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**TOWN OF SOUTH HERO**

**DEVELOPMENT REGULATIONS**

**Zoning, Flood Hazard, and Subdivision Regulations**

**Effective March 25, 2013**

INTERIM ZONING WENT INTO EFFECT JULY 11, 1972

ZONING REGULATIONS WENT INTO EFFECT JULY 29, 1976

AMENDMENTS ON:

SECTION 501, 502 AND 508 WENT INTO EFFECT MARCH 6, 1990  
REVISED ZONING BYLAWS MARCH 3, 1992  
REVISED ZONING BYLAWS MARCH 7, 1995  
REVISED ZONING BYLAWS MARCH 5, 1996  
REVISED ZONING BYLAWS NOVEMBER 5, 2002  
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REVISED ZONING BYLAWS MARCH 25, 2013

REVISED DEVELOPMENT REGULATIONS: Zoning, Flood Hazard, and  
Subdivision Regulations Effective date March 3, 2009

REVISED DEVELOPMENT REGULATIONS: Section 404 A. 2. Effective date  
September 13, 2011

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## **TABLE OF CONTENTS**

Article I: Enactment, Intent, Amendment, and Effective Date .....	1
Section 101: Enactment.....	1
Section 102: Intent .....	1
Section 103: Application of Regulations .....	1
Section 104: Construction Approved Prior to Adoption of Amendment of Regulations.....	1
Section 105: Amendments .....	1
Section 106: Separability .....	1
Section 107: Effective Date .....	1
Article II: Zoning Districts and District Regulations.....	2
Section 201: Establishment of Zoning Districts and Official Map .....	2
Section 202: Interpretation of Zoning District Boundaries .....	2
Section 203: Zoning District Purposes.....	2
Section 204: Zoning District Dimensional Standards.....	3
Section 205: Zoning District Uses .....	5
Article III: Permit Review Procedures .....	8
Section 301: Zoning Permits and Procedures .....	8
Section 302: Permitted Uses.....	9
Section 303: Conditional Uses.....	9
Section 304: Creation of Conditional Uses .....	10
Section 305: Site Plan Approval .....	10
Section 306: Variances .....	11
Section 307: Wastewater and Potable Water Supply.....	12
Section 308: Certificate of Occupancy.....	12
Article IV: General Regulations .....	14
Section 401: Required Frontage or Access to Public Roads or Waters .....	14
Section 402: Abandonment.....	14
Section 403: Restoration .....	14
Section 404: Non-Conforming Structures and Non-Conforming Uses.....	14
Section 405: One Principle Structure Per Lot .....	16
Article V: Development Standards.....	17
Section 501: Application of Standards .....	17
Section 502: Roads .....	17
Section 503: Outdoor Lighting .....	18
Section 504: Site Preservation and Landscaping .....	18
Section 505: Storm Drainage.....	19
Section 506: Utilities .....	19
Section 507: Parking Requirements .....	19
Section 508: Signs.....	20
Article VI: Specific Uses .....	22
Section 601: Existing Small Lots .....	22
Section 602: Home Occupation.....	22
Section 603: Accessory Dwellings.....	23

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Section 604: Group Homes .....	23
Section 605: Childcare Facilities .....	23
Section 606: Agriculture, Forestry, and Dwellings for Farm Labor .....	24
Section 607: Limitations on Regulation of Public Facilities .....	24
Section 608: Transmission and Generating Facilities .....	24
Section 609: Lake Access Structure .....	24
Section 610: Seasonal Conversion .....	25
Section 611: Incidental Structures .....	25
Section 612: Planned Unit Developments .....	25
Section 613: Telecommunication Facility .....	28
Section 614: Fences .....	31
Section 615: Extraction of Sand and Gravel .....	32
Article VII: Subdivision Regulations .....	33
Section 701: Policy .....	33
Section 702: Purpose .....	33
Section 703: Sketch Plan Review [Required for all Subdivisions] .....	34
Section 704: Preliminary Plat Review [Required for Major Subdivisions] .....	35
Section 705: Final Plat Review [Required for all Subdivisions] .....	35
Section 706: Application Submission Requirements .....	36
Section 707: Evaluation .....	39
Section 708: Subdivision Development Standards .....	39
Section 709: Waivers .....	40
Section 710: Filing of Final Plat .....	40
Section 711: Revisions .....	40
Section 712: Effect of Final Approval .....	40
Article VIII: Administration and Enforcement .....	41
Section 801: Administrative Officer .....	41
Section 802: Planning Commission .....	41
Section 803: Board of Adjustment .....	41
Section 804: Combined Review .....	42
Section 805: Public Notice .....	42
Section 806: Hearings and Decisions .....	43
Section 807: Appeals .....	44
Section 808: Penalties .....	44
Article IX: Flood Hazard Regulations .....	45
Section 901: Land to Which these Standards Apply .....	45
Section 902: Development Permits in the Flood Hazard Overlay District .....	45
Section 903: Application Requirements .....	46
Section 904: Flood Hazard Area Development Standards .....	47
Section 905: Standards for Review of Nonconforming Structures .....	49
Section 906: Variances to the Development Standards .....	50
Section 907: Recording Requirements .....	50
Section 908: Violation of Flood Hazard Area Regulations .....	51
Section 909: Flood Hazard Definitions .....	51
General Definitions .....	56

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List of Tables

Table 2.1 Dimensional Standards.....4  
Table 2.2 Allowed Uses.....6  
Table 5.1 Parking Space Requirements.....19  
Table 7.1 Subdivision Application Requirements.....37

List of Figures

Figure 2.1 Measuring Setbacks.....5  
Figure 2.2 Measuring Height.....5  
Figure 3.1 Variance Criteria.....11  
Figure 4.1 Increasing the Degree of Nonconformance.....15  
Figure 5.1 Sign Lighting.....21  
Figure 6.1 Shifting Densities within a PUD.....25  
Figure 6.2 Planned Unit Development.....27

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**Summary of Municipal Permits and Approvals**

<b>Permit/Approval</b>	<b>Required for</b>	<b>Issued by</b>	<b>See</b>
Zoning Permit	All land development as defined in Appendix A, including signs, accessory structures, conversions, and changes of use unless specifically exempted from these regulations.	Administrative Officer	Article III
Conditional Use Approval	All uses classified as conditional uses in Table 2.2 and changes in non-conformities (Section 404).	Board of Adjustment	Section 303
Site Plan Approval	All uses identified as requiring site plan review in Table 2.2, required frontage and access (Section 401) and certain Planned Unit Developments (Section 612)	Planning Commission	Section 305
Variance Approval	Requests for a variance from the requirements of these regulations.	Board of Adjustment	Section 306
Flood Hazard Area Development Approval	Requests for land development in the Flood Hazard Overlay District.	Planning Commission	Article IX
Subdivision Approval	Any land, vacant or improved, which is divided or proposed to be divided into two or more lots, plats, sites, or other divisions of land.	Planning Commission	Article VII
Planned Unit Development (PUD) Approval	Land subdivision and/or land development, which incorporates modifications from the provisions of these regulations to meet specific purposes (also known as clustered development).	Planning Commission	Section 612
Certificate of Occupancy	Use of a dwelling or structure constructed after the effective date of these regulations for which a zoning permit has been issued and a State of Vermont Wastewater and Potable Water Supply Permit is needed.	Administrative Officer	Sections 307 and 308

Note: This table is meant as a summary guide only, for specific regulations refer to the text of the bylaws, and the sections noted.

**ARTICLE I: ENACTMENT, INTENT, AMENDMENT, AND EFFECTIVE DATE**

**SECTION 101: ENACTMENT**

In accordance with the Vermont Planning and Development Act, Title 24, Chapter 117, hereinafter referred to as the "Act", there are hereby established Zoning, Subdivision and Flood Hazard Regulations for the Town of South Hero which are set forth in the following text and map. These Regulations shall be known and cited as the "Town of South Hero Development Regulations."

**SECTION 102: INTENT**

It is the purpose of these Development Regulations to provide for orderly community growth, to further the purposes established in the Act, and to implement the Town Plan.

**SECTION 103: APPLICATION OF REGULATIONS**

Except as hereinafter provided, no building or structure shall be erected, moved, or extended, and no land, building or structure or part thereof shall be occupied or used unless in conformity with the Regulations. Any use not permitted by these Regulations shall be deemed prohibited.

**SECTION 104: CONSTRUCTION APPROVED PRIOR TO ADOPTION OF AMENDMENT OF REGULATIONS**

Nothing contained in these Regulations shall require any change in plans or construction of a structure for which a building permit has been issued. Any structure or use in existence prior to the enactment of these Bylaws (or applicable amendments thereto) that has not been abandoned shall be considered permitted for the purposes of applying these Bylaws.

**SECTION 105: AMENDMENTS**

These Regulations may be amended according to the requirements and procedures established in the Act.

**SECTION 106: SEPARABILITY**

The invalidity of any provision of these Regulations shall not invalidate any other part.

**SECTION 107: EFFECTIVE DATE**

This Regulation shall take effect in accordance with the voting and other procedures of the Act. Adoption of these Development Regulations shall amend in their entirety and replace the Town of South Hero Zoning Bylaw Regulations, The Town of South Hero Subdivision Regulations, and the Flood Damage Prevention Ordinance.

## **ARTICLE II: ZONING DISTRICTS AND DISTRICT REGULATIONS**

### **SECTION 201: ESTABLISHMENT OF ZONING DISTRICTS AND OFFICIAL MAP**

The Town of South Hero is divided into the following zoning districts: Rural Residential District, Conservation District and Shoreland District. In addition, a Flood Hazard Overlay District is established to protect the town's flood hazard areas. The overlay district imposes an additional layer of regulations upon the affected lands (see Article IX). Where the provisions of the underlying district differ from those in the overlay districts, the more restrictive shall govern.

The official zoning map and the flood hazard map shall be located in the office of the Town Clerk and shall be the final authority as to the current zoning status of the land and water areas in the town.

### **SECTION 202: INTERPRETATION OF ZONING DISTRICT BOUNDARIES**

Where uncertainty exists on the boundaries of zoning districts shown on the Official Zoning Map, the following rules shall apply:

- A. When the Administrative Officer cannot definitely determine the location of a district boundary line by the scale or dimensions stated on the Zoning Map, he or she shall refer the issue to the Planning Commission who shall interpret the location of the district boundary with reference to the scale of the map and the purposes set forth in all relevant provisions of these regulations.
- B. When a zoning district boundary established by these regulations divides a lot, the lot may be developed in accordance with the following requirement:
  - 1. When subdividing the lot, each newly created parcel must meet the dimensional requirements for the district in which it is located unless it is part of a planned unit development. If a newly created parcel lies in two districts, the more restrictive dimensional standards shall apply.
  - 2. The permitted and conditional use restrictions for the district in which the use is to occur shall control, and if the use is to occur in both districts, it must conform to the restrictions of both.
  - 3. When building a structure, the minimum frontage and minimum setback requirement for the district in which the structure is to be located shall control, and if the structure is to be in both districts, the more restrictive requirement shall control.

### **SECTION 203: ZONING DISTRICT PURPOSES**

The following section describes the purpose for each zoning district.

#### **Rural Residential District**

The purpose of this district is to maintain the mixed rural and residential character of the area while providing for appropriate other uses. Since much of this district has historically been farmland, new residential and other non-farm development will be reviewed to ensure minimal interference with continuing agricultural use.

#### **Conservation District**

The purpose of this district is to permit limited development and uses that respect the natural environment. Included are areas of state identified wetlands. Some parcels or portions of parcels,

which fall within the designated district, may, upon closer inspection, be limited in their suitability for development. No public water or sewer facilities are planned for these areas.

**Shoreland District**

The Shoreline District includes land within 500 horizontal feet measured from the mean water level on the shoreline of Lake Champlain within the Town of South Hero (95.5 ft). The purpose of this district is to carefully control development in order to protect water quality, scenic beauty, conservation of total environment and related resources, and to control development along public waters in the best interest of the community. Some parcels or portions of parcels, which fall within the designated district, may, upon closer inspection, be limited in their suitability for development.

**Flood Hazard Overlay District**

The purpose of this district is to minimize and prevent the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public service that result from flooding, erosion hazards, and other natural or human-made hazards. The purpose of this district is also to ensure that the design and construction of development in flood and other hazard areas are accomplished in a manner that minimizes or eliminates the potential for flood and loss or damage to life and property. Designation of this district is also required for continued town eligibility in the National Flood Insurance Program. Included are all areas in the town identified as areas of flood hazard on the National Flood Insurance maps which are hereby adopted by reference and declared to be part of these regulations..

**SECTION 204: ZONING DISTRICT DIMENSIONAL STANDARDS**

All uses and structures must meet the district dimensional requirements and all other applicable provisions of these regulations except as authorized by a variance or by approval of a planned unit development. Table 2.1 establishes the dimensional standards in each of the districts.



<b>Table 2.1 Dimensional Standards</b>				
	Rural Residential	Conservation	Shoreland	Flood Hazard Overlay
Minimum Lot Size (acres)	1	25	1	same as underlying district
Min. Frontage <sup>1</sup> (ft)	125	125	125	same as underlying district
Min Lot Depth (ft)	n/a	n/a	150	same as underlying district
Lake Setback <sup>2</sup> (ft)	n/a	n/a	75	same as underlying district
Max Height (ft)	35	35	35	same as underlying district
<b>For Principal Structures and Accessory Dwellings</b>				
Min Setback from property line (ft)	25	25	25	same as underlying district
Front yard Min Setback (ft)	25 <sup>3</sup>	25	25	same as underlying district
Min Setback from ROW (ft)	25	25	25	same as underlying district
<b>For Accessory Structures</b>				
Min Setback from property line (ft)	15	15	15	same as underlying district
Min Setback from ROW (ft)	25	25	15 (private ROW), 25 (other ROW)	same as underlying district
<b>Green Space Requirement<sup>4</sup></b>				
Percentage of Green Space	30 %	N/A	30%	N/A

<sup>1</sup> Lots without adequate frontage must obtain approval for access by right-of-way in accordance with Section 401.

