public facilities are planned for the vicinity in the Capital Budget and Program and/or Town Plan. The master plan is intended to plan for all possible future subdivisions in accordance with these Regulations and the Zoning Bylaws in effect, to achieve the most efficient subdivision infrastructure plan, and not preclude the potential for future subdivisions. The master plan is to help guide the subdivider and Planning Commission in any subsequent subdivision applications for the affected lands.



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# Town of Weathersfield VT

## Final Plat/Subdivision Checklist



### Plat/Mapping and Document Requirements

- Subdivision Name/Title
- Municipality Name
- Name and address of landowner
- Name and address of applicant
- Date, North arrow, Legend
- Preparer Information
- Revision dates
- Certifications
- Scale (Not greater than 1 inch = 200 feet unless waived for large parcels)
- Surveyed project boundaries
- Surveyed property lines
- Zoning district designation and boundaries
- Existing elevation (contour lines at 5-foot intervals within 100 feet of any development)
- Proposed elevations (contour lines at 5-foot intervals within 100 feet of any development)
- Supplemental drawings (road profiles, intersections, parking areas)
- State permits & documents (wastewater, Act 250, Project Review Sheet)

#### Continued:

- Existing and proposed traffic generation rates and volumes
- Easements (including water, wastewater)
- Deed reference, tax map reference, deed restrictions
- If applicable, homeowner/tenant association agreements
- Existing structures (house, sheds, garage, outbuildings)

#### Approved Final Plat Mylar Title Block: Rev 0

FINAL PLAT# \_\_\_\_\_

Refer to Notice Of Decision dated \_\_\_\_\_ for a complete listings of findings and conditions applicable to this plat.

other documents pertaining to this subdivision are:

- Access Permits (State/Local)
- Wastewater Disposal Permit (State) \_\_\_\_\_
- Erosion Control Plans \_\_\_\_\_
- Other \_\_\_\_\_

Signature of the Planning Commission is conformation that all of the conditions of approval for this subdivision have been:

- Completed
- Bonded for completion within one (1) year of the date of signature.

Signature \_\_\_\_\_

Date \_\_\_\_\_

### Surveyed

#### Existing:

- Lot lines
- Dimensions
- Parcel numbers
- Lot numbers

#### Proposed:

- Lot lines
- Dimensions
- Parcel numbers
- Lot numbers

#### Adjoining:

- Land uses
- Subdivisions
- Roads
- Drainage and utilities (including location and size of culverts and water and sewer mains)

### Specific Boundaries

#### Development Limitation Areas:

- Slopes with a gradient of 25% or greater
- Deer wintering habitat areas
- Rare plants and animal communities
- Historic sites and features (e.g. cellar holes, stone walls)
- Flood hazard areas
- Surface waters
- Wetlands and associated buffers
- Scenic vistas
- Prime agricultural soils
- Statewide significant agricultural soils

### Additional Information

The Planning Commission may require additional information depending upon the scope and location of the proposed subdivision, including but not limited to the following:

- Stormwater management plans
- Erosion control plans
- Grading plans (showing proposed areas of cut and fill)
- Traffic impact analysis (current and proposed traffic volumes, capacities, levels of service, proposed improvements)
- Open space management plan
- Visual impact analysis and mitigation plan
- Master plan for large subdivisions or subdivisions of large parcels
- Fiscal impact analysis (analysis of financial cost and benefits to the Town)
- Other information of studies necessary for the Commission to conduct a comprehensive review

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# The Vermont Statutes Online

## Title 24 : Municipal And County Government

### Chapter 117 : Municipal And Regional Planning And Development

#### Subchapter 007 : Bylaws

(Cite as: 24 V.S.A. § 4417)

#### § 4417. Planned unit development

(a) Any municipality adopting a bylaw should provide for planned unit developments to permit flexibility in the application of land development regulations for the purposes of section 4302 of this title and in conformance with the municipal plan. The following may be purposes for planned unit development bylaws:

(1) To encourage compact, pedestrian-oriented development and redevelopment, and to promote a mix of residential uses or nonresidential uses, or both, especially in downtowns, village centers, new town centers, and associated neighborhoods.

(2) To implement the policies of the municipal plan, such as the provision of affordable housing.

(3) To encourage any development in the countryside to be compatible with the use and character of surrounding rural lands.

(4) To provide for flexibility in site and lot layout, building design, placement and clustering of buildings, use of open areas, provision of circulation facilities, including pedestrian facilities and parking, and related site and design considerations that will best achieve the goals for the area as articulated in the municipal plan and bylaws within the particular character of the site and its surroundings.

(5) To provide for the conservation of open space features recognized as worthy of conservation in the municipal plan and bylaws, such as the preservation of agricultural land, forest land, trails, and other recreational resources, critical and sensitive natural areas, scenic resources, and protection from natural hazards.

(6) To provide for efficient use of public facilities and infrastructure.

(7) To encourage and preserve opportunities for energy-efficient development and redevelopment.

(b) The application of planned unit development bylaws to a proposed development may:

(1) Involve single or multiple properties and one owner or multiple owners. Procedures for application and review of multiple owners or properties under a common application, if allowed, shall be specified in the bylaws.

(2) Be limited to parcels that have a minimum area specified in the bylaws or a minimum size or number of units.

(3) Be mandatory for land located in specified zoning districts or for projects of a specified type or magnitude as provided in the bylaws.

(c) Planned unit development bylaws adopted pursuant to this section at a minimum shall include the following provisions:

(1) A statement of purpose in conformance with the purposes of the municipal plan and bylaws.

(2) The development review process to be used for review of planned unit developments to include conditional use or subdivision review procedures, or both, as specified in the bylaws.

(3) Specifications, or reference to specifications, for all application documents and plan drawings.

(4) Standards for the review of proposed planned unit developments, which may vary the density or intensity of land use otherwise applicable under the provisions of the bylaws in consideration of and with respect to any of the following:

(A) The location and physical characteristics of the proposed planned unit development.

(B) The location, design, type, and use of the lots and structures proposed.

(C) The amount, location, and proposed use of open space.

(5) Standards requiring related public improvements or nonpublic improvements, or both; and the payment of impact fees, incorporating by reference any development impact fee ordinance adopted pursuant to chapter 131 of this title.

(6) Provisions for the proposed planned unit development to be completed in reasonable phases, in accordance with the municipal plan and any capital budget and program.

(7) Provisions for coordinating the planned unit development review with other applicable zoning or subdivision review processes, specifying the sequence in which the various review standards will be considered.

(8) Reviews that are conducted in accordance with the procedures in subchapter 10 of this chapter.