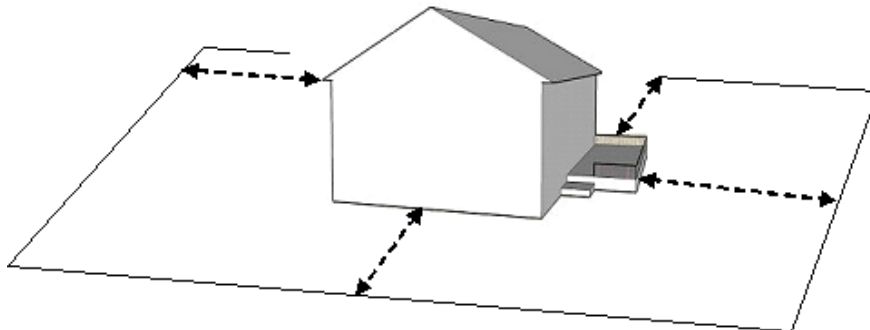
<sup>2</sup> Lake Access structures, as defined in Section 609, are exempt from the lake setback.

<sup>3</sup> In the Rural Residential district, the required front yard setback for structures may be reduced based on the average of the front yard setbacks of up to the two principal buildings located on each side of the proposed structure (up to four total buildings), but in no event shall be less than 10ft.

<sup>4</sup> All conditional uses within the Rural Residential and Shoreland Districts must contain a minimum of 30% of the lot area as green space.

**Measuring Setbacks**

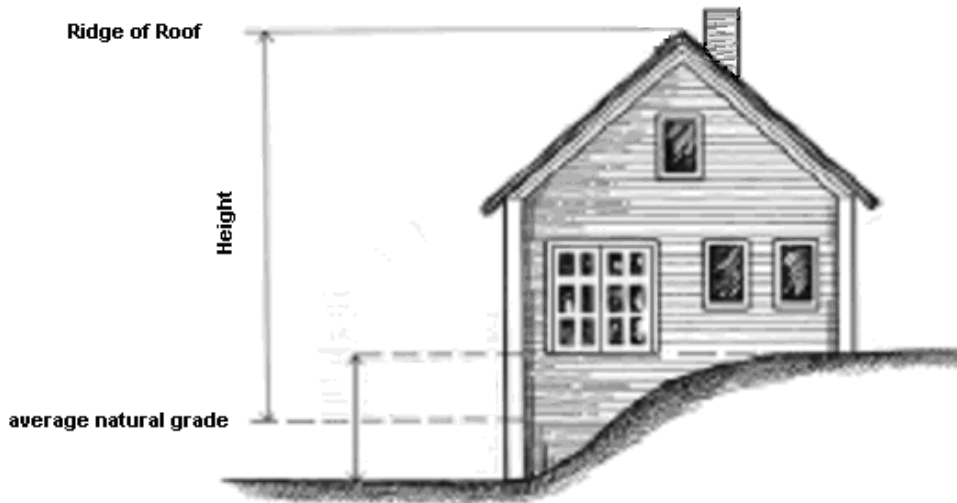
When determining dimensional standards, setbacks shall be measured horizontally from the furthest protruding point of a structure to the property line, edge of right-of-way, and/or mean lake level of 95.5 ft, as applicable.



**Figure 2.1. Measuring Setbacks**

**Measuring Height**

Height shall be measured from the average natural grade abutting the structure to the highest point of a structure with the exception of antennae, chimneys, and mechanical systems.



**Figure 2.2 Measuring Height**

**Calculating Green Space**

The percent green space should be calculated according to the following formula:

$$\text{Area of green space} / \text{Total lot area} \times 100 = \text{Percent Green Space}$$

**SECTION 205: ZONING DISTRICT USES**

Table 2.2 establishes the uses allowed in each district. Within each district uses are designated as:

- permitted (P);
- permitted with site plan approval (P/S);
- conditionally permitted (C);
- conditionally permitted with site plan approval (C/S);
- exempt (E); or
- not allowed (X). Procedures for review are found in Article III.

**Table 2.2. Allowed Uses**

permitted (P); permitted with site plan approval (P/S); conditionally permitted (C);  
conditionally permitted with site plan approval (C/S); exempt (E); not allowed (X).

	<b>Rural Residential</b>	<b>Conservation</b>	<b>Shoreland</b>	<b>Notes</b>
<b>Accessory Dwelling Unit</b>	P	P	P	See Section 603
<b>Accessory Structures</b>	P	P	P	
<b>Accepted Agricultural Practices</b>	E	E	E	See Section 606
<b>Accepted management practices (AMPs) for silviculture (forestry)</b>	E	E	E	See Section 606
<b>Camping Facility</b>	C/S	X	C/S	
<b>Child Care Home (6 or fewer)</b>	P	P	P	See Section 605
<b>Child Care Home (10 or fewer)</b>	P/SP/S	P/S	P/S	See Section 605
<b>Child Care Facility</b>	C/S	C/S	C/S	See Section 605
<b>Commercial</b>	C/S	X	C/S	
<b>Congregate Housing</b>	C/S	X	C/S	
<b>Dwelling, Multi-Family</b>	C/S	X	C/S	
<b>Dwelling, Seasonal conversion to year-round</b>	P	P	P	See Section 610
<b>Dwelling, Single Family</b>	P	C	P	
<b>Dwelling, Two Family</b>	C	C	C	
<b>Dwelling, Pre-existing Seasonal</b>	P	P	P	
<b>Extraction of Sand or Gravel</b>	C	C	C	See Section 615
<b>Fence</b>	P	P	P	See Section 614
<b>Group Home or Residential Care Home</b>	P	C	P	See Section 604
<b>Home Occupations</b>	E	E	E	See Section 602
<b>Hotels and Motels</b>	C/S	X	C/S	
<b>Incidental Structure</b>	E	E	E	See Section 611
<b>Independent Structure</b>	P/S	C/S	P/S	
<b>Industrial</b>	C/S	X	X	

**Table 2.2. Allowed Uses (continued)**

permitted (P); permitted with site plan approval (P/S); conditionally permitted (C); conditionally permitted with site plan approval (C/S); exempt (E);not allowed (X).

	<b>Rural Residential</b>	<b>Conservation</b>	<b>Shoreland</b>	<b>Notes</b>
<b>Lake Access Structure</b>	n/a	n/a	P	See Section 609
<b>Marinas</b>	C/S	X	C/S	
<b>Mixed Use Structure</b>	C/S	C/S	C/S	
<b>Parks</b>	P/S	P/S	P/S	
<b>Places of Worship</b>	P/S	P/S	P/S	See Section 607
<b>Professional Services</b>	C/S	X	C/S	
<b>Public Utility Generation and Transmission Facilities</b>	E	E	E	As defined in 30 VSA §248, and see Section 608
<b>Public or Semi-Public Facilities</b>	C/S	C/S	C/S	See Section 607
<b>Restaurants</b>	C/S	X	C/S	
<b>Recreation</b>	C/S	C/S	C/S	
<b>Telecommunications</b>	C	C	C	See Section 613

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**ARTICLE III: PERMIT REVIEW PROCEDURES**

**SECTION 301: ZONING PERMITS AND PROCEDURES**

- A. Applicability.** No land development (see Definitions) may be commenced without a permit issued by the Administrative Officer, or either the Planning Commission or Board of Adjustment as applicable. No Zoning Permit may be issued by the Administrative Officer except in conformance with these regulations.
- B. Application Process.** Applications for Zoning Permits shall be made to the Administrative Officer on forms provided for that purpose.
1. The landowner or an authorized agent shall submit a permit application directly to the Administrative Officer. The applicant shall pay the required fee and provide all information requested on the form in addition to any other information that the Administrative Officer may reasonably require to determine compliance with these regulations.
  2. The Selectboard shall establish, and amend as necessary, a schedule of fees for applications.
  3. Before issuing any Zoning Permit the Administrative Officer shall first be satisfied that the subject of the application is in conformance with these regulations or any other applicable bylaw. No such permit shall be issued unless a completed application, fee, plot plan and any other approvals of the Planning Commission or the Board of Adjustment required by this regulation have been properly obtained and submitted in connection with the application.
- C. Action by Administrative Officer.** The Administrative Officer shall, within 30 days of submission of the completed application, either issue or deny a Zoning Permit or refer the application to either the Planning Commission or the Board of Adjustment, as appropriate. If referred or denied, the Administrative Officer shall so notify the applicant in writing, stating the reasons therefore.
- D. Effect of Approval.** If the Zoning Permit is approved, all activities authorized by issuance shall be completed within two years of its date of issue, or the Zoning Permit shall become null and void and application to complete any activities shall be required. The Administrative Officer, upon written request prior to the expiration date, may extend the zoning permit and associated approvals for a period not to exceed one year, provided there are no changes to the permitted development.
- No Zoning Permit issued pursuant to Section 4449 of the Act shall take effect until the time for Appeal in Section 4465 (a) of the Act has passed (15 days), or in the event that a notice of appeal is properly filed, such permit shall not take effect until final adjudication of said appeal.
- E. Posting Requirements.** The Administrative Officer, within three (3) days of the date of issuance of a Zoning Permit or Certificate of Occupancy, shall deliver a copy of the zoning permit to the Listers and shall post a copy of the permit in the municipal offices and other designated public place within the municipality; and the applicant shall immediately post notice on the form prescribed by the municipality within view of the public right-of-way

most nearly adjacent to the subject development for a period. Each of these notices shall be so posted for fifteen (15) days from the date of issuance.

Any zoning permit shall state the time period within which an appeal may be taken.

### **SECTION 302: PERMITTED USES**

Permitted uses are those uses that are allowed provided the standards of these regulations are met. Unless a referral for any conditional use, site plan, subdivision, or other special action is required, the necessary permit shall be issued by the Administrative Officer.

### **SECTION 303: CONDITIONAL USES**

Conditional uses may be allowed by the Board of Adjustment as provided for in Section 4414 (3) of the Act after public notice and hearing.

- A.** In order for the permit to be granted the proposed use shall not have an undue adverse affect on any of the following:
  - 1. The capacity of existing or planned community facilities;
  - 2. The character of the area affected, as defined by the purposes of the zoning district within which the project is located, and specifically stated policies and standards of the municipal plan;
  - 3. Traffic on roads and highways in the vicinity;
  - 4. Bylaws and ordinances in effect with special reference to these zoning regulations.
  - 5. Utilization of renewable energy resources
  
- B.** In order for the permit to be granted, the proposed use shall adhere to the development standards in Article V. The Board of Adjustment may impose conditions on the project in order to ensure these standards are met.
  
- C.** In permitting a conditional use, the Board of Adjustment shall impose, in addition to the regulations and standards expressly specified by this regulation, other conditions found necessary to protect the best interests of the surrounding property, the neighborhood or the municipality as a whole. The conditions may include the following:
  - 1. Controlling the location and number of vehicular access points to the property;
  - 2. Requiring the property be maintained in a character in keeping with the surrounding area through landscaping;
  - 3. Specifying a specific time limit for construction, alteration, enlargement to begin for a structure to house a conditional use.
  - 4. Requiring that any future enlargement or alteration of the use be reviewed by the Board of Adjustment to permit the specifying of new conditions.
  
- D.** As a condition of the granting of a conditional use the Board of Adjustment may attach such additional reasonable conditions and safeguards as it may deem necessary to implement the purposes of the Act and these zoning regulations. Such additional conditions shall be specified in the permit.
  
- E.** When a landowner wishes to change one conditional use to another conditional use, extend or enlarge a conditional use, or move or enlarge a structure containing a conditional use, the landowner shall apply to the Board of Adjustment for a conditional use permit.

**SECTION 304: CREATION OF CONDITIONAL USES**

Uses not specifically listed as permitted or conditional uses in this document shall be considered prohibited unless such use is approved by the Board of Adjustment as a Conditional Use as described in Section 304.

- A.** The Board of Adjustment must find that the use is of the same general character as those permitted or allowed as conditional uses in the area in which the use is proposed. The burden of proof to show that the proposed use is of the same general character as allowed uses in the area shall be on the applicant.
- B.** In reaching its decision, the Board of Adjustment must hold a public Hearing after public notice, and send notice to the Planning Commission 15 days in advance of the Hearing. The Planning Commission may submit written or oral recommendations to the Board of Adjustment relative to the acceptability of the proposed use. The Board of Adjustment will determine the minimum lot size, setbacks, lot frontage and other requirements for the use based on the area regulations and requirements for similar uses. In no case will the minimum lot size, setback or frontage be less than the minimum otherwise required in the district.

**SECTION 305: SITE PLAN APPROVAL**

In any district, all uses that require Site Plan Review by the Planning Commission are listed in Table 2.2. In reviewing site plans the Commission may impose appropriate conditions and safeguards with respect to the adequacy of pedestrian and vehicular access and circulation, parking and landscaping, screening, exterior lighting; the size, location and design of signs, utilization of renewable energy resources and other similar site factors including, but not limited to, lighting and drainage.

- A.** The applicant for site plan approval shall submit a site plan application and one full size and six 11X17 copies of the site plan which shall include the following information:
  - 1. Features of the existing site, including contours, vegetation, and natural features, structures, access points, easements, property and zoning boundaries. Existing structures and access points on adjacent properties, including those directly across a public street, shall also be required;
  - 2. Proposed improvements including structures, parking areas, access points, sidewalks and other walkways, loading docks, outside storage areas, sewage disposal areas, landscaping, screening and site grading. Building information, including elevations, shall also be required;
  - 3. Period of time in which all site improvements will be completed;
  - 4. Estimate of daily and peak hour traffic generated;
  - 5. Statement of flood plain locations and consideration;
  - 6. Any other information or data that the Planning Commission may reasonably require.
- B.** Provisions of the Ordinance for the Acceptance of Highways may apply during site plan review.

- C. In order for the permit to be granted, the site plan shall adhere to the development standards in Article V. The Planning Commission may require modifications to the site plan in order to ensure these standards are met.
- D. The Planning Commission may require that the developer provide a suitable performance bond with a term not to exceed three years, to guarantee the completion of landscaping and/or public improvements.
- E. All proposed development must conform to the dimensional requirements specified for the zoning district in which it is located.
- F. The Commission may waive, subject to appropriate conditions, the provisions of any application submission requirement as in its judgment of the special circumstances of a particular Site Plan are not required in the interest of the public health, safety and general welfare.

**SECTION 306: VARIANCES**

On an appeal for a variance from the provisions of a zoning regulation the Board of Adjustment may grant such variance only in accordance with Section 4469 of the Act.

- A. **Standards.** The Board may grant a variance and render a decision in favor of the appellant only if all the five (5) facts listed in Figure 3.1 are found, and the findings are specified in its written decision. In addition to the five (5) facts listed below, variances for structures in the Flood Hazard Area Overlay District shall conform to Section 906.

**Figure 3.1 Variance Criteria as established in Vermont Statute, 24 VSA Section 4469.**

1. There are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to these conditions, and not the circumstances or conditions generally created by the provisions of the bylaw in the neighborhood or district in which the property is located.
2. Because of these physical circumstances or conditions, there is no possibility that the property can be developed in strict conformance with the provisions of the bylaw, and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
3. Unnecessary hardship has not been created by the appellant.
4. The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare.
5. The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the bylaw and from the plan.



- B. Variances for structures located in the Flood Hazard Overlay District shall only be granted in accordance with the criteria for granting variances found in 44 CFR, Section 60.6, of the National Flood Insurance Program regulations.
- C. In making a decision in favor of the applicant for a variance, the Board of Adjustment may attach conditions which are necessary to implement the Act and/or the town plan. In no case shall the Board grant a variance for a use which is not permitted or conditionally permitted within the zoning district, or which results in an increase in allowable density.
- D. On an appeal for a variance from the provisions of these regulations that is requested for a structure that is primarily a renewable energy resource structure, the Board may grant such variance only if it finds that the relief requested meets all requirements listed in the Act [§4469(b)] and are specified in its decision.

**SECTION 307: WASTEWATER AND POTABLE WATER SUPPLY**

All structures and uses that generate wastewater or require access to potable water may be required to obtain a Wastewater and Potable Water Supply Permit from the Vermont Department of Environmental Conservation (DEC) in accordance with 10 V.S.A. Chapter 64 and the Wastewater System and Potable Water Supply Rules (dated September 29, 2007 or as revised from time to time by the DEC). Applicants proposing land development that generates wastewater or requires access to potable water must contact the Agency of Natural Resources District Permit Specialist to determine if such a permit is required.

- A. If, according to the DEC, a Wastewater System and Potable Water Supply Permit is not required, the property owner/applicant shall provide written proof from the DEC of such to the Administrative Officer.
- B. Where a Wastewater and Potable Water Supply Permit is required:
  - 1. Initiation of construction under a zoning permit issued in accordance with these regulations shall be prohibited unless and until a Wastewater and Potable Waters Supply Permit is issued.
  - 2. It shall be unlawful to use or occupy or permit the use or occupancy of any premises requiring a Wastewater and Potable Water Supply Permit until a Certificate of Occupancy has been issued by the Administrative Officer.

**SECTION 308: CERTIFICATE OF OCCUPANCY**

- A. The applicant shall submit the application for a Certificate of Occupancy, any associated fees, and where applicable all application materials and certifications as required under Section 307 upon the completion of permitted improvements, but prior to occupancy or use of the structure.
- B. As part of the application for a Certificate of Occupancy, the applicant shall provide a copy of the Installation Certificate when required under the Vermont Wastewater and Potable Water Supply Rules.

- C.** A Certificate of Occupancy shall state that the actual building or structure or wastewater disposal system conforms to the Vermont Wastewater and Potable Water Supply Permit and the provisions of these regulations and other applicable Town regulations.
  
- D.** If the Administrative Officer fails to either grant or deny a Certificate of Occupancy within fifteen days of receiving a complete application for a Certificate of Occupancy, the Certificate of Occupancy shall be deemed issued.

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## **ARTICLE IV: GENERAL REGULATIONS**

### **SECTION 401: REQUIRED FRONTAGE OR ACCESS TO PUBLIC ROADS OR WATERS**

Except as described in E below, no land development may be permitted which does not have adequate means of access by either frontage on a public or private road or, with the approval of the Planning Commission, access by a permanent easement or right of way to a public road or to public waters. Access by right of way to lots without adequate frontage on a public or private road requires site plan approval by the Planning Commission in accordance with Section 305.

- A. Access easements or rights of way shall not be less than 20 feet in width.
- B. If serving more than three lots or uses a right of way of 50 feet in width is required. The Planning Commission may allow developments of more than three lots or uses to be accessed by rights of way less than 50 feet only when demonstrated by the applicant that the proposal still ensures adequate public safety and provides for orderly development.
- C. Access on a state highway must be permitted by the Vermont Agency of Transportation.
- D. Development on lots on outer islands does not require a right-of-way, provided the lot contains a minimum of 50 ft. of frontage on the lake.
- E. Pre-existing lots not meeting these requirements are considered pre-existing non-conforming lots. The Administrative Officer, Board of Adjustment or Planning Commission may approve land development on these pre-existing lots provided it meets all other requirements of these regulations.

### **SECTION 402: ABANDONMENT**

A use previously approved or grandfathered which has been abandoned (whether with the intent to resume or not) for a continuous period of two years shall not be resumed without a new zoning permit issued in compliance with these regulations.

### **SECTION 403: RESTORATION**

Any building or structure damaged or destroyed by fire, accident or act of god may be repaired or reconstructed to the square footage, footprint, number of levels, location, and extent of its prior use.

A zoning permit will be required if work is not begun within two years and completed within four years from date of damage.

### **SECTION 404: NON-CONFORMING STRUCTURES AND NON-CONFORMING USES**

Nothing contained in this regulation shall require any change in plans or construction of a non-conforming structure or a non-conforming use for which a permit has been issued. Nothing in this Section shall be deemed to prevent normal maintenance and repair of a nonconforming structure provided that such action does not increase the degree of nonconformity.

#### **A. Change in a Non-conforming Structure(s):**

1. **Changes that Do Not Increase the Non-Conformity.** The Administrative Officer may permit the expansion, enlargement, replacement or reconstruction of a nonconforming

structure containing a conforming use provided that the changes would not increase the existing degree of nonconformity (i.e. the footprint, or height of the structure within setback areas). See Figure 4.1.

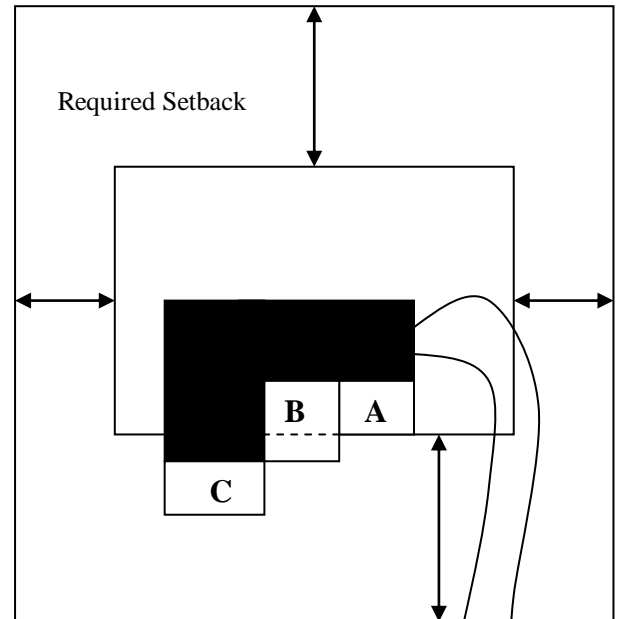
**2. Reducing Overall Non-conformity On The Lot.** Under Conditional Use Review by the

Board of Adjustment and under the following conditions, reconstruction of or changes to a non-conforming structure or structures may be permitted where the change reduces the overall degree of non-conformity on the lot (i.e. change in overall footprint(s), or height, within the setback area) and the conditional use criteria are met.

**a.** Nonconforming space, as measured in square feet on the ground (i.e. the footprint of the nonconforming space), in an existing structure or structures may be taken from those existing structures (the “donor structures”) and added back to a different nonconforming structure (the “receiving structure”) provided that said addition does not further reduce any setbacks already in violation. Any remaining part(s) of the donor structures must be in full compliance with all zoning criteria or eliminated. If the receiving structure is in violation of the Lake Setback and the applicant wishes to construct a basement, an appropriate engineering report shall be required.

**b.** If the receiving structure is the primary residence on the lot, the applicant may elect to remove or bring into compliance all other nonconforming structures on the lot and proceed under Section 601(A), Residential Exception, as if there was no existing residence on the lot. In this case, the existing residence may be added to, modified or replaced altogether as long as the resulting new residence does not exceed the limits specified in Section 601(A).

**Figure 4.1 Increasing the Degree of Nonconformance**



*In this example of a nonconforming structure, a portion of the building exceeds the front setback for the district in which it is located. Extending the building in a manner that encroaches further into the setback area as depicted in the addition labeled “C”, would increase the degree of nonconformance. In addition, extending the building into the setback area, but not further than already exists, as depicted in the addition labeled “B”, would also increase the degree of nonconformance. The extension labeled “A”, however, represents an addition that does not increase the area of the building within the setback and therefore does not increase the degree of nonconformance.*

**3. Non-conforming Mobile Homes.** The following changes to non-conforming mobile homes may be permitted by the Administrative Officer. Flat roofs on pre-existing non-conforming mobile homes may be replaced with pitched roofs, provided no additional stories are added. Pre-existing non-conforming mobile homes may be replaced by a single story home with a permanent foundation, with or without a pitched roof provided the footprint of the new structure is not enlarged except in conformance with the regulations. See Figure 4.1.

**4. Multiple Dwellings on a Lot.** When more than one pre-existing detached dwelling exists on a pre-existing lot, they are considered non-conforming dwellings if they cannot qualify as an accessory dwelling unit or otherwise come into compliance with these regulations. These non-conforming dwellings may continue to exist in their current form indefinitely. These dwellings may be brought into conformance with these bylaws through, for example, subdivision, structural modifications to allow a dwelling unit to conform with accessory dwellings in Section 603, conditional use approval as an accessory dwelling in Section 404B, or application and approval as a PUD. Otherwise, the structure may be changed and seasonal use may be changed to year-round only in accordance with Sections 404A 1-3, 404C, and Section 610.

**B. Change in a Non-conforming Use.** Under Conditional Use Review the Board of Adjustment may permit changes to a non-conforming use:

1. A non-conforming use may be expanded, extended, or enlarged, or changed to another non-conforming use. Examples of enlarged or expanded uses may include, but are not limited to, increased hours of operation, increased numbers of tables, or an increase in the size of the operation through the expansion of a conforming structure.
2. Where more than one pre-existing detached dwelling exists on a pre-existing lot, one of the non-conforming dwellings may be permitted as an accessory dwelling unit, and therefore become a conforming use. This may be approved under the standards of this section even if the dwelling cannot qualify as an accessory dwelling unit under Section 603 because it does not meet setbacks *and/or* has more bedrooms than is allowed under an accessory dwelling unit *and/or* is larger in square footage than is allowed under an accessory dwelling unit. All other standards for parking, septic and other requirements of this bylaw must be met.
3. The Board of Adjustment may approve a change described above provided the change:
  - a. does not increase the degree of non-conformance,
  - b. complies with the Conditional Use criteria,
  - c. will not substantially impair the appropriate use or development of adjacent property,
  - d. will not be detrimental to public welfare.
4. In no case shall a nonconforming use be re-established if the use has been discontinued for a period of at least two years or has been changed to, or replaced by, a conforming use. Intent to resume a non-conforming use shall not give the right to do so.

**C Compliance with Mandated Codes, Rules, Laws.** Under Conditional Use Review, the Board of Adjustment may permit the alteration or expansion of a nonconforming use or an increase in nonconformity of a structure for the sole purpose of compliance with mandated environmental, safety, health, or energy codes.

#### **SECTION 405: ONE PRINCIPLE STRUCTURE PER LOT**

There shall only be one principle structure per lot, except within Planned Unit Developments approved according to Section 612, and Accessory Dwellings for Farm Laborers approved according to Section 606B of these regulations. A Mixed Use Structure shall be considered a single principle structure regardless of the number of individual uses within the structure.

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## **ARTICLE V: DEVELOPMENT STANDARDS**

### **SECTION 501: APPLICATION OF STANDARDS**

The Administrative Officer, Planning Commission and Board of Adjustment shall evaluate applications against the applicable standards below. Not all standards will apply to every application. The Planning Commission and Board of Adjustment may require modification of subdivision design, phasing and/or site plan review, and conditional use permit conditions to avoid or mitigate any adverse impacts and to ensure conformance with these standards.

### **SECTION 502: ROADS**

The standards of this section shall apply to all proposed public roads and to proposed private roads serving more than three lots. In addition, these standards may be applied to private roads serving three or fewer lots when the Planning Commission or Board of Adjustment determines that such standards are necessary to provide suitable access or to accommodate potential future land development.