(d) Planned unit development bylaws may provide for, as part of the standards described in subdivisions (c)(4) and (c)(5) of this section, the authorization of uses, densities, and intensities that do not correspond with or are not otherwise expressly permitted by the bylaws for the area in which a planned unit development is located, provided that the municipal plan contains a policy that encourages mixed use development, development at higher overall densities or intensities, or both.

(e) Standards for the reservation or dedication of common land or other open space for the use or benefit of the residents of the proposed planned unit development shall include provisions for determining the amount and location of that common land or open space, and for ensuring its improvement and maintenance.

(1) The bylaws may provide that the municipality may, at any time, accept the dedication of land or any interest in land for public use and maintenance.

(2) The bylaws may require that the applicant or landowner provide for and establish an organization or trust for the ownership and maintenance of any common facilities or open space, and that this organization or trust shall not be dissolved or revoked nor shall it dispose of any common open space, by sale or otherwise, except to an organization or trust conceived and established to own and maintain the common open space, without first offering to dedicate the same to the municipality or other governmental agency to maintain those common facilities or that open space.

(f) The approval of a proposed planned unit development shall be based on findings by the appropriate municipal panel that the proposed planned unit development is in conformance with the municipal plan and satisfies other requirements of the bylaws.

(g) The appropriate municipal panel may prescribe, from time to time, rules and regulations to supplement the standards and conditions set forth in the zoning bylaws, provided the rules and regulations are not inconsistent with any municipal bylaw. The panel shall hold a public hearing after public notice, as required by section 4464 of this title, prior to the enactment of any supplementary rules and regulations. (Added 2003, No. 115 (Adj. Sess.), § 95.)



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## 5.6 Planned Unit Development

### 5.6.4 General Standards

In addition to the standards set forth in Weathersfield's Subdivision Regulations, the following general standards must be met in order for the Planning Commission to approve a PUD application:

- a) PUD is consistent with Town Plan.
- b) The density requirements do not exceed the number of units permitted if the land were subdivided in accordance with district regulations.
- c) All Site Plan Review requirements in Section 5.3 have been met.
- d) The PUD is an appropriate and unified treatment for the proposed development.
- e) The development is designed so as to be compatible with the character of the area. Particular attention will focus on the aural and visual impacts.
- f) The development will not place an undue burden on municipal services.
- g) State and local standards for fire and safety regulations by local fire and police officials are in compliance.
- h) Adequate water supply and sewage disposal facilities are provided.

## 5.3 Site Plan Review

In accordance with 24 V.S.A. Sect. 4416, for any use other than a one- or two- family dwelling, and where indicated in the bylaws, the approval of site plans by the Zoning Board of Adjustment is required prior to the issuance of a zoning permit. In reviewing site plans, the Zoning Board of Adjustment may impose appropriate conditions and safeguards with respect to impact on character of the area, adequacy of traffic access, circulation and parking; landscaping and screening; compatibility with surrounding development; noise, vibration, erosion, and dust; and protection of natural resources. Consideration shall be given to traffic mobility and safety on affected streets, impacts on surrounding uses, and to desired land use patterns as encouraged by the Town Plan and the zoning bylaws of the affected district(s). A performance bond or other surety may be required as a condition for approval as authorized in 24 V.S.A. Sect. 4464. Conditions may include, but are not limited to, the following:

### 5.3.1 Compatibility with surrounding development

The Zoning Board of Adjustment may require the design and placement of structures to conform with the existing relationship of surrounding buildings to the street, the landscape, and to each other, including setback distances, physical orientation, construction materials, and architectural design. Design shall not be limited to any particular style or period, but should be consistent with established trends and patterns in the surrounding area.

### 5.3.2 Traffic access and circulation

Among other appropriate safeguards and conditions, the Zoning Board of Adjustment may:

- a) Require the installation of frontage roads, speed change lanes, or other highway design elements on a street or adjacent to any access or connecting roads, if deemed necessary based on current or anticipated conditions.
- b) Limit the number and width of access drives; require consolidation of existing access points.
- c) Limit access to a property to a side street or secondary road in order to avoid access to heavily traveled streets and highways
- d) Require shared access and/or parking for adjoining properties or for future users of the remainder of a parcel; require the reservation of shared rights-of-way for future roads, parking areas, and pedestrian facilities; allow for consolidation or shared use of required parking spaces between uses.
- e) Require an applicant to commission a traffic impact study from a qualified consultant according to the Weathersfield Traffic Impact Study Guidelines (Refer to Appendix #2).
- f) Require the location or relocation of access points on one side of a street or highway directly across from existing access points on the opposite side.
- g) Prohibit the location of parking facilities between the front line of building(s) and the street.
- h) Accommodate existing or future facilities for non-vehicular travel.

### *5.3.3 Protection of natural resources*

The Zoning Board of Adjustment may require that structures, parking facilities and other development be located so as to avoid impacts to surface waters, wetlands, wildlife habitat, agricultural land, important scenic resources, and significant natural and cultural features. These requirements may include modification of the minimum setback distances of the district. (Refer to Sect. 6.10.9 "1992 Biological Natural Areas of Weathersfield, Vermont".)

### *5.3.4 Storm water management and drainage*

Adequate provisions shall be made for the management of erosion, sedimentation and storm water runoff. For all projects undergoing Site Plan Review, except one- or two-family dwellings, appropriate storm water management measures shall be incorporated into the final site design to ensure that no additional storm water runoff is generated beyond the boundaries of the property and that existing drainage patterns are not altered in a manner which impacts neighboring properties, town highways or surface waters.

The Zoning Board of Adjustment may require a storm water management and erosion control plan prepared by a professional engineer licensed by the State of Vermont. The plan shall provide detailed information regarding proposed erosion and sedimentation control measures to be employed during all stages of the development (including site preparation, construction and post- construction). The Zoning Board of Adjustment may waive compliance with this provision in situations involving minimal disturbance of the site and/or limited areas of steep slope in which the development clearly poses a negligible risk to water quality, public facilities and roads, and nearby properties.

### *5.3.5 Landscaping and screening*

Landscaping shall enhance the features and conditions unique to each site and shall include a combination of shade and street trees, shrubs, planting beds, well-kept grasses and ground covers. Landscaping is required in front and side yards, adjacent to parking areas, where rear yards abut residential properties or public roads, and as otherwise necessary to provide adequate screening and without compromising vehicular and pedestrian safety by blocking visibility and site lines.

Landscaping plans shall emphasize the following:

- a) The preservation of existing ground cover and trees, especially those that are mature or determined to be of special horticultural or landscape value.
- b) The use of both deciduous and coniferous shade trees in available yard area, especially front and side yards and parking areas. Shade trees shall be placed to interrupt the facades of buildings, break-up expanses of parking, visually reduce the scale and bulk of large buildings, integrate the site with the surrounding landscape and to enhance environmental quality (e.g. wildlife habitat, soil stabilization, storm water retention, air quality, energy conservation).
- c) The use of street trees along well-traveled roads. Street trees should be planted where site conditions make such planting practical. Such trees shall be planted along the edge of the road right-of-way to create a canopy effect and shall be indigenous, deciduous species tolerant of road- salt, soil compaction and drought.