- A. Arrangement.** The arrangement of roads shall provide for the continuation of existing roads of adjoining parcels and for proper projection of roads through adjoining properties which are not yet subdivided or developed, in order to make possible necessary fire protection, movement of traffic and construction or extension, presently or when later required, of needed utilities and public services. Where in the opinion of the Planning Commission or Board of Adjustment, topographic or other conditions make such continuance undesirable or impracticable, the above conditions may be modified.
- B. Topography.** Roads shall be logically related to the topography so as to produce usable lots, reasonable grades and safe intersections in appropriate relation to the proposed use of the land to be served by such roads.
- C. Access to Major Roads.** Where proposed land development abuts Route 2 or Route 314, the common access points serving multiple properties shall be encouraged.
- D. Through Traffic.** Minor roads shall be so laid out that their use by through traffic will be discouraged.
- E. Reserved Strips.** The creation of reserved strips shall not be permitted adjacent to a proposed road in such a manner as to deny access from adjacent property to such road.
- F. Dead Ends.** No dead end road shall be permitted without a suitable cul-de-sac at its terminus with a radius of not less than thirty-five (35) feet. Hammerhead, "T" or "Y" design configurations suitable to topography and adequate for emergency vehicles to turn around efficiently are permitted in lieu of a cul-de-sac.
- G. Intersections.** Wherever possible, road layouts should be planned to avoid four-way intersections. Jog intersections with centerline offsets of less than two hundred (200) feet shall not be permitted. All road intersections shall be as nearly at right angles as possible.
- H. Accessibility.** All dwellings must be accessible by emergency and service vehicles, with the exception of the outer islands. In determining accessibility, the standards of the most

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recently updated NFPA 1 Uniform Fire Code will be used as guidance, and local emergency service providers may be consulted for input.

- I. Existing Access.** Where an existing access road is inadequate or unsafe, the Commission may require the applicant to upgrade that access road to the extent necessary to serve additional traffic from the proposed development.
- J. Sight Distances.** Sight distances should be consistent with probable traffic speed, terrain, alignments and climatic extremes.
- K. Drainage.** A storm water system shall be provided which is designed to control and accommodate storm water collected on all proposed roads and/or parking areas in accordance with Section 505 of these regulations.
- L. Rights-of-Way.** No land development may be permitted on lots which do not either have frontage on a public road or public waters except in accordance with Section 401.
- M. Design.** All roads shall be designed in accordance with the South Hero Road Ordinance.
- N. Curbs, Sidewalks, and Pedestrian Accesses.** Curbs and sidewalks may be required when deemed necessary by the Planning Commission or Board of Adjustment. When required, they shall be constructed to standards established by the Town. In order to facilitate pedestrian access from the roads to schools, parks, playgrounds, or other nearby roads, perpetual unobstructed easements at least twenty (20) feet in width may be required.

### **SECTION 503: OUTDOOR LIGHTING**

Outdoor lighting may be required where deemed necessary by the Planning Commission or Board of Adjustment to illuminate areas such as streets, sidewalks, and parking areas. Outdoor lighting fixtures shall be designed to direct light downward and located and adjusted so as not to cast light directly on adjacent roadways or properties.

### **SECTION 504: SITE PRESERVATION AND LANDSCAPING**

- A. Existing Features.** Site amenities, such as trees, water courses or drainage, scenic roads, historic sites, unique geologic features or any other unusual features which the Board of Adjustment or Planning Commission determines are an asset to the site and or community, shall be preserved insofar as possible through harmonious design and appropriate construction methods.
- B. Natural Cover.** Land shall be subdivided and developed so as to retain, insofar as possible, the natural contours and to conserve the natural cover and soil.
- C. Erosion and Sediment Control.** All areas exposed during construction shall be protected in accordance with standards of the Soil Conservation Service, the Agency of Natural Resources, or other appropriate regulatory body. Permanent vegetation and structures shall be established according to a schedule as required by the Commission.

**SECTION 505: STORM DRAINAGE**

- A. Removal of Spring and Surface Water.** The subdivider shall remove, either by pipe or by open ditch, spring, or surface water that may exist, either previous to, or as a result of, the subdivision. Such drainage facilities shall be located in the street right-of-way where feasible, or in unobstructed easements not less than 20 feet in width. In design of the drainage system, natural waterways, and drainage shall be utilized to the fullest extent possible.
- B. Accommodation of Potential Development Upstream.** Drainage facilities shall be designed to accommodate potential run-off from the entire upstream drainage area, based on conditions of total potential development.
- C. Responsibility for Drainage Downstream.** To prevent flooding and erosion, the Planning Commission may require the subdivider to maintain the post-development peak storm water flows at pre-development levels, and/or make down-gradient improvements.
- D. Design storm.** All drainage facilities and easements shall be designed for the following storm frequency based on the location of the facility or easement except when the Commission determines it is appropriate to design for a less frequent event:
  - Subdivision system: 10 Year Storm
  - Town Road system: 25 Year Storm
  - State Highway system: 50 Year Storm

**SECTION 506: UTILITIES**

All utility systems, including but not limited to electric, gas, telephone, and cable TV, shall be located underground throughout a development or subdivision, unless deemed unreasonable and prohibitively expensive by the Planning Commission. All utility systems, existing and proposed, throughout a development or subdivision shall be shown on the final plat. The applicant shall coordinate design with the utility companies to insure adequate and suitable areas for underground installation, both for the proposed development or subdivision and adjacent areas.

**SECTION 507: PARKING REQUIREMENTS**

- A.** Parking requirements apply to all uses as listed below. Parking requirements for uses not listed below will be determined by the Planning Commission during site plan review.

<b>Table 5.1 Parking Space Requirements</b>	
<b>Use</b>	<b>Minimum Parking Spaces</b>
Clubs	1 per 4 members
Commercial/Retail	1 per 200 sq. ft. of gross sales area
Congregate Care home	1 per 3 beds and 1 per employee
Funeral Home	15 per visitation area
Hospital/Nursing Home	1 per 3 beds and 1 per employee
Hotel/Motel	1 per lodging unit
Industrial	1 for 1.5 employees per shift
Places of Worship and Educational Facility	1 per 3 seats in main room
Professional Services	1 per 250 sq. ft. of leasable area
Residential	2 per dwelling unit
Restaurants	1 per 4 seats



- B. Parking Area Performance Standards.** At the determination of the Planning Commission, the following parking area performance standards may be required:
1. Parking areas may be required to be landscaped or screened from adjacent uses.
  2. Parking should be located in the side or rear of the development unless, upon the judgment of the Planning Commission, some or all parking in the front is more appropriate.
  3. Parking may be prohibited from the front, side and rear yard setback areas unless, in the judgment of the Planning Commission, some or all parking in the setback areas is more appropriate.
  4. The size and location of any paved area may be limited.
  5. The amount of parking may be limited or shared parking among compatible uses may be required where appropriate.
  6. Parking spaces shall be a minimum of 9' x20', and must be laid out in a manner to provide sufficient maneuverability in and out of the spaces. Back to back, or double stacked spaces may be used for residential uses, and may be approved by the Planning Commission during Site Plan Review on a limited basis for long term employee parking or other low turnover spaces.

**SECTION 508: SIGNS**

- A. Applicability.** A permit issued by the Zoning Administrator shall be required prior to the erection, construction, or replacement of any outdoor sign, except as exempted in Section 508B.
- B. Exemptions.** The following are exempt and do not require a permit:
1. Signs erected by the Town or State on public roads;
  2. Non-advertising signs placed for directional or safety purposes;
  3. Temporary auction, lawn, or garage sale signs that do not to exceed 2 in number and that do not to exceed 15 square feet in total area (all such temporary signs shall be promptly removed when they have fulfilled their function);
  4. One temporary real estate or construction sign not to exceed 6 square feet in area and 6 feet in height, providing such sign is promptly removed when it has fulfilled its function;
  5. Farm signs;
  6. A sign no larger than 4 square feet, which announces the name, address, and profession of the occupant of the premises engaged in a home occupation; and
  7. A bulletin board or kiosk no larger than 24 square feet may be permitted on the premises of any church, school, or similar public structure.
- C. Prohibited Signs.** The following shall be prohibited in all districts:
1. Signs that impair highway safety.
  2. Signs that are animated, flashing, or intermittently illuminated, and signs painted or placed on rock outcrops or similar natural features.
  3. Roof signs and wall signs that extend above the roof line.
  4. Signs that project over public rights-of-way or property lines.
  5. Internally lit signs.
- D. Sign Maintenance.** All signs shall be of durable materials and shall be maintained in good condition.

**E. Business Signs.** Signs shall meet the following standards:

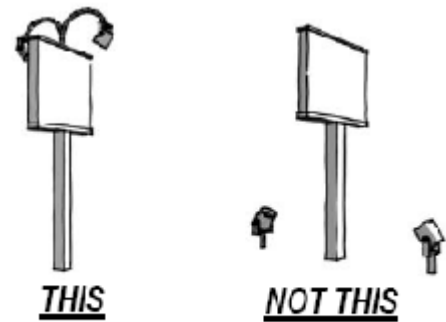
1. One free-standing sign is allowed adjacent to a building containing one or more businesses. The maximum size of this sign shall be 40 square feet.
2. One sign per business establishment is allowed to be attached to the building. The maximum size of this sign shall be 20 square feet.
3. The maximum square footage for all signs associated with a building shall be the total of: 40 square feet, plus 20 square feet for each business establishment. See examples in the text box to the right.
4. The primary purpose of all business signs shall be for identification of the business (name), products sold, and the business or activity conducted on the premises.
5. Illuminated signs shall be shielded in such a way as to produce no glare, undue distraction, confusion, or hazard to the surrounding area or to vehicular traffic. Illumination shall be properly focused upon the sign itself.
6. No strings or pennants or similar attention-gathering media are permitted.

**Examples of Total Sign Area**

- A building with three business establishments may have 1 free-standing sign plus 3 signs attached to the building; therefore the total area of all signs, including ‘open’ flags and the like (see H below) may not exceed 100 square feet: 40+20+20+20.
- A building with one business may have a total of 60 square feet of signs: 40+20.

**F. Off-Premise Signs.** Any sign located elsewhere than upon the lot containing the subject of the sign shall conform to state statute and regulation for off-premise signs.

**G. Signs at Edge of Highway.** In any zoning district, free-standing signs of 8 feet in height or less may be placed at the edge of the highway right-of-way within any required setback area. Intersection sight distance needs to be provided so that drivers approaching an intersection have an unobstructed view of the intersection and traffic control devices, along the intersecting street to anticipate and minimize potential conflicts. Intersections include all cases where tow streets intersect and locations where driveways intersect streets. Signs shall not be located within 15 feet of adjacent private property or an intersection. Upon request for a variance by an applicant, the Zoning Board of Adjustment may reduce this distance should compliance prove impractical; if near an intersection, an accompanying reduction in permitted sign height may be required.



**Figure 5.1 Sign Lighting.** *Lighting on signs should be directed downward and shielded to prevent glare and reduce impact on the night sky.*

**H. Computation of Sign Area.** When computing the total permissible sign area for any use:

1. Existing signs shall be included in the calculation of total sign area.
2. The total area of all signs shall not exceed the requirements as set forth in these regulations.
3. Sign measurement shall be the entire surface area of the sign, exclusive of posts.

4. Signs consisting of free-standing letters, numerals, or other devices shall include any intervening space between them.
5. Back-to-back signs may be counted as one sign.
6. Flags announcing the business is open, or containing other types of advertising will count towards the total sign area.

## **ARTICLE VI: SPECIFIC USES**

### **SECTION 601: EXISTING SMALL LOTS**

Any lot that is legally subdivided, that is in individual and separate and non-affiliated ownership from surrounding properties, and in existence on the effective date of any zoning regulation may be developed for the purposes permitted in the district in which it is located, even though not conforming to the minimum size requirement, if such a lot is not less than one-eighth acre in area with a minimum width or depth dimension of 40 feet. Except as provided by the Act, if any existing small lot subsequently comes under common ownership with one or more contiguous lots, the nonconforming lot shall be deemed merged with the contiguous lot (24 V.S.A. § 4412(2)).

- A. Residential Exception. In the event that a residence cannot be constructed on a legal small lot that meets the minimum lot size criteria defined above without violating one or more setback provisions, construction of a residence may be allowed under Conditional Use Review by the Zoning Board of Adjustment and under the following conditions:
  1. Residential use is permitted in the lot's zoning district.
  2. Maximum building footprint shall be no greater than 600 square feet.
  3. Maximum building height shall be 28 feet with no more than two above-ground stories.
  4. Minimum setbacks shall be (most restrictive setback governs):
    - a. 75 feet from the edge of Lake Champlain, as measured when the lake's water level is at 95.5 feet above sea level;
    - b. 25 feet from any Roads;
    - c. 9 feet from any property line.
  5. The Zoning Board of Adjustment shall have the authority to require submission of detailed construction and site plans and to make adjustments as necessary to minimize the impact of this new construction upon the surrounding area (for example, shifting the location of the building footprint).

### **SECTION 602: HOME OCCUPATION**

Any resident of a dwelling may use a MINOR portion of that dwelling or an accessory structure for any occupation that is customary in residential areas.

- A. Home occupations shall:
  1. be conducted by the residents of the premises and no more than two (2) non-resident year-round employees and two additional seasonal (less than four months per year) employees;
  2. be conducted within a dwelling or within an accessory structure. The use shall be clearly incidental or secondary to the use of the dwelling unit for dwelling purposes and shall not change the character thereof;
  3. have no exterior storage of materials used in the home occupation, or public display of goods or wares visible from the road;

4. have no undue adverse impact the character of the residential area in which the dwelling is located;
  5. produce no excessive noise, unsightliness or other nuisance discernible beyond the property;
  6. have not more than one exterior sign, which shall not exceed four (4) square feet in size and have no internal illumination.
- B.** No Zoning Permit is required if all of the above standards are met.
- C.** If all of the above conditions are not met, the Home Occupation shall be permitted only upon issuance of a Conditional Use Permit and/or Site Plan Approval (as per Sections 303 and 305 of these regulations), as a Commercial Use, provided the use is allowed in the District.