A three-year plan for all proposed landscaping shall be prepared and bonding or other surety may be required to ensure installation and maintenance. The Zoning Board of Adjustment may require a professional landscape architect to prepare a plan on a case-by-case basis

## **5.4 Conditional Use Review**

For development requiring one or more approvals from an Appropriate Municipal Panel prior to the issuance of a zoning permit, application information and fees as required for such approvals shall be submitted concurrently with the application for a zoning permit and referred to the Administrative Officer. Conditional Use Process:

Applicant applies to the Administrative Officer, who must refer the application because conditional use approval is required.

The applicant must then ask the Zoning Board of Adjustment to schedule a public hearing on the issue, and such hearing must be held within thirty (30) days of such request.

The Board of Adjustment shall act to approve or disapprove any such request for conditional use within 45 days after the date of the final public hearing and failure to so act within such period shall be deemed approved.

The Board will base its decision on whether the proposed use will result in an undue adverse effect on:

- a) the capacity of existing or planned community facilities;
- b) the character of the area

c) traffic

d) as well as whether all applicable general and special provisions of these Bylaws would be met.

The Board may attach certain additional requirements or conditions to a permit. After such decision is made, the applicant shall have fourteen (14) days to present the conditional use approval and conditions to the Administrative Officer along with an application for a zoning permit. Appeals from a decision of the Board of Adjustment are filed in the Environmental Court.

A performance bond or other surety may be required by the Zoning Board of Adjustment for a conditional use permit. The amount, term and conditions of forfeiture shall be stated in the decision which requires the surety and shall be reflected in the surety contract. The surety contract shall be satisfactory to the Administrative Officer as to form, sufficiency and manner of execution, and shall be filed with the Town Clerk.

## **5.5 Combined Review**

In accordance with 24 V.S.A. '4462, in cases where a proposed project will require more than one type of development review, the Planning Commission or Zoning Board of Adjustment may warn and hold a joint hearing or single hearing for the purpose of reviewing and acting on the proposal. The Administrative Officer shall identify proposed projects appropriate for combined review and assist applicants in preparing and submitting coordinated applications to facilitate combined review.

Notice for a combined review hearing shall be made in accordance with 24 V.S.A. §4464(a)(1).

The hearing notice shall include a statement that the hearing will be a combined review of the proposed project and list each review process that will be conducted at the hearing.

As applicable, the combined review process shall be conducted in the following order:

- a) Site Plan Review
- b) Access by right-of-way
- c) Requests for Waivers
- d) Requests for Variances
- e) PUD Review
- f) Subdivision Review (preliminary and final)
- g) Conditional Use Review

All hearing and decision requirements and all deadlines applicable to each review process shall apply. Separate written decisions may be issued for each review conducted as part of the combined review, but shall be coordinated where appropriate.

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# TOWN OF WEATHERSFIELD

LAND USE ADMINISTRATOR'S OFFICE

(802)674-2626

P.O. BOX 550 ASCUTNEY, VT 05030

landuse@weathersfield.org

To: Weathersfield Planning Commission

From: Ryan Gumbart, Land Use Administrator

Date: June 15, 2022

Re: Duffy - Planned Unit Development Review

Vermont State Statute 4417(c)(2) requires the bylaws to specify if the PUD review process will be done under established conditional use review procedures or subdivision review procedures, or both. Weathersfield Bylaw 5.6.4 specifies PUD Review be done under the subdivision review procedures.

Bylaw section 5.6.4(c) requires all Site Plan Review requirements to be met. This is consistent with the C10 Use Table which lists Single family PRD<sup>1,2,3</sup> as a Conditional Accessory Use. As indicated by superscript 1, Site Plan Review is required.

According to Statute 4460(e) "The following review functions shall be performed by the appropriate municipal panel authorized by a municipality as specified in the municipal bylaws...". This includes 4460(e)(7), "site plan review as authorized in section 4416 of this title". Weathersfield Bylaw 5.3 specifies "for any use other than a one- or two- family dwelling, and where indicated by the bylaws, the approval of site plans by the Zoning Board of Adjustment is required prior to the issuance of a zoning permit." Additionally, Bylaw 6.1.3(b) specifies the Board of Adjustment will be the appropriate municipal panel for site plan approval.

Due to Single family PRD being listed as a Conditional Use in the Conservation district, conditional use review would also be required before issuance of a zoning permit.

A Combined Review is allowed by Bylaw 5.5 where the appropriate municipal panel may hold a joint hearing for reviewing and acting on the proposal.

The following seems to be the logical PUD Review process for the Duffy PUD application.

1. Applicant submits PUD/Subdivision Sketch Plan Review application
2. PC conducts Sketch Plan Review and determines next steps
3. Applicant submits necessary applications
  - a. Highway access, State wastewater, ZBA review
4. ZBA holds hearing for Combined Review
5. Applicant submits Final Plat Review application following receipt of other necessary permits
6. PC holds hearing for Final Plat Review
7. Administrative Officer issues permit

AGENDA ITEM


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## 7.7 Energy Goals

- 7.7.1 To make efficient use of energy, provide for the development of renewable energy resources, and reduce emissions of greenhouse gases.

## 7.8 Energy Policies

- 7.8.1 Weathersfield has limited potential for utility-scale wind energy development, as areas with sufficient access to consistent wind are generally small in size and more than a mile away from three-phase power lines. The prime wind sites (e.g. Weathersfield Center, Butterfield Hill, Pikes Peak) are relatively close to established residences and/or specifically identified scenic, historic or natural resources in the Town Plan and/or Biologic Natural Areas of Weathersfield. The secondary wind sites (e.g. Skyline Drive, Hawks Mountain, Little Ascutney, Pierson Peak, Mount Ascutney) are largely in scenic or natural resources areas also specifically identified in the Town Plan and/or Biologic Natural Areas of Weathersfield. Development in these areas would have a profoundly negative impact on critical viewsheds throughout the community, as the natural profile of the mountain forms an iconic backdrop from both in-town and rural valley locations. Because no other locations in Weathersfield have suitable wind resource, infrastructure availability, or are free from significant environmental constraints (Figure 6), no utility-scale (100 KW capacity or greater) wind energy facilities should be located in the town. Smaller scale wind projects, including residential-scale turbines (generally less than 10 KW) and turbines that may be installed at farms, residences or small businesses, up to 100 KW, may be appropriate as long as noise from the turbines does not adversely affect neighboring residential properties and as long as they are not prominently visible from any town-identified historic district.
- 7.8.2 The town particularly encourages solar energy development, of any scale, on building rooftops.
- 7.8.3 The town strongly supports the development of small-scale (150 KW capacity or less) electricity generation from solar energy at homes, businesses, schools, and other institutions.
- 7.8.4 The town strongly encourages community solar projects (between 15 KW and 150KW in size) provided they are located on sites identified as having high potential for electricity generation based on solar resource availability and avoid “prohibited areas” as identified below. Moreover, any community solar project located on a site that is not a prohibited/exclusion area shall be considered as being located on a “preferred site” and eligible for all of the regulatory and financial incentives associated with larger scale solar energy installations pursuant to Public Utility Commission Rule 5.100 and 30 V.S.A. Section 248.
- 7.8.5 Any larger scale solar development (greater than 150 kW capacity) shall be subject to the following Solar Energy Facility Siting Policy and Map, and the Solar Electric Facility Siting Guidelines.
- 7.8.6  **Solar Energy Facility Siting Policy and Map**