### **SECTION 603: ACCESSORY DWELLINGS**

- A.** In accordance with the Act, an accessory dwelling unit means an efficiency or one-bedroom apartment that is clearly subordinate to a single-family dwelling, which has facilities and provisions for independent living including sleeping, food preparation and sanitation.
- B.** A single accessory dwelling unit, located within or appurtenant (near) to a single-family dwelling and where the owner occupies either the primary dwelling or the accessory dwelling, shall be considered to constitute a single-family residential use of property, provided there is compliance with all the following:
1. the property has sufficient wastewater capacity.
  2. the habitable floor area of the accessory dwelling unit does not exceed 700 square feet or 30 percent of the total habitable floor area of the single-family dwelling, whichever is larger.
  3. applicable setback and parking requirements specified in the regulations are met.

### **SECTION 604: GROUP HOMES**

A residential care home or group home to be operated under state licensing or registration, serving not more than eight persons who have a handicap or disability as defined in 9 V.S.A. § 4501, shall be considered by right to constitute a permitted single-family residential use of property, except that no such home shall be so considered if it is located within 1,000 feet of another existing or permitted such home.

### **SECTION 605: CHILDCARE FACILITIES**

- A.** A “family child care home or facility” as used in this subdivision means a home or facility where the owner or operator is to be licensed or registered by the state for child care.
- B.** A family child care home serving six or fewer children shall be considered to constitute a permitted single-family residential use of property.
- C.** A family child care home serving no more than six full-time children and four part-time children, as defined in subdivision 33 V.S.A. § 4902(3)(A), shall be considered to constitute a permitted use of property but shall require site plan approval under Section 305.
- D.** A family child care facility serving more than six full-time and four part-time children shall be subject to all applicable municipal regulations as a commercial use.

**SECTION 606: AGRICULTURE, FORESTRY, AND DWELLINGS FOR FARM LABOR**

- A. Exemptions from local permitting.** Accepted silvicultural practices and accepted agricultural practices are exempt from these regulations (10 V.S.A. Section 6001). Farm structures, with the exception of dwellings, are also exempt from these regulations. Farmers intending to erect a farm structure must notify the municipality of the intent to build a farm structure, and abide by setbacks contained within the zoning ordinance, 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 all rights-of-way.
- B. Accessory Dwellings for farm laborers.** A structure used for dwelling purposes shall be considered an accessory structure in the case of an operating farm. Up to two dwellings for farm laborers may be considered accessory to the agricultural uses, provided they meet the other requirements of these Regulations except density. The dwelling units must be smaller in size and prominence than the principal farmhouse. The dwelling units may not be subdivided from the original parcel except under conformance with the subdivision regulations. Dwellings for farm laborers must comply with the water and wastewater requirements described in Section 307 and receive a certificate of occupancy in accordance with Section 308.

**SECTION 607: LIMITATIONS ON REGULATION OF PUBLIC FACILITIES**

In accordance with the Act [Section 4413], the following uses may be regulated, subject to site plan review and conditional use review only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off street parking and loading, traffic, noise, lighting, and landscaping or screening requirements, and only to the extent that the regulations do not interfere with the intended functional use:

- A.** State or community owned and operated institutions and facilities;
- B.** Public and private schools and other educational institutions certified by the Vermont Department of Education;
- C.** Churches and other places of worship (see definitions), convents, and parish houses;
- D.** Public and private hospitals;
- E.** Regional solid waste facilities certified by the State [10 V.S.A. chapter 159]; and
- F.** Hazardous waste management facilities for which a notice of intent to construct has been received under state law [10 V.S.A. 6606a].

**SECTION 608: TRANSMISSION AND GENERATING FACILITIES**

In accordance with Section 4413 of the Act, these regulations shall not regulate public utility power generating plants and transmission facilities regulated under 30 V.S.A. Section 248.

**SECTION 609: LAKE ACCESS STRUCTURE**

An Accessory or Independent Structure in the Shoreland District incorporating a ramp or stairway may be constructed if necessary to safely gain access to the lakeshore upon approval by the Administrative Officer in conformance with this section and these regulations. These ramps or stairways are solely for the purpose of transit to and from the lakeshore and the following rules apply:

- Design and Construction are to minimize environmental and visual impact.
- Maximum stair width shall be 40 inches.

- Railings are required where necessary for safety.
- No roofs or other permanent shelters are permitted.
- Landings and turnarounds shall be kept as small as possible. Top landings shall not exceed 144 square feet, and mid-landings shall not exceed 50 square feet.
- Use of concrete foundations shall be kept to a minimum; use of environmentally friendly materials is encouraged.
- Design shall include means to raise all or a portion of the structure such that no part of the structure remains below the 106-foot lake level in order to minimize erosion damage and prevent hazard to navigation.
- Any lighting shall be downward pointing and only on when stairway is in use.

### **SECTION 610: SEASONAL CONVERSION**

In South Hero, a seasonal dwelling unit may be converted to a single family dwelling if the Administrative Officer, through the permit process, determines that the conversion meets the following requirements:

1. The property shall have a septic system and year-round access to potable water conforming to all current State regulations, certificate of occupancy requirements in Section 308 must be followed.
2. The property shall have adequate access in accordance with local ordinances (a letter from the fire chief is required).
3. The proposed year-round residential use is a permitted use in the District.
4. Two off-street parking spaces per dwelling unit are required on the lot, or with deeded parking easement on an adjacent lot.

### **SECTION 611: INCIDENTAL STRUCTURES**

Incidental structures are:

- not attached to a permanent foundation,
- sited on or above the ground,
- smaller in size than 100 square feet and less than 10 feet in maximum height,
- for a use which is incidental to the principal use or structure that is located on the same lot.
- minor structures that are easily movable.

Incidental structures must be at least 5 feet from a property line and 35 feet from the edge of a Town right-of-way or public road.

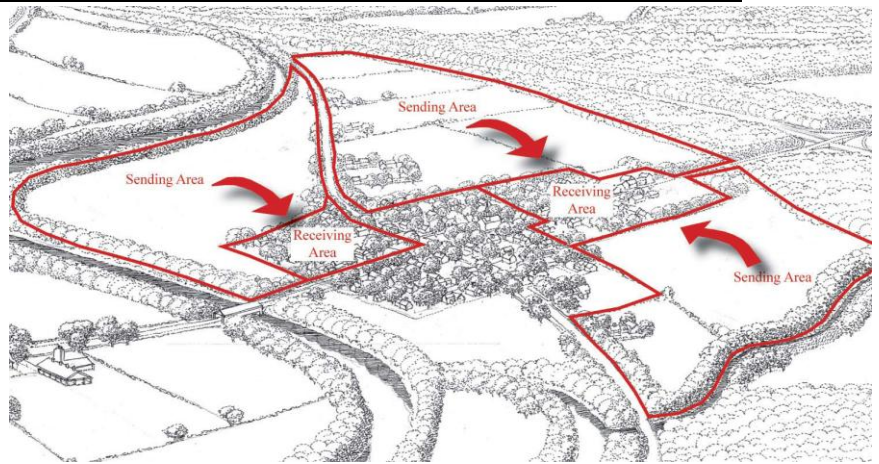
### **SECTION 612: PLANNED UNIT DEVELOPMENTS**

**A. Applicability.** In accordance with Section 4417 of the Act and the rules below, the Planning Commission may modify certain requirements of these regulations for a planned unit development (PUD). A PUD may involve the creation of separate building lots, or may include a development in which multiple buildings and uses are constructed on a single parcel in common ownership.

**B. Purpose.** The purpose of this provision is:

1. To implement the policies of the South Hero Town Plan;

2. To encourage any development in the countryside to be compatible with the use and character of surrounding rural lands;
3. To provide 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 fit the character of the site and its surroundings;
4. To provide for conservation of open space features recognized as worthy of conservation in the municipal plan and regulations, such as the preservation of agricultural land, forest land, trails, and other recreational resources, critical and sensitive natural area, scenic resources, and protection from natural hazards;
5. To provide for efficient use of public facilities and infrastructure; and
6. To encourage and preserve opportunities for energy efficient development.



**Figure 6.1 Shifting Densities within a PUD**

*PUDs are normally used to shift the permitted density from one portion of a property to a smaller area to enable more efficient and concentrated development on a single parcel of land. In Vermont, PUDs can also be used to transfer density from one property to another.*

- C. Application Review Process.** An application for PUD approval shall be reviewed in coordination with other necessary approvals:
1. For PUDs that involve a subdivision, subdivision review shall be required and will be conducted simultaneously with PUD review.
  2. For PUDs that do not involve a subdivision, site plan review shall be required and will be conducted simultaneously with PUD review.
  3. For PUDs that include one or more uses requiring conditional use approval or site plan approval, these approvals shall also be required for the specific uses. They may be conducted simultaneously with or after PUD review.
  4. For PUDs requiring multiple reviews, the Planning Commission and Board of Adjustment may warn and hold a joint hearing in accordance with Section 804.
- D. Application Requirements.** In addition to other application requirements, applications for PUDs must include the following:
1. a statement setting forth the nature of all proposed modifications or changes to this Regulation and the standards and criteria which the applicant proposes for the development, including standards for the design, bulk, and spacing of buildings and sizes of lots and open spaces;
  2. a brief summary of the project and how it meets the standards in this section; and
  3. additional information required to determine whether the proposed mix of uses, density, and scale and intensity of uses will meet the standards set forth in these Regulations.

**E. Specific Standards.** PUDs are subject to the following provisions:

1. The project shall be consistent with the Town Plan, and the uses of the site shall not differ from the uses allowed in the district in which the project is located.
2. Density may vary within any PUD; however, the number of units or lots shall not exceed the number permitted, if the land were subdivided in conformance with the applicable district requirements of this Regulation. This number is determined by dividing the total acreage by the minimum lot size of the district.
3. The minimum setbacks for the district in which the project is located shall apply to the periphery of the development.
4. The development shall be an effective and unified treatment of the project site, and make appropriate provision for preservation of streams stream banks, slopes greater than 25%, wetlands soils unsuitable for development agricultural lands, forested areas, historic sites, natural areas, wildlife habitat, floodplain, and scenic resources.
5. The development shall be proposed over a reasonable period of time in order that adequate municipal facilities and services may be provided.

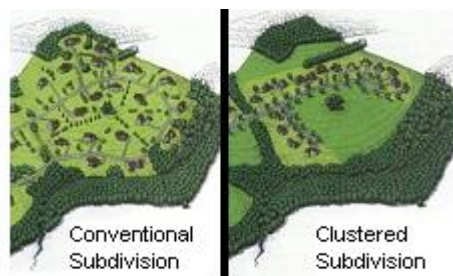
**F. Open Space and Common Land.** Planned Unit Developments shall be designed to preserve open space and/or common land for parks, recreation, critical areas as identified in the South Hero Town Plan, agricultural land, scenic views, and/or historic site protection. The location, size and shape of lands set aside to be preserved for open space and/or common land shall be approved by the Planning Commission in accordance with the following:

1. The location shape, size and character of the open space/common land shall be suitable for its context and intended use.
2. Open space/common land shall be configured to be contiguous with existing and/or potential open space or common land and conform with and extend existing areas sharing similar characteristics or natural features and resources on adjacent parcels.
3. Areas preserved for agricultural and forestry use should be of a size that retains their eligibility for available tax abatement programs.
4. Sewage disposal areas and utility and road rights-of-way or easements, access, and parking areas shall not be counted as open space or common land areas, except where the applicant can prove, to the satisfaction of the Planning Commission, that they will in no way disrupt or detract from the values for which the open space is to be protected.

**G. Protection of Open Space/Common Land.**

Open land shall be protected for its intended use by one of the following means:

1. An easement granted to a third party,
2. The open space may be held in common by a homeowners association and protected by covenant from further development, or
3. The open space may be held by a single owner with a deed restriction prohibiting future development,
4. The open space may be conveyed in fee simple to one of the following as approved by the Planning Commission:
  - a. the Town of South Hero, if it agrees; or

**Figure 6.2 Planned Unit Development**

*A conventional subdivision (shown on the left above) divides the land in relatively equal lots over an entire parcel. A Planned Unit Development (shown on the right above) should be designed so that development is clustered and contiguous tracts of open space or productive land are preserved.*



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- b. a non-profit organization whose mission includes the protection of natural resources, historic preservation and/or public recreation.
  - 5. The open space may be held in single ownership and the Planning Commission may condition that it be made available for public or common use in order to further a goal of the town plan or one or more purposes of a PUD.
  - 6. The open space may be protected by other reasonable means acceptable to the Planning Commission.

**H. Approval Requirements.** Upon approval of the PUD by the Planning Commission, the necessary modifications of these Regulations shall be noted in a written report and, together with the approved proposal, be submitted to the Administrative Officer. All other provisions of these Regulations not specifically modified shall remain in force and be applicable to the project.

As provided by the Act (Section 4417) the Planning Commission may prescribe, from time to time, supplementary rules and regulations for any planned unit development. The Planning Commission shall hold a public hearing prior to the establishment of any such rules and regulations.

### **SECTION 613: TELECOMMUNICATION FACILITY**

New or expanded telecommunications facilities, including but not limited to towers and accessory structures, are subject to conditional use review and the provisions of this section. In conformance with 24 V.S.A. § 4412(9), the Board of Adjustment may permit new or expanded telecommunications facilities if the board finds that the facility will impose not more than a de-minimus impact on the conditional use standards in Section 303 and the criteria in (D) below.