The Solar Energy Resource Map shall serve as a guide for developers wishing to identify land suitable for larger-scale solar energy generation facilities (greater than 150 kW capacity) within the Town of Weathersfield. This map identifies sites which have been determined by the Town of Weathersfield, through official action of the Select Board, to be suitable for solar facilities and sites which are not suitable due to the presence of constraints. Only sites identified as “preferred sites” (on this map or through the Town of Weathersfield’s Preferred Site Policy) or located in a “preferred area” as defined in the Solar Facility Siting Criteria, below, may be developed with solar generating facilities in excess 150 KW of rated capacity.

The Solar Energy Resource Map shall be used in concert with the Town’s Screening of Solar Facilities Ordinance and the Solar Facility Siting Guidelines (incorporating the Community Standards and Siting Criteria) included in this section of the Town Plan to direct the development and design of solar facilities. Although solar energy development at these preferred sites and locations is an appropriate land use, all such development shall be carefully planned to limit adverse impacts to neighboring properties and to public viewsheds, giving consideration to The Town’s Screening of Solar Facilities Ordinance and Solar Facility Siting Guidelines.

The sites indicated on this map as suitable for solar energy development were selected after a thorough analysis of available geographic data, including an assessment of access to solar energy as well as environmental, aesthetic, cultural, and related regulatory constraints. State-identified environmental constraints are discussed in more detail in the Mount Ascutney Regional Energy Plan, and include the following resource areas:

- a) Class 1 and 2 wetlands, vernal pools, and hydric soils;
- b) Mapped river corridors and FEMA-defined floodways;
- c) Natural communities and rare, threatened, and endangered species;
- d) Federal wilderness areas;
- e) “Primary” and “Statewide” significant agricultural soils;
- f) FEMA-defined special flood hazard areas;
- g) Lands protected for conservation purposes;
- h) Deer wintering areas; and
- i) State-identified high priority “Conservation Design Forest Blocks.”

#### 7.8.7 Solar Electricity Facility Siting Guidelines

The term “solar facility” shall have the following meaning: a solar electricity generation and transmission facility with a 150kW (AC) or greater capacity, including all on-site and offsite improvements necessary for the development and operation, and on-going maintenance of the facility.

The Town of Weathersfield has developed community standards and siting standards for the development of solar facilities for reference and use by facility developers and local property owners and for consideration in Section 248 proceedings (30 VSA §248). These standards are set forth below. In addition, the Weathersfield Planning Commission, in consultation with the Mount Ascutney Regional Commission, has

identified and mapped (Figure 7) those areas of Weathersfield that are most suitable for solar facility development based on facility siting requirements and municipal energy, conservation, and development policies and objectives set forth in the Weathersfield Town Plan.

#### 7.8.7.2 Community Standards

The following community standards are to be considered in undertaking municipal solar electricity projects and programs, in updating Weathersfield's Zoning Bylaws to address solar facilities subject to local regulation, and in the review of any new or upgraded solar facilities in excess of 15 kW capacity, by the Town of Weathersfield and the Public Utility Commission (Section 248 review).

- a) **Plan Conformance:** New solar facilities and proposed system upgrades should be consistent with the Vermont Comprehensive Energy Plan, the Vermont Long-Range Transmission Plan, and utilities Integrated Resource Planning (IRP).
- b) **Benefits:** A demonstrated statewide public need that outweighs adverse impacts to local residents and resources must be documented for municipal support of new solar facilities located within or which may otherwise affect Weathersfield. Facility development must benefit Town of Weathersfield and State residents, businesses, and property owners in direct proportion to the impacts of the proposed development.
- c) **Impacts:** New solar facilities must be evaluated for consistency with community and regional development objectives and shall avoid undue adverse impacts to significant cultural, natural, and scenic resources and aesthetic values identified by the community in the Weathersfield Town Plan and the Scenic Resources Inventory. When evaluating impacts of a proposed solar facility under the criteria set forth in this Town Plan, the cumulative impact of existing solar facilities, approved pending solar facilities and the proposed solar facility shall be considered. It is explicitly understood that a proposed solar facility which by itself may not have an adverse impact may be deemed to have an adverse impact when considered in light of the cumulative impacts of the proposed solar facility and existing solar facilities and pending already approved solar facilities.
- d) **Decommissioning:** All facility certificates shall specify conditions for system decommissioning, including required sureties (bonds) for facility removal and site restoration to a safe, useful, and environmentally stable condition. All hazardous materials and structures, including foundations, pads and accessory structures, must be removed from the site and safely disposed of in accordance with regulations and best practices current at the time of decommissioning.

#### 7.8.7.3 Solar Facility Siting Criteria

Weathersfield supports development of solar energy generation facilities consistent with the policies and guidelines set forth in this plan. It recognizes that financial considerations require projects to be located in close proximity to

electric power lines capable of distributing the load proposed to be generated and to have convenient access from major transportation networks for construction. However, the town desires to maintain the open landscape and scenic views important to Weathersfield's sense of place, tourism economy, and rural cultural aesthetic. Not all solar facilities proposed can meet this standard. Projects must meet the following criteria in order to be supported by this Town Plan:

- a) **Siting Requirements:** New solar facilities shall be sited in locations that do not adversely impact the community's traditional and planned patterns of growth, of compact village centers surrounded by a rural countryside, including working farms and forest land. Solar facilities shall, therefore, not be sited in locations that adversely impact scenic views, roads, or other areas identified in the Scenic Resources Inventory, nor shall solar facilities be sited in locations that adversely impact any of the following scenic attributes identified in the Scenic Resource Inventory: views across open fields, especially when those fields form an important foreground; prominent ridgelines or hillsides that can be seen from many public vantage points and thus form a natural backdrop for many landscapes; historic buildings and districts and gateways to historic districts; and, scenes that include important contrasting elements such as water. The impact on prime and statewide agricultural soils currently in production shall be minimized during project design.
- b) **Preferred Areas:** The following areas are specifically identified as preferred areas for solar facilities, as they are most likely to meet the siting requirements:
  - Roof-mounted systems;
  - Systems located in proximity to existing large scale, commercial or industrial buildings;
  - Proximity to existing hedgerows or other topographical features that naturally screen the entire proposed array;
  - Reuse of former brownfields;
  - Facilities that are sited in disturbed areas, such as gravel pits, closed landfills, or former quarries;
  - Areas specifically identified as suitable for solar facilities on the Solar Energy Resource Map.
- c) **Prohibited (Exclusion) Areas:** In addition to those areas that do not meet the siting requirements set forth above, development of solar generating facilities shall be excluded from (prohibited within), and shall not be supported by the Town, in the following locations:
  - Floodways shown on Flood Insurance Rate Maps (FIRMs);
  - River corridors as shown in the Town of Weathersfield Zoning Bylaws;
  - Class I or II wetlands;
  - A location that would significantly diminish the economic viability or potential economic viability of the town's working landscape, including

productive forest land and primary agricultural soils (as defined in Act 250 and as mapped by the U.S. Natural Resource Conservation Service);

- Rare, threatened, or endangered species habitat or communities as mapped or identified through site investigation, and core habitat areas, migratory routes and travel corridors;
  - Ridgelines: \_\_\_\_
  - Steep slopes (>25%)
  - Surface waters and riparian buffer areas (except for stream crossings);
  - Topography that causes a facility to be prominently visible against the skyline from public and private vantage points such as roads, homes, and neighborhoods;
  - A site in proximity to and interfering with a significant viewshed identified in the **Scenic Resource Inventory**;
  - A site on which a solar facility project cannot comply with **Weathersfield's prescribed siting and screening standards, including the screening requirements set forth in \_\_\_\_\_ Screening of Solar Facilities Ordinance**;
  - A site that causes adverse impacts to historical or cultural resources, including state or federal designated historic districts, sites and structures, and locally significant cultural resources identified in the municipal plan. Prohibited impacts to historical and cultural resources include:
    - removal or demolition;
    - physical or structural damage, significant visual intrusion, or threat to the use;
    - significant intrusion in a rural historic district or historic landscape with a high degree of integrity;
    - significant visual intrusion into a hillside that serves as a backdrop to a historic site or structure;
    - creating a focal point that would disrupt or distract from elements of a historic landscape;
    - a significant intrusion in a rural historic district or historic landscape that has a high degree of integrity;
    - impairing a vista or viewshed from a historic resource that is a significant component of its historic character and history of use;
    - visually overwhelming a historic setting, such as by being dramatically out of scale;
    - isolating a historic resource from its historic setting, or introducing incongruous or incompatible uses, or new visual, audible or atmospheric elements.
- d) **Mass and Scale:** Except for projects located on preferred sites, solar facilities larger than 10 acres, individually or cumulatively, cannot be adequately

screened or mitigated to blend into the municipality's landscape and are, therefore, explicitly prohibited.

**7.9 Energy Recommendations**

- 7.9.1 Consider adopting a freestanding solar screening bylaw under 24 V.S.A. §4414 (15).
- 7.9.2 The Town of Weathersfield may participate in the Public Utility Commission's review of new and expanded generation facilities to ensure that local energy, resource conservation, and development objectives are identified and considered in proposed utility development. This may include joint participation and collaboration with other affected municipalities and the Mount Ascutney Regional Commission for projects that may have significant regional impact. It is acknowledged that the PUC's primary focus is on administering state public policy and regulating actions that are directed at ensuring that utility services promote the general good of the state.
- 7.9.3 The Planning Commission, in consultation with the Select Board, should develop guidelines to direct local participation in Section 248 proceedings related to solar facilities located in Weathersfield or in neighboring communities which may affect the town. The guidelines should reflect levels of participation or formal intervention in relation to the type, location, scale, operation, and magnitude of a proposed project, and its potential benefits, detriments to, and impacts on the community.

AGENDA ITEM

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# Article 4: Specific Use Standards

## 4.22 Airport Uses

- a) **Purpose:** To allow for airport-related non-residential uses that further local economic goals and support the continued viability of the Hartness State Airport in a scale and intensity that is appropriate for Weathersfield and is compatible with the character of the area.
- b) **Applicability:** Airport uses are allowed on parcels within the RR1 Zoning District that have direct frontage on Airport Road or Runway Road, and are subject to conditional use review by the Zoning Board of Adjustment.
- c) **Standards:**
  - 1) All conditional use standards under Section 5.4 shall apply.
  - 2) All performance standards under Section 3.7 shall apply.
  - 3) Minimum side and rear setbacks for airport uses shall be 30 feet.
  - 4) Landscaping shall be required in order to provide adequate year-round screening of the proposed airport use from adjacent residential uses. A minimum landscaped area shall be provided along the front, side, and rear property 15 feet in width for the length of each property line. Landscaping shall include a mix of native shade and street trees, shrubs, planting beds and ground covers. Proposed landscaping and screening shall be designed to:
    - i. Preserve and incorporate existing vegetation and enhance unique landscape features.
    - ii. Be adequately suited to existing site conditions and integrated with adjacent properties.
    - iii. Screen the proposed airport use from the view of surrounding residential uses.
    - iv. Not obstruct scenic views or road visibility.
- d) **Decisions:** In making a decision about a proposed airport use, the ZBA may require certain conditions in order to meet the applicable bylaw standards, reduce or eliminate impacts, or protect the interests of the surrounding properties, neighborhood or Town as a whole. These conditions may include, but need not be limited to, the following:
  - 1) Business operations (e.g. hours of operation, frequency/time of use, trip generation, and truck traffic).
  - 2) Scale and intensity of the proposed airport use.
  - 3) Permanent maintenance of the required landscaping and screening.

# Article 5: Development Review

## 5.1 Application Submission Requirements

An application for a zoning permit shall be filed with the Administrative Officer on form(s) provided by the municipality. Required application fees, as set by the Legislative Body, also shall be submitted with each application.

### 5.1.3 Conditional Use Review

Applications shall include the following:

- a) **Application Form:** Supplied by the Administrative Officer; signed by the owner of record



and, in the case of a non-owner applicant, by the applicant;

- b) **Site Plan:** A site plan shall meet all of the requirements of Section 5.1.2(b).
- c) **Project Narrative:** A description of the proposed project shall be required as part of a complete application. Also required is a narrative that clearly and succinctly explains how the project meets all applicable Conditional Use standards.
- d) **Application Fees:** All applicable fees must be paid as part of a complete application.