- A. No permit shall be required for the following:
  - 1. Antennae with an aggregate area of not more than eight square feet on the largest face and which are on masts that extend not more than twelve feet above the specific roof area to which they are attached and are not located on historic landmarks and structures.
  - 2. Antenna structures less than 20 feet in height with a primary function to transmit or receive communication signals for commercial, industrial, municipal, county, or state purposes.
  - 3. Telecommunication facilities that are used exclusively for municipal radio dispatch service or emergency radio dispatch service and which do not exceed 100 feet in height.
- B. Amateur radio, citizens band radio, AM or FM radio, or broadcast television service towers that exceed this requirement but that do not exceed 100 feet in height are exempt from the provisions of this section, but require a zoning permit as an accessory structure.
- C. The following requires a Certificate of Public Good from the Department of Public Service under Act 248, which preempts these regulations:
  - 1. Placement of wireless communications facilities on electric transmission or generation facilities; and
  - 2. Single application to construct or install 3 or more telecommunications facilities, each at least 50 ft above ground level, within 3 years as part of a network.

- D. Supplemental Application Requirements.** In addition to the application requirements required for conditional use review a Wireless Telecommunication Facility permit application shall also include:
1. A location map showing the general area within a 2 mile radius of the facility.
  2. A vicinity map showing the entire vicinity within a 2500 foot radius of the facility, including the location of all existing and proposed towers, topography, public and private roads and driveways, buildings, structures, utilities, water bodies, wetlands, 50 foot contour lines, landscape features, historic sites, and significant wildlife habitats. It shall indicate the property lines of the proposed facility site parcel and all easements or rights-of-way needed for access from a public way to the facility.
  3. Elevations and proposed site plans of the facility showing all facades and indicating all exterior materials and colors of towers, buildings and equipment, as well as all landscaping, utility wires, guy wires and screening. (All plans shall be drawn at a minimum scale of 1 inch = 50 feet.)
  4. In the case of a site that is forested, the approximate average elevation of the existing vegetation within 50 feet of any tower base.
  5. A report from a qualified engineer that:
    - a. Describes any tower's design and elevation.
    - b. Documents the elevation above grade for all proposed mounting positions for antennas to be mounted on a tower and the minimum distances between antennas.
    - c. Describes a tower's capacity, including the number, elevation, and types of antennas that the tower is proposed to accommodate.
    - d. In the case of new Facilities, demonstrates that existing towers and structures within five miles of the site cannot reasonably be modified to provide adequate coverage and adequate capacity to the community.
    - e. Describes potential changes or additions to existing structures or towers that would enable them to provide adequate coverage.
    - f. Describes the output frequency, number of channels, and the power output per channel for each antenna. In the alternative, a coverage map may be provided.
    - g. Demonstrates the Facility's compliance with the standards set forth in these regulations or other applicable standards.
    - h. Provides proof that at the proposed Facility site the applicant will be in compliance with all FCC regulations, standards and requirements, and includes a statement that the applicant commits to continue to maintain compliance with all FCC regulations, standards and requirements for radio frequency radiation (RFR).
    - i. Includes such other information as determined by the Board of Adjustment to evaluate the application.
  6. A letter of intent committing the Facility owner and its successors to permit shared use of any tower if the additional users agree to meet reasonable terms and conditions for shared use, including compliance with all applicable FCC regulations, standards and requirements and the provisions of these bylaws and all other applicable laws.
  7. In the case of an application for additional antennas or other equipment to be installed on an existing Facility, a copy of the executed contract with the owner of the existing structure.
  8. To the extent required by the National Environmental Policy Act (NEPA) and as administered by the FCC, a complete Environmental Assessment (EA) draft or final report describing the probable impacts of the Facility, or a written statement by the applicant that an EA is not required for the facility.

- E. Construction Standards. Wireless Telecommunications Facility shall conform to the following construction standards:
1. The Facility will not be built on speculation. If the applicant is not a Wireless Telecommunication Service Provider, the applicant shall provide a copy of a contract or letter of intent showing that a Wireless Telecommunication Service Provider is legally obligated to locate a Wireless Telecommunication Facility on lands owned or leased by the applicant.
  2. The Facility will not project more than 20 feet above the average elevation of the tree line measured within 50 feet of the highest vertical element of the Wireless Telecommunication Facility, unless the proposed elevation is reasonably necessary to provide adequate Wireless Telecommunication Service capacity or coverage or to facilitate installation and operation of facilities.
  3. The minimum distance from the base of any tower to any property line is not less than 100% the total elevation of the tower, including antenna or equipment.
  4. The Facility will not be illuminated by artificial means and will not display any lights or signs except for such lights and signs as required by Federal Aviation Administration, federal or state law, or these regulations.
  5. The Board of Adjustment may require the applicant to provide a bond, or other form of financial guarantee acceptable to the Board of Adjustment, to cover the cost of removal of the Facility, should the Facility be abandoned or cease to operate.
  6. The applicant demonstrates that the facility will be in compliance with all FCC standards and requirements regarding radio frequency radiation. The owner of a Wireless Telecommunication Facility shall, on a yearly basis, file a certificate showing that it is in compliance with all FCC standards and requirements regarding radio frequency radiation, and that adequate insurance has been obtained for the Facility. Failure to file a certificate within the timeframe requested by the Board of Adjustment shall mean that the Facility has been abandoned.
  7. The Facility will be properly identified with appropriate warnings indicating the presence of radio frequency radiation.
  8. The proposed equipment is installed on an existing Wireless Telecommunication Facility, unless it is demonstrated by the applicant that such co-location is not structurally or spatially possible.
  9. The Facility provides reasonable opportunity for the installation and operation of other telecommunications equipment.
  10. Unless otherwise approved by the Board of Adjustment, an abandoned or unused Wireless Telecommunication Facility shall be removed within 2 years of abandonment or cessation of use. The applicant may apply to the Board of Adjustment for an extension for removal. If the Facility is not removed, or an extension granted, within 2 years of abandonment or cessation of use, the Board of Adjustment may cause the Facility to be removed. The costs of removal shall be assessed against the Facility owner.
  11. Unused portions of a Wireless Telecommunication Facility shall be removed within 1 year of the time that such portion is no longer used. Replacement of portions of a Facility previously removed shall require a new permit.
- F. Additional Conditional Use Criteria. In addition to the Conditional Use Standards in Section 303 and the construction standards in (C) above, the Board of Adjustment shall approve an

application for a Wireless Telecommunications Facility when it finds that the application does not impose more than a de minimus impact on the following criteria:

1. The Facility will not unreasonably interfere with the view from any public park, natural scenic vista, historic building or district, or major view corridor.
2. The Facility will not have an undue adverse aesthetic impact. In determining this, the Board of Adjustment shall consider the following factors:
  - a. The results of the balloon test, if conducted.
  - b. The extent to which the proposed towers and equipment have been designed to blend into the surrounding environment through the use of screening, camouflage, architectural design, and/or imitation of natural features.
  - c. The extent to which access roads have been designed to follow the contour of the land and will be constructed within forest or forest fringe areas and not open fields.
  - d. The duration and frequency with which the Facility will be viewed on a public or from public property.
  - e. The degree to which the Facility will be screened by existing vegetation, topography, or existing structures.
  - f. Background features in the line of sight to the Facility that obscure or make the Facility more conspicuous.
  - g. The distance of the Facility from the point of view and the proportion of the facility that is above the skyline.
  - h. The sensitivity or unique value of a particular view affected by the Facility.
  - i. Any significant disruption of a viewshed that provides context to an important historic or scenic resource.
3. The Facility will not generate undue noise.

#### **SECTION 614: FENCES**

Fences whose primary purpose is agricultural in nature, stonewalls, earthen berms, hedgerows, and other vegetation do not require permits and are exempt from the standards of this section. Fences are a permitted use in all zoning districts. Fences are exempt from setback requirements except as stated below. A zoning permit issued by the Administrative Officer is required for all fences over 4 feet high. All fences, regardless of whether they need a permit must meet the following requirements:

1. The fence is not in any road or highway right-of-way and does not present a hazard to vehicles (including interference with sight distances at intersections), cyclists, or pedestrians.
2. The fence must not impair the use of any renewable energy structure.
3. The fence and all footings, etc., must remain on the property of the applicant set back a minimum of two feet from the property line. Construction on a property line may be permitted only through joint application.
4. All fences more than 6 feet in height which face a public road or highway must be appropriately screened with vegetation. The screening must not be planted in the right-of-way and cannot create a hazard for drivers.
5. Where applicable, the more visually appealing side is required to face neighboring properties.
6. All fences shall be of durable materials and shall be maintained in good condition.
7. No fence may be made of reflective materials.
8. No fence shall be painted with an insignia or message or otherwise act as a sign.

9. Fences shall not be topped with barbed wire, razor wire or similar material unless required for public safety (e.g. prisons, electrical substations, airports).
10. Fences in floodplains and floodways must meet the requirements of Article 9.

**SECTION 615: EXTRACTION OF SAND AND GRAVEL**

In any district, the removal of soil, sand and gravel for sale, except when incidental to construction of a building on the same premises, may be permitted as a Conditional Use by the Board of Adjustment. The applicant must present a plan to demonstrate that they comply with the following requirements in addition to the Conditional Use Criteria.

1. Before approval of any new or extension to a sand or gravel operation, a performance bond shall be secured from the applicant sufficient to ensure that, upon completion of the operation, the site will be restored for other development uses. Bonding shall be required, sufficient to cover the completion of the reclamation and maintenance of such improvements for a period of two (2) years after completion. The amount of bond shall be established by the Board of Adjustment based upon the operator's estimate, bids or other information deemed necessary by the Planning Commission, but shall not exceed one hundred fifty (150) percent of the projected improvement and maintenance cost.
2. All surface drainage affected by excavation operations shall be controlled by the owner to prevent erosion debris and other loose materials from filling any drainage course, street, or private property.
3. Adjoining land areas should be protected from undue adverse impacts resulting from dust, noise, or air pollution. No power activated sorting machinery or equipment shall be located within three hundred feet of any street or other property line, and all such machinery shall be equipped with satisfactory dust control devices.
4. Within the required setback areas, the natural vegetation shall be retained, and supplementary planting may be required in order to buffer impacts from the operation.
5. Suitable fencing or other appropriate safety precautions may be required around extraction sites, sedimentation ponds, and spoil or equipment storage areas.
6. Explosives may be used only per a plan approved by the Board of Adjustment and only after it has been demonstrated by the applicant that the use of such materials will not have an adverse impact on adjoining properties.

## **ARTICLE VII: SUBDIVISION REGULATIONS**

### **SECTION 701: POLICY**

- A.** It is hereby declared to be the policy of the Town of South Hero to consider the subdivision of land and the subsequent development of the subdivided plat as subject to the control of the Town of South Hero pursuant to the Vermont Planning and Development Act (Act) and the South Hero Town Plan (Plan) for the orderly planned, efficient, and economical development of the Town.
- B.** Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace. Proper provision will be made for drainage, water, sewage, and for capital improvements such as schools, parks, recreation facilities, and transportation facilities.
- C.** The Planning Commission has authority to approve, modify or disapprove all plats of land prescribed herein, and to approve the development of such plats previously filed in the Town Clerk's office if such plats are entirely or partially undeveloped per 24 V.S.A., section 4401, (b).
- D.** For all proposed subdivisions of land not specifically exempted in (E) below, subdivision approval from the Planning Commission is required prior to undertaking the following:
  - 1. Any contract for sale, conveyance, or lease of any subdivided portion of a property;
  - 2. Any grading, clearing, construction, land development, or other improvement (excluding forestry or agricultural activities);
  - 3. Any permit for erection of a structure in such subdivision is granted; or
  - 4. The filing of a subdivision plat with the Town Clerk.
- E.** Exemptions.
  - 1. Parcels leased solely for agricultural or forestry purposes, where no new roads are created, are exempted from the requirements of subdivision regulations.
  - 2. Adjustment of boundary lines between adjacent lots shall not be deemed a subdivision if the Administrative Officer determines that such adjustment does not substantially change the nature of any previous subdivision, does not create any new lots, does not create any nonconformity and does not involve the creation of new roads. All boundary adjustments shall be surveyed and recorded.

### **SECTION 702: PURPOSE**

These regulations are adopted for the following purposes:

- A.** To protect and provide for the public health, safety, and general welfare of the Town of South Hero.
- B.** To guide the future growth and orderly development of the Town in accordance with the Town Plan, Development Regulations, Town Ordinances and all other regulations enacted to implement the Plan.
- C.** To provide for adequate light, air, and privacy, to secure safety from fire, flood and other danger, and to prevent overcrowding of the land and undue congestion of population.

- D. To guide public and private policy and action in order to provide adequate and efficient transportation, water, sewage, school, parks, playgrounds, recreation, and other public requirements and facilities.
- E. To provide the most beneficial relationship between the uses of land and buildings, and the circulation of traffic throughout the Town, having particular regard to the avoidance of congestion in the streets and highways.
- F. To insure that public facilities are available and will have a sufficient capacity to serve any proposed subdivision.
- G. To prevent the pollution of air, streams, ponds and Lake Champlain; to assure the adequacy of drainage facilities; to safeguard the water tables; and to encourage the wise use and management of natural resources throughout the Town in order to preserve the integrity, stability, and beauty of the community and the value of the land.
- H. To preserve the natural beauty and topography of the Town and to insure appropriate development with regard to these natural features.
- I. To further the purposes contained in the Vermont Planning and Development Act, and in particular, those purposes set forth in section 4302 of the Act.

**SECTION 703: SKETCH PLAN REVIEW [REQUIRED FOR ALL SUBDIVISIONS]**

- A. **Attendance at Meeting.** The subdivider, or his duly authorized representative, shall attend the meeting of the Commission on the sketch plan to discuss the requirements of these regulations for streets, improvements, drainage, sewage, water supply, fire protection services, and other pertinent information.
- B. **Classification as Major or Minor Subdivision.** The Commission shall classify the sketch plan at the meeting as either a minor subdivision or a major subdivision.
- C. **Action on Sketch Plan.** The Commission shall study the sketch plan to determine whether or not it conforms to, or would be in conflict with the Plan, the Development Regulation, and any other Regulations then in effect, and shall where it deems necessary, make specific recommendations for changes in subsequent submissions. Such written recommendations shall be sent to the applicant within fourteen (14) days of the expiration of the meeting, or any continuation thereof. The Commission may also require, where necessary for the protection of the public health, safety, and welfare, that a minor subdivision comply with all or some of the requirements specified in these regulations for major subdivisions.

**MINOR SUBDIVISION:** Any residential subdivision containing less than four lots, including all lots created from a single parcel within the past 10 years, and which does not require installation of new public streets.

**MAJOR SUBDIVISION:** Any residential subdivision containing four or more lots, including all lots created from a single parcel within the past 10 years; any subdivision requiring installation of new public streets; any nonresidential subdivision.

**SECTION 704: PRELIMINARY PLAT REVIEW [REQUIRED FOR MAJOR SUBDIVISIONS]**

- A. Preliminary Plat Application.** Within six (6) months of classification by the Commission of the sketch plan as a major subdivision, the subdivider shall submit an application for approval of a preliminary plat. The application shall contain those items set forth in Table 7.1 of these regulations plus any other items for a major subdivision that may be required by the Commission, and shall conform to the layout shown on the sketch except as amended as a result of recommendations made by the Commission.
- B. Preliminary Plat Public Hearing.** A public hearing on the preliminary plat shall be held by the Commission at the earliest available regularly scheduled Planning Commission meeting after the time of submission to the Town Clerk of the preliminary plat application.
- C. Action on Preliminary Plat.** Within forty-five (45) days of the completion of the public hearing, or any continuation thereof, the Commission shall approve, modify and approve, or disapprove said preliminary plat, and the grounds for any modifications required or the grounds of disapproval shall be set forth in a written notice of decision. Copies of the notice of decision shall be sent to the applicant and any interested parties within said forty-five day period.
- D. Phasing.** At the time the Commission grants preliminary plat approval, it may require the plat to be divided into two or more phases to be developed at separate times and may impose such conditions upon the filing of application for final plat approval as it deems necessary to assure the orderly development of the plat.
- E. Effect of Preliminary Plat Approval.** Approval of a preliminary plat shall not constitute approval of the subdivision plat. Prior to approval of the final subdivision plat, the Commission may require additional changes as a result of further study. The approval of a preliminary plat shall be effective for a period of one (1) year, and any plat not receiving final approval prior to the expiration of one (1) year shall be null and void, and the subdivider shall be required to resubmit a new plat for preliminary approval subject to all new zoning and subdivision regulations. Should the Commission impose phasing as a condition of preliminary plat approval, it may extend the one-year effective period of preliminary approval.

**SECTION 705 FINAL PLAT REVIEW [REQUIRED FOR ALL SUBDIVISIONS]**

- A. Final Plat Application.** Within six (6) months of preliminary plat approval for major subdivisions and sketch plan approval for minor subdivisions, the subdivider shall submit an application for approval of a final subdivision plat. The application shall contain those items set forth in Table 7.1 of these regulations, and shall conform to the layout shown on the preliminary plat except as amended as a result of recommendations made by the Commission. At the expiration of one year from preliminary plat approval by the Commission, the subdivider shall be required to resubmit a sketch plan in accordance with Section 703, unless extended by the Planning Commission under Section 704E of these regulations.



If phasing was a requirement of preliminary plat approval, a separate final plat application shall be filed for each section within the time periods imposed in the preliminary plat approval.

**B. Application Requirements.** In addition to the items contained in Table 7.1, applications for Final Plat shall include the following:

1. It shall be on paper clearly and legibly drawn, and the size of the sheets shall be either 18 inches by 24 inches or a multiple thereof. Such sheets shall have a margin of two (2) inches outside of the border lines on the left side for binding and a one (1) inch margin outside the border along the remaining sides. Space shall be reserved thereon for endorsement by all appropriate agencies.
2. Sufficient data acceptable to the Commission to determine readily the location, bearing and length of every street line, lot line, boundary line and to reproduce such lines upon the ground. When practicable these should be tied to reference points previously established by a public authority.
3. Lots within the subdivision numbered in numerical order within blocks, and blocks lettered in alphabetical order.
4. Copies of proposed deeds, agreements or other documents showing the manner in which streets, open space, including park and recreational areas and school site areas, are to be dedicated, reserved, and maintained.
5. A certificate from a Town consulting engineer as to the satisfactory completion of all improvements may be required by the Commission, or, in lieu thereof, a performance bond or equivalent surety to secure completion of such improvements and their maintenance for a period of two years, with a certificate from the Selectboard that it is satisfied either with the bonding or surety company, or with security furnished by the subdivider.
6. A copy of association covenants and/or bylaws if a property/homeowners' association is being proposed. Such bylaws will be certified as being reviewed by the Town Attorney.
7. Any other documents required by the Commission as a result of preliminary plat approval.

**C. Final Plat Hearing.** A public hearing shall be held at the earliest available regularly scheduled Planning Commission meeting after the time of submission of the final subdivision plat application.

**D. Final Plat Action.** The Commission shall within forty-five (45) days after the public hearing or any continuation thereof, approve, modify and approve, or disapprove such plat. Failure to so act within such forty-five (45) days shall be deemed approval.

## **SECTION 706: APPLICATION SUBMISSION REQUIREMENTS**

Table 7.1 indicates the application materials required for each step in the subdivision review process.

**Table 7.1 Subdivision Application Requirements**

Application Information	Sketch	Prelim Plat	Final Plat
Application form (6 copies) and Plans	1- full size, 6 11x17 copies	2 full size, 6 11x17 copies	2 full size, 6 11x17 copies
Application fee		✓	✓
Name of project, if any and name of Town	✓	✓	✓
Name, address of applicant [landowner and/or subdivider]	✓	✓	✓
Written description of proposed development plans, including number and size of lots and general timing of development	✓	✓	✓
Waiver request, in writing [optional]	✓	✓	✓
Names, mailing addresses of all contiguous property owners	✓	✓	✓
Plan/Plat Mapping Requirements Materials	Sketch Plan Paper, Drawn	Prelim Plat Paper, Drawn	Final Plat Paper, Surveyed*
Preparer information, certifications	✓	✓	✓
Scale (minimum 1 inch = 100')		✓	✓
Date, north arrow, legend	✓	✓	✓
Project boundaries, property lines, and total acreage	✓	✓	
A land survey showing existing and proposed property boundaries, property lines, and total acreage.			✓
Two-foot contour lines of existing and proposed grades where change in grade is two-feet or more		✓	✓*
Location map showing relation of proposed subdivision to adjacent property and surrounding area.	✓	✓	✓
Detailed vicinity map showing location of proposed subdivision in relation to lands within 2,000 feet or within 500 feet if bordered by existing street: Scale (not over 1 inch = 400') Depict existing subdivisions and owners of record of adjacent parcels Locations, widths and names of existing or proposed streets Indication of future probable street connection to remaining portion of tract, or adjacent parcels		✓	✓*
Boundaries and area of all contiguous land belonging to the applicant, including land separated by a public right-of-way	✓	✓	✓
The location of natural features located on the site and adjacent properties including, but not limited to: watercourses; wetlands; designated floodplains; significant rock outcroppings; and wooded areas.	✓	✓	✓
Location of natural features or site elements to be preserved.		✓	✓
Existing and proposed layout of lot lines and dimensions	✓	✓	✓
Location and names of existing and proposed roads rights of way, trails, sidewalks and parking areas on site and on adjacent properties	✓	✓	✓ (*: adjacent property)

Article VII: Subdivision Regulations

Plan/Plat Mapping Requirements Materials	Sketch Plan Paper, Drawn	Prelim Plat Paper, Drawn	Final Plat Paper, Surveyed*
The location of existing and proposed structures and land uses located on the site	✓	✓	✓
Zoning district designations and boundaries	✓	✓	✓*
Proposed open space common land, deferred lots, and/or recreation land within the proposed subdivision	✓	✓	✓
The type and location of existing and proposed restrictions on land, such as easements and covenants	✓	✓	✓
Existing and proposed utilities, water and wastewater infrastructure, culverts and stormwater drainage infrastructure, all associated rights-of-way, easements and proposed connections		✓	✓
Specifications and details of any required bridges or culverts		✓	✓*
Typical cross section of the proposed grading of roadways and sidewalks, street intersection and parking area profile and geometry; and alleys.		✓	✓*
<b>Supporting Information/Documentation (As May be Required at Sketch Plan Review or Preliminary Plan Review)</b>			
Existing and proposed traffic generation rates and volumes			
Proposed phasing schedule			
Proposed building envelopes			
Proposed covenants and/or deed restrictions			
Proposed homeowner or tenant association agreements			
Proposed performance bond or surety			
Stormwater and erosion control plan			
Grading plan, showing proposed areas of cut and fill			
Site reclamation plan, for subdivisions involving extraction of natural resources			
Traffic impact analysis (current and proposed traffic volumes, capacities, levels of service, proposed improvements)			
Fiscal impact analysis (analysis of fiscal costs and benefits to the town)			
Environmental impact assessment (analysis of potential environmental impacts, proposed mitigation measures)			
Other information necessary to determine compliance with the requirements of these regulations			

✓\* Materials are required for final plat review but are not required to appear on the final plat for filing described under Section 710. During final plat review, the Planning Commission may identify additional items from this table that do not need to be depicted on the final plat.

**SECTION 707: EVALUATION**

The Commission shall evaluate any minor or major subdivision in accordance with the following criteria and the subdivision development standards in Section 708. The Commission may require the subdivider to submit data addressing impacts related to these criteria and standards. In light of findings made on these criteria, the Commission may require modification and phasing of the proposed subdivision or correction of any adverse impacts.

- A.** Whether the land is unsuitable for subdivision or development due to flooding, improper drainage, steep slopes, rock formations, adverse earth formations or topography, utility easements or other features which will reasonably be harmful to the safety, health, and general welfare of the present or future inhabitants of the subdivision and/or its surrounding areas.
- B.** Whether the proposal includes due regard for the preservation and protection of existing features, trees, scenic points, brooks, streams, rock outcroppings, water bodies, other natural resources and historical resources.
- C.** Whether the proposal includes sufficient open space for active and passive recreation.
- D.** Whether the proposal includes adequate provision for the control of runoff and erosion during and after construction.
- E.** Whether the proposed development is in compliance with the Town Plan, Development Regulations and other ordinances then in effect.
- F.** Whether any portion of the proposed development is located in a flood plain.
- G.** Whether the proposed development is compatible with surrounding properties.
- H.** Whether the site is suitable for the proposed density.
- I.** Whether the proposal contains adequate provision for pedestrian traffic in terms of safety, convenience, access to points of destination and attractiveness.
- J.** Whether the anticipated tax return from the proposed development is equal to or exceeds the cost of anticipated municipal services and facilities directly attributable to the proposed development, and whether the proposed development will place an unreasonable burden on the ability of local governmental units to provide municipal, governmental, or educational services and facilities.
- K.** Whether there is sufficient water available for the reasonably foreseeable needs of the proposed development.
- L.** Whether the proposed development will cause unreasonable highway congestion or unsafe conditions with respect to the use of roads and highways in the Town.
- M.** Whether the proposed development adheres to the General Regulations in Article IV and the Development Standards in Article V.

**SECTION 708: SUBDIVISION DEVELOPMENT STANDARDS****A. Lot Size and Shape.**

1. Side lot lines shall generally be at right angles to straight streets, or radial to curved street lines.
2. Lots with irregular shapes (curves, jogs, dog-legs, etc.) shall not be approved unless warranted by conditions of topography, existing road location and/or shape or use of the tract being subdivided.
3. The Commission shall encourage lot layout that will preserve open space areas for agricultural use and scenic views.
4. Consideration in lot layout shall be given to topographic drainage and soil conditions.

5. Lots shall be laid out so as to avoid direct access to heavily traveled streets or highways. The Planning Commission may require more than one access point for large subdivisions of greater than ten (10) lots to protect the public health, safety, and welfare.

**B. Parkland and School Sites.**

1. The Commission, pursuant to 24 V.S.A. section 4418 (as may be amended), may require the dedication of land for public recreation purposes. All such land shall be of a reasonable character for park or other recreational uses.
2. In cases where the Commission determines that a suitable park cannot be properly located within a plat or is otherwise not practical, the Commission may require a payment in lieu of land. The amount of such payment shall be as determined by the Selectboard and use of any payment shall serve the recreational needs of the town.
3. When a development composed of one or more plats is capable of supporting more than 100 dwelling units, the Commission may require the designation of a necessary public school site within the plat or a payment in lieu thereof. The amount of such payment shall be determined by the Selectboard.

**SECTION 709: WAIVERS**

The Commission may waive or vary, subject to appropriate conditions, the provisions of any or all improvements and application submission 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 which in its judgment are inappropriate because of an inadequacy or lack of connecting facilities adjacent to or in proximity to the subdivision.

In granting waivers or variances, the Commission shall require such conditions as will, in its judgment, secure substantially the objectives of the requirements so waived or varied. No such waiver or variance may be granted if it would have the effect of nullifying the intent and purpose of the Town's Plan or varying the Development Regulations or other Town Ordinances or Regulations.