#### 5.1.4 PUD Review

Applications for PUDs must include the following, in addition to the information required for subdivisions:

- a) A brief summary of the project and how it meets the PUD standards in this section;
- b) A statement setting forth the nature of all proposed modifications, changes, or supplements required to the Zoning Bylaws by the proposal. Any such modification approved under this section shall be specifically set forth in terms of standards and criteria for the design, bulk and spacing of buildings and the sizes of lots and open spaces which shall be required and these shall be noted or appended to the plat;
- c) A sound proposal for the financing and membership of the management organization which will maintain and operate the property in common ownership, such as community facilities, private roads, and/or open spaces; and,
- d) Additional information required by the Planning Commission to determine whether the proposed mix of uses, density and scale and intensity of uses will meet the standards set forth in Article 6, Article 8 and below.

#### 5.2 Permitted Use Review

See Section 6.2.

#### 5.4 Conditional Use Review

For development requiring one or more approvals from an Appropriate Municipal Panel prior to the issuance of a zoning permit, application information and fees as required for such approvals shall be submitted concurrently with the application for a zoning permit and referred to the Administrative Officer.

Conditional Use Process:

Applicant applies to the Administrative Officer, who must refer the application because conditional use approval is required.

The applicant must then ask the Zoning Board of Adjustment to schedule a public hearing on the issue, and such hearing must be held within thirty (30) days of such request.

The Board of Adjustment shall act to approve or disapprove any such request for conditional use within 45 days after the date of the final public hearing and failure to so act within such period shall be deemed approved.

The Board will base its decision on whether the proposed use will result in an undue adverse effect on:

- a) the capacity of existing or planned community facilities;
- b) the character of the area affected, as defined by the purpose or purposes of the zoning district within which the project is located;
- c) traffic on roads and highways in the vicinity;
- d) ordinances then in effect;
- e) utilization of renewable energy resources;

- f) as well as whether all applicable general and special provisions of these Bylaws would be met.

The Board may attach certain additional requirements or conditions to a permit. After such decision is made, the applicant shall have fourteen (14) days to present the conditional use approval and conditions to the Administrative Officer along with an application for a zoning permit. Appeals from a decision of the Board of Adjustment are filed in the Environmental Court.

A performance bond or other surety may be required by the Zoning Board of Adjustment for a conditional use permit. The amount, term and conditions of forfeiture shall be stated in the decision which requires the surety and shall be reflected in the surety contract. The surety contract shall be satisfactory to the Administrative Officer as to form, sufficiency and manner of execution, and shall be filed with the Town Clerk.

## 5.6 Planned Unit Development

In accordance with the provisions set forth in Section 4417 of The Act, Planned Unit Developments (PUDs) are allowed to permit flexibility in the application of the Zoning Bylaws for the purposes of Section 4302 of The Act and in conformance with the Weathersfield Town Plan. Residential PUDs, also known as Planned Residential Development (PRD), are considered as a type of PUD for the purposes of these Bylaws.

### 5.6.1 Purpose

- a) To encourage compact, pedestrian-oriented development and redevelopment, and to promote a mix of residential uses or nonresidential uses, or both, especially in downtowns, village centers, new town centers, and associated neighborhoods.
- b) To implement the policies of the municipal plan, such as the provision of affordable housing.
- c) To encourage any development in the countryside to be compatible with the use and character of surrounding rural lands.
- d) To provide for flexibility in site and lot layout, building design, placement and clustering of buildings, use of open areas, provision of circulation facilities, including pedestrian facilities and parking, and related site and design considerations that will best achieve the goals for the area as articulated in the municipal plan and bylaws within the particular character of the site and its surroundings.
- e) To provide for the conservation of open space features recognized as worthy of conservation in the municipal plan and bylaws, such as the preservation of agricultural land, forest land, trails, and other recreational resources, critical and sensitive natural areas, scenic resources, and protection from natural hazards.
- f) To provide for efficient use of public facilities and infrastructure.
- g) To encourage and preserve opportunities for energy-efficient development and redevelopment.

### 5.6.2 Applicability

- a) The PUD provisions may be applied to any land development in any zoning district within the Town of Weathersfield at the request of the applicant.
- b) Uses shall be limited to those permitted and conditional uses within the district in which the PUD is proposed.

### 5.6.3 PUD Review Procedures

- a) Complete applications for PUDs must include the information specified in Section 5.1.

- b) PUD applications are subject to approval by the Planning Commission in accordance with the requirements of Section 5.6 in these Bylaws.
- c) Applications for PUDs must be reviewed simultaneously with application for subdivision review in accordance with Weathersfield's Subdivision Regulations, as most recently amended.
- d) Approval granted under this section for a PUD that involves the development of one or more uses requiring approval under site plan review (Section 5.3) or conditional use review (Section 5.4) does not exempt the proposed development from both review processes, although applications for PUDs may be reviewed concurrently.

#### *5.6.4 General Standards*

In addition to the standards set forth in Weathersfield's Subdivision Regulations, the following general standards must be met in order for the Planning Commission to approve a PUD application:

- a) PUD is consistent with Town Plan.
- b) The density requirements do not exceed the number of units permitted if the land were subdivided in accordance with district regulations.
- c) All Site Plan Review requirements in Section 5.3 have been met.
- d) The PUD is an appropriate and unified treatment for the proposed development.
- e) The development is designed so as to be compatible with the character of the area. Particular attention will focus on the aural and visual impacts.
- f) The development will not place an undue burden on municipal services.
- g) State and local standards for fire and safety regulations by local fire and police officials are in compliance.
- h) Adequate water supply and sewage disposal facilities are provided.

#### *5.6.5 Standards for Residential PUDs*

- a) The total number of dwelling units in any Residential PUDs must not exceed 125% of the number of lots into which the parcel could be legally subdivided based upon minimum lot size requirements of these Bylaws.
- b) Only residential and residential accessory uses shall be permitted within a Residential PUD.
- c) Of the land left open within the Residential PUD for common usage or ownership, no more than 25% shall be developed for community facilities (excluding subsurface installations), access road, parking areas, or recreational structures.

#### *5.6.6 Modification of Zoning Regulations*

After a duly-warned public hearing (per Section 6.3), simultaneously with subdivision approval, and subject to the standards and conditions set forth in this section, the Planning Commission may modify the zoning district regulations for the proposed PUD as to the following requirements only:

- a) Setbacks, including provision for zero lot lines;
- b) Height, Bulk and Spacing of Buildings;
- c) Type of Building, including a mix of residential and commercial uses in one building, a variety of residential structures (one, two, and multi-family structures).
- d) Location of buildings; and
- e) Size of lots.

Any modification of the Bylaws for the proposed PUD granted by the Planning Commission shall be noted on the subdivision plat.

### 5.6.7 Decisions

At the time of PUD approval, the Planning Commission shall include in its decision a clear indication of all approved modifications of development standards, and may include conditions related to the location, scale, density, intensity, overall design of future development within the PUD, and/or posting of performance bonds for the completion of public facilities such as roads and water and sewer systems.

### 5.6.8 Legal Requirements

- a) Preserved open space shall be dedicated, either in fee or through a conservation easement to the Town, a community association comprising all of the present and future owners of lots or dwellings in the project, or a non-profit land conservation organization. The Zoning Board of Adjustment shall approve such easement.
- b) Formation of a homeowners association or similar legal arrangement must be required as a condition of approval for a PUD that includes privately-owned roads, common open space and/or common buildings, or infrastructure or facilities in order to ensure their ongoing maintenance. The obligations to maintain the common improvements must be clearly outlined in the property deeds of all affected owners. Specifically, each deed must have a clause stating the town is not responsible for maintenance or improvements of private roads or common land, buildings or infrastructure. Costs incurred by the town because of default on the part of the association or an owner shall be a lien on the property of the association or owner(s).

## 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. Chapter 117 §4424, §4411 §4414, 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 VSA 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. Chapter 32 § 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. Chapter 32 § 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 (ZA). If the applicant disagrees with the determination made by the ZA, 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 ZA. If the applicant disagrees with the determination made by the ZA, 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 Administrative Officer 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 (ZBA) under these flood hazard regulations, must have such approvals prior to the issuance of a permit by the ZA. 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 ZA:

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 ZBA is required prior to the issuance of a permit by the ZA for the following proposed development:

<b>Special Flood Hazard Areas:</b>	<b>River Corridors:</b>
(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 ZBA only in accordance with all the criteria in 24 V.S.A. § 4469, and 44 CFR Section 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 ZBA 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 (Sec. 3.4.3 specifies 3 years); and
5. An individual manufactured home lot in an existing manufactured home park that is vacated shall not be considered a discontinuance or abandonment of nonconformity. Replacement manufactured homes must be placed so as to meet the development standards in 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 BFE 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 ZBA, 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 ZBA, 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 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 Hazard and River Corridor Procedures* shall be used as guidance to meet this performance standard.

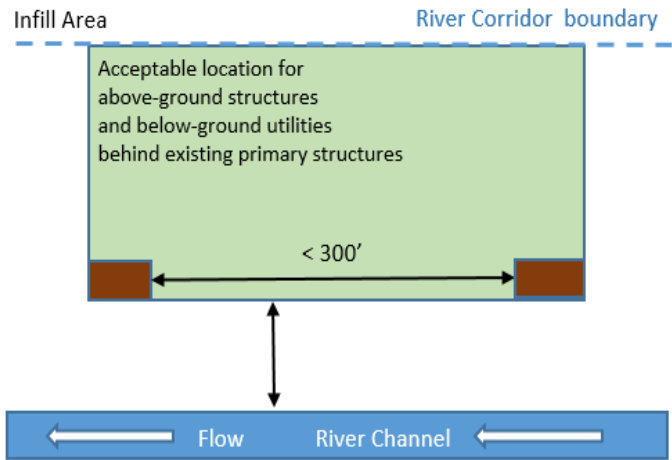


Figure 1: In-fill Development Standard

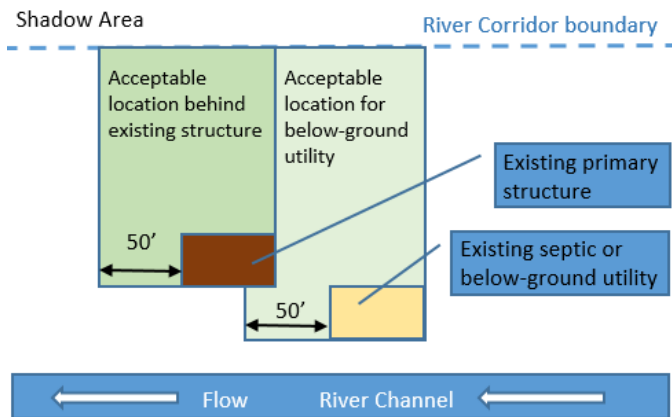


Figure 2: Shadow Area Development Standard

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 ZA 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 ZA 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 ZBA shall consider comments from the NFIP Coordinator at ANR. The ZBA 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 ZBA (including variances and violations) with the supporting findings of fact, conclusions and conditions.

### **5.7.8 Certificate of Occupancy**

In accordance with Chapter 117 §4449, it shall be unlawful to use or occupy, or permit the use or occupancy of any land or structure, or part thereof, created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure within Special Flood Hazard Area 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 ZA 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 ZA 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 15<sup>th</sup> 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 VSA Chapter 117 § 4451, § 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 ZA shall submit a declaration to the Administrator of the National Flood Insurance Program requesting a denial of flood insurance to the property pursuant to Section 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. Section 4812.

## **Article 6: Administration and Enforcement**

### **6.2 Permit Requirements**

#### **6.2.2 Exemptions**

No zoning permit shall be required for the following activities:

- a) Required Agricultural Practices (RAPs), including the construction of farm structures, as those practices are defined by the Secretary of Agriculture, Food and Markets, in accordance with the Act [§4413(d)] and Section 6. Written notification, including a sketch plan showing structure setback distances from road rights-of-way, property lines, and surface waters shall be submitted to the Administrative Officer prior to any construction, as required for RAPs. Such structures shall meet all setback requirements under these regulations, unless specifically waived by the Secretary.
- b) Accepted Silvicultural Practices (ASPs) for forestry as those practices are defined by the Commissioner of Forests, Parks and Recreation, in accordance with the Act [§4413(d)].
- c) Power generation and transmission facilities, which are regulated under 30 V.S.A. §248 by the Vermont Public Service Board. Such facilities, however, should conform to policies and objectives specified for such development in the Municipal Plan.
- d) Hunting, fishing, and trapping as specified under 24 V.S.A §2295 on private or public land. This does not include facilities supporting such activities, such as firing ranges or rod and gun clubs, which for the purposes of these regulations are defined as outdoor recreation facilities.

- e) Subdivisions of land that require subdivision approval under Section 6.1.
- f) Normal maintenance and repair of an existing structure which do not result in a change of the footprint or a change of use.
- g) Interior alterations or repairs to a structure which do not result in exterior alterations or expansion or a change in use.
- h) Exterior alterations to structures which are not located within designated design review districts and which do not result in any change to the footprint or height of the structure or a change in use.
- i) Residential entry stairs (excluding decks and porches), handicap access ramps, walkways, and fences or walls less than four (4) feet in height which do not extend into or obstruct public rights-of-way, or interfere with corner visibilities or sight distances for vehicular traffic.
- j) Minor grading and excavation associated with road and driveway maintenance (e.g., including culvert replacement and resurfacing), and lawn and yard maintenance (e.g., for gardening or landscaping), or which is otherwise incidental to an approved use. This specifically does not include extraction and quarrying activities regulated under Section 7.10.
- k) Outdoor recreational trails (e.g., walking, hiking, cross-country skiing and snow mobile trails) which do not require the installation of structures or parking areas.
- l) Minor Structures (*Amended April 10, 2012*)
  - 1) Any new, single-story, non-residential structure of 150 square feet or less;
  - 2) said structure must be accessory to an existing primary structure on the same lot as the proposed minor structure;
  - 3) 150 total square feet of such structures are allowed per acre of lot size up to a maximum of 500 square feet of total structure area. (Lots that are less than one acre in size are allowed a single 150 sq. ft. structure.);
  - 4) No single structure may be greater than 150 square feet;
  - 5) Applicant must notify the Zoning Administrator in writing of the intent to build such structure(s) by providing such information as is required by the Zoning Administrator;
- m) Garage sales, yard sales, auctions, or similar home-based activities that do not exceed three (3) consecutive days, nor more than twelve (12) total days in any calendar year.
- n) **Agricultural Structures:** Pursuant to 24 V.S.A. §4413(d) the following are exempt from local permitting requirements:
  - 1. farm structures (excluding dwellings);
  - 2. required agricultural practices; and,
  - 3. accepted silvicultural practices.

However, farmers intending to erect a farm structure, as part of a farming operation as defined by Section 6001(22) of Title 10, must:

- 1. notify the municipality of the intent to build a farm structure, and
- 2. abide by setbacks contained within the zoning bylaws, unless they provide an approval of lesser setbacks by the Commissioner of Agriculture, Food and Markets.

The notification must contain a sketch of the proposed structure and include the setback distances from adjoining property owners and the street right-of-way.

Additionally, all farm structures within the Flood Hazard Overlay District must comply with the National Flood Insurance Program.



Lastly, the municipality may report violations of Required Agricultural Practices or Accepted Silvicultural Practices to the appropriate state authorities.

- o) **Residential Care and Group Homes:** A group home, to be operated under state licensing or registration, serving not more than eight (8) persons who have a handicap or disability as defined in 9 V.S.A. §4501, shall be considered to constitute a permitted single family residential use of property, except that no such home shall be so considered if it locates within 1,000 feet of another existing or permitted home. A residential care home, to be operated under state licensing or registration, serving nine or more who have a handicap or disability as defined in 9 V.S.A. §4501, shall be reviewed as a multi-family dwelling and shall be subject to conditional use and site plan review.
- p) Regulate the installation, operation, and maintenance, on a flat roof of an otherwise complying structure, of a solar energy device that heats water or space or generates electricity. For the purpose of this subdivision, "flat roof" means a roof having a slope less than or equal to five degrees.
- q) Prohibit or have the effect of prohibiting the installation of solar collectors not exempted from regulation under subdivision (p) of this subsection, clotheslines, or other energy devices based on renewable resources.
- r) **Home-Based Occupations:** A home-based occupation shall be considered a permitted use in all districts where a residential structure is a permitted or conditional use. No zoning permit is required for a home-based occupation as long as the use does not exceed following conditions:
  - 1. Placed within an existing residence;
  - 2. Employs only those who reside at the private residence;
  - 3. Placed entirely within the existing private residence;
  - 4. Generates a maximum of 20 average daily vehicle trips (defined as double the traffic generated by a private residence);
  - 5. Does not have displays, storage, lights, heavy commercial vehicles, or any other exterior evidence of a home occupation that is viewable from the public right-of-way or by abutting landowners;
  - 6. Does not generate noise, vibration, odor, glare, or other nuisances outside the residential or accessory outbuilding;
  - 7. May display one non-illuminated, non-reflective building or free standing mounted sign, a maximum of three square feet in size; and,
  - 8. Parking may include a 1-2 vehicle enlargement of an existing driveway. Separate on-site parking can be provided if fully screened from the public right-of-way or abutting properties.

### 6.2.3 Limitations

The following uses are allowed as conditional uses in the districts specified in Section 4.3. However, they may be regulated only with respect to location, Size, Height, Building Bulk, Yards, Courts, Setbacks, density of buildings, off-street parking, loading facilities, Traffic, Noise, Lighting, Landscaping, screening requirements, and only to the extent that regulations do not have the effect of interfering with the intended functional use:

- a) Public Facilities
  - 1. State- or community-owned and operated institutions and facilities
  - 2. Public and private schools and other educational institutions certified by the state department of education
  - 3. Churches and other places of worship, convents, and parish houses



4. Public and private hospitals
5. Regional solid waste management facilities certified under 10 V.S.A. chapter 159
6. Hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. §6606a.

b) Flood Permits for State-Owned and –Operated Institutions and Facilities

1. State-owned and –operated institutions and facilities are exempt from a permit issued under Section 5.6; however, such uses are subject to a flood permit issued by the Vermont Department of Environmental Conservation.

c) Except as necessary to ensure compliance with the National Flood Insurance Program, a bylaw under this chapter shall not regulate any of the following:

1. An ancillary improvement that does not exceed a footprint of 300 square feet and a height of 10 feet.
2. The following improvements associated with the construction or installation of a communications line:
  - a. The attachment of a new or replacement cable or wire to an existing electrical distribution or communications distribution pole.
  - b. The replacement of an existing electrical distribution or communications distribution pole with a new pole, so long as the new pole is not more than 10 feet taller than the pole it replaces.

## 6.9 Waivers

### 6.9.1 Purpose

The intent of this section is to provide flexibility in the setback requirements for existing structures within the Village Zoning District in order to enable the continued viability of these structures while also maintaining the character of the area.

### 6.9.2 Allowable Waivers

- a) In accordance with 24. V.S.A. 4414(8), waivers of dimensional setbacks are limited to no greater than a 10% reduction of any required front, side and/or rear setbacks for legally existing primary structures within the Village Zoning District in order to accommodate:
  1. ADA accessibility improvements;
  2. Life safety improvements;
  3. Unheated, open-sided additions (e.g. decks, stairways, entryways, etc.);
  4. Building systems (e.g. air conditioning, generators); or,
  5. Renewable energy structures that could not be reasonably developed without a waiver.
- b) Waivers shall not be granted for any of the other requirements in the Zoning Bylaws.