**SECTION 710: FILING OF FINAL PLAT**

Upon approval of a final plat by the Commission, the subdivider shall prepare a copy of the plat for recording in conformance with the requirements of 27 V.S.A. Chapter 17. The Chairman of the Commission shall endorse in writing on said plat such approval and the date thereof. The final plat with endorsement shall be filed by the subdivider with the Town Clerk within one hundred eighty (180) days of the Commission's final approval. Final approval shall expire if the final plat is not filed by the subdivider within said one hundred eighty day period.

**SECTION 711: REVISIONS**

No changes, erasures, modifications, or revisions shall be made on any subdivision plat after final approval, unless said plat is first resubmitted to the Commission and the Commission approves the modifications.

**SECTION 712: EFFECT OF FINAL APPROVAL**

Final approval by the Planning Commission shall not be deemed to constitute or be evidence of any acceptance by the Town of any street, easement, utilities, park, recreational area, or open space shown on the final plat. Such acceptance may only be accomplished by formal resolution of the Selectboard.

**ARTICLE VIII: ADMINISTRATION AND ENFORCEMENT**

**SECTION 801: ADMINISTRATIVE OFFICER**

The Administrative Officer shall be appointed to administer the Development Regulations pursuant to the Act. Said officer shall inspect developments, maintain records and perform all other necessary tasks to carry out the provisions of these regulations. In the issuance of Zoning Permits, the Administrative Officer shall comply with all of the provisions of Section 4449 of the Act. Appeals from any decision or act taken by the Administrative Officer shall be made as provided for in Section 807. An acting Administrative Officer may be appointed pursuant to the Act.

**SECTION 802: PLANNING COMMISSION**

- A. The Planning Commission shall consist of not less than three (3) or more than nine (9) members appointed by the Legislative Body in accordance with Sections 4321-4323 of the Act. A majority of members shall be residents of the municipality. Any member of the Commission may be removed at any time by a unanimous vote of the Legislative Body.
- B. Rules of Procedure and Rules of Ethics shall be applicable to the Planning Commission.
- C. The Planning Commission shall have all the powers and duties as set forth in the Act to administer the provisions of these regulations, including but not limited to the power to hear and act upon:
  - 1. applications for rights-of-way or easements to serve as access for development lacking frontage;
  - 2. applications for site plan approval;
  - 3. applications for subdivision approval;
  - 4. interpretations of zoning district boundaries

**SECTION 803: BOARD OF ADJUSTMENT**

- A. The Board of Adjustment shall consist of not less than three (3) or more than nine (9) members appointed by the Legislative Body who shall act on all matters within its jurisdiction under these regulations in the manner prescribed in the Act. A majority of members shall be residents of the municipality. A member of the Board of Adjustment may be removed for cause by the Legislative Body upon written charges and after a public hearing.
- B. Rules of Procedure and Rules of Ethics shall be applicable to the Board of Adjustment.
- C. The Board of Adjustment shall have all the powers and duties as set forth in the Act to administer the provisions of these regulations, including but not limited to the power to hear and act upon:
  - 1. appeals of any decision, act or failure to act by the Administrative Officer;
  - 2. applications for conditional use approval;
  - 3. requests for variance;
  - 4. applications for telecommunications facilities
  - 5. applications for any other review or approval as required by these regulations or the Act.

**SECTION 804: COMBINED REVIEW**

- A. In accordance with Section 4462 of the Act, in cases where development proposals require conditional use and site plan, and/or access by right-of-way or easement, and/or requests for waivers or variances, and/or subdivision approval, and/or any other reviews as provided by these or other municipal regulations, the Planning Commission and/or Board of Adjustment may warn and hold a joint hearing for the purpose of reviewing and acting on the proposal. In cases where a joint hearing cannot be conducted to address each necessary review, the proceedings for each review shall occur concurrently or semi-concurrently (initiating one review process while the preceding process is nearing completion).
- B. PUD applications shall be reviewed in accordance with Section 612C. For all other projects requiring multiple reviews, the review process shall be conducted to the extent feasible in the following order, as applicable:
  - 1. Access by right-of-way; then
  - 2. Conditional Use Review; then
  - 3. Requests for Waivers or Variances; then
  - 4. Site Plan; then
  - 5. Subdivision Approval (preliminary and final); then
  - 6. any other reviews required by these regulations
- C. All notice requirements and provisions applicable to each purpose of the hearing shall be complied with. Notice for combined review, to the extent feasible, shall be made in the same public notice. In the case of differing notice requirements, the process which provides more notice, by amount of time or by other means, shall apply.
- D. All decision requirements and deadlines applicable to each purpose of the proceedings shall apply. Separate written decisions shall be issued for each review conducted as part of the combined review, but shall be coordinated where applicable.

**SECTION 805: PUBLIC NOTICE**

- A. Any requirement of public notice required by these regulations, whether or not required by any provision of the Act, and whether applicable to the Board of Adjustment or the Planning Commission, shall be given within 15 days prior to the date of the public hearing by:
  - 1. the publication of the date, place and purpose of such a hearing in a newspaper of general circulation in the Town; and
  - 2. the posting of such notice in three or more public places within the municipality including posting within view from the public right-of-way most nearly adjacent to the subject property
  - 3. written notification to the applicant and to owners of all properties adjoining the subject property, without regard to any public right-of-way, which shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained and that participation in the local proceeding is a prerequisite to the right to appeal.

- B. The administrative officer shall be responsible for notification of adjoining property owners and posting notice in a local newspaper, and two public places in South Hero.
- C. The applicant shall be responsible for posting the notice within view from the public right-of-way nearest to the property for which the application is being made, and shall take all reasonable efforts to assure that the notice remains posted for the required duration.
- D. All notification/posting requirements specific to the individual permit shall be conducted in accordance with Section 301E.

**SECTION 806: HEARINGS AND DECISIONS**

- A. In any public hearing there shall be an opportunity for each person wishing to achieve status as an interested person to demonstrate that the criteria set forth below are met. The Planning Commission or Board of Adjustment, as appropriate, shall keep a record of the name, address, and participation of each of these persons.
- B. An interested person is defined to include the following:
  - 1. A person owning title to property, or a municipality or solid waste management district empowered to condemn it or an interest in it, affected by a bylaw, who alleges that the bylaw imposes on the property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case.
  - 2. The Town of South Hero or an adjoining municipality;
  - 3. A person owning or occupying property in the immediate neighborhood of a property which is the subject of a decision or act taken under these regulations, who can demonstrate a physical or environmental impact on the person's interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes or terms of the plan or regulations of the municipality;
  - 4. Any ten voters or property owners within the municipality who, by signed petition to the Planning Commission or Board of Adjustment, allege that any relief requested by a person under this section, if granted, will not be in compliance with the policies, purposes or terms of the plan or regulations of the municipality; and
  - 5. Any department or administrative subdivision of the state owning property or any interest therein within the municipality or adjacent municipality, and the Vermont Agency of Commerce and Community Development.
- C. Participation, by an interested person, in a local regulatory proceeding shall consist of offering, through oral or written testimony, evidence, or a statement of concern related to the subject of the proceeding.
- D. The Planning Commission and Board of Adjustment may recess a hearing on any application or appeal pending the submission of additional information.
- E. The Planning Commission or Board of Adjustment, as appropriate, shall render its decision, which shall include written Findings of Fact, within 45 days after completing the hearing and shall within that period send to the applicant/appellant, by certified mail, and to all interested persons at the hearing, a copy of the decision. A copy of the decision shall be filed with the Administrative Officer and the Town Clerk. If the Board does not render its decision within 45 days, the result shall be deemed approval.



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**SECTION 807: APPEALS**

- A.** An interested person may appeal any decision or act taken by the Administrative Officer by filing a notice of appeal with the Secretary of the Board of Adjustment, or the Town Clerk if no such secretary has been elected, within 15 days of the date of such decision or act.
- B.** The Board of Adjustment shall set a date and a place for the public hearing on an appeal which shall be within 60 days of the filing of the notice of appeal according to Section 4466 of the Act.
- C.** On an appeal for a variance from the provisions of a regulation the Board of Adjustment may grant such variance only in accordance with Section 4469 of the Act.
- D.** The Board shall render its decision, which shall include Findings of Fact, within 45 days after completing the hearing and shall within that period send to the appellant, by certified mail, and to all interested persons at the hearing, a copy of the decision. A copy of the decision shall be filed with the Administrative Officer and the Town Clerk. If the Board does not render its decision within 45 days, the result shall be deemed approval.
- E.** The Board of Adjustment may reject an appeal without hearing and render a decision, which shall include findings of fact, within 10 days of the date of filing of the notice of appeal, if the Board considers the issues raised by the appeal have been decided in an earlier appeal, involve substantially or materially the same facts by or on behalf of that appellant.
- F.** An interested person who has participated in a municipal regulatory proceeding may appeal a decision rendered in or as a result of that proceeding of the Board within 30 days of such decision to the Environmental Court.

**SECTION 808: PENALTIES**

Any violation of these regulations after the effective date thereof shall be punished as provided in the Act.

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## **ARTICLE IX: FLOOD HAZARD REGULATIONS**

### **SECTION 901: LAND TO WHICH THESE STANDARDS APPLY**

These standards shall apply to development in the Flood Hazard Overlay District. This District includes the Special Flood Hazard Areas in and on the most current flood insurance studies and maps published by the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), and National Flood Insurance Program (NFIP), as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. Section 753, which are hereby adopted by reference and declared to be part of these regulations.

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.

#### **A. Base Flood Elevations & Floodway Limits shall be determined as follows:**

1. Where available, base flood elevations and floodway limits (or data from which a community can designate regulatory 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. District boundaries shall be determined by the administrative officer. Appeals with respect to the district boundaries can be made to the Board of Adjustment in accordance with Section 807.
2. In Special Flood Hazard Areas where base flood elevations and floodway limits have not been provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps, it shall be the responsibility of the applicant to develop the base flood elevation at the site using data provided by FEMA or available from State or Federal agencies.
3. Floodway limits are not required for the flood hazard zone A2 located on Lake Champlain.

**B. Warning and Disclaimer.** The Flood Hazard Overlay District standards in this section do not imply that land outside of the areas of special flood hazard or land use permitted within Flood Hazard Overlay District will be free from flooding or flood damages. These standards shall not create liability on the part of the Town of South Hero or any town official or employee thereof for any flood damages that result from reliance on the standards of this section or any administrative decision lawfully made thereunder.

### **SECTION 902: DEVELOPMENT PERMITS IN THE FLOOD HAZARD OVERLAY DISTRICT**

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

#### **A. Within the Floodway:**

1. Permit issued from Administrative Officer

- correctly sized bridges and culverts, which by their nature must be placed in or over the stream, and have been authorized by the Agency of Natural Resources;
  - public utilities and stabilization projects for which no reasonable alternative location exists;
2. Permit issued after Conditional Use Review by Board of Adjustment
    - improvements to existing structures;
    - improvements to existing roads or drainage;

**B. Within the Special Flood Hazard Area, outside of the Floodway:**

1. Permit required from Administrative Officer
  - Incidental Structures;
  - Lake Access Structures;
  - Floodwalls;
  - Road construction or improvement;
  - Bridges, culverts, public utilities, stabilization projects or other public projects which are functionally dependent on stream access or stream crossing
2. Permit issued after Conditional Use Review by Board of Adjustment
  - Public and Semi-Public Facilities
  - Marinas
  - Accessory Structures
  - Recreation
  - Substantial improvements to existing structures
  - Excavation and fill

**C. Prohibited Development throughout Special Flood Hazard Area**

The following are prohibited throughout the Special Flood Hazard Area, including the floodway:

- storage of any explosive, flammable, hazardous, toxic, or floatable materials, or junk yards,
- new residential structures (including the placement of manufactured homes);
- new commercial structures;
- critical facilities;
- all development not exempted, permitted, conditionally permitted, or allowed as a nonconforming use; and,
- new fill except where necessary to elevate structures to meet the Development Standards.

**SECTION 903: APPLICATION REQUIREMENTS**

- A.** In addition to the application requirements in Article III, applications for development within the Flood Hazard Area Overlay District shall also include the following information:
1. the location, on the site development plan, and associated elevations of all structures, roads, and water supply and wastewater facilities in relation to the channel, floodway, and base flood elevations;
  2. a completed FEMA “Elevation Certificate” prepared by a registered surveyor, engineer, architect or other official authorized by the state to certify building elevations, for any building constructed after the publication of the town’s Flood Insurance Rate Maps;

3. where flood-proofing is proposed (as allowed only for nonresidential buildings), a completed FEMA "Flood-proofing Certificate" prepared by a registered professional engineer or architect who is authorized by the state to certify flood-proofing design and construction;
  4. a hydraulic and hydrologic analysis for any development located within the floodway; and
  5. a description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.
- B.** In accordance with Section 4424 (2)(D) of the Act, no zoning permit for new construction or substantial improvement of land in the Flood Hazard District shall be issued until:
- a. a copy of the application is mailed or delivered by the administrative officer or by the Board of Adjustment, to the Agency of Natural Resources; and
  - b. either 30 days elapse following the mailing or the Agency of Natural Resources delivers comments on the application.
- C.** Proposals for development within the Special Flood Hazard Area must be submitted by the administrative officer or appropriate municipal panel to the Vermont Agency of Natural Resources for comment in accordance with 24 VSA §4424(D). A zoning application shall not be considered complete until such comments have been received or 30 days has elapsed since the application was submitted, whichever is sooner.
- D.** If the applicant is seeking a permit for the alteration or relocation of a watercourse, copies of the application shall also be submitted to the adjacent communities, the Stream Alteration Engineer at the Vermont Agency of Natural Resources, and the Army Corps of Engineers. Copies of such notice shall be provided to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation. A permit may be issued only following receipt of comments from the Vermont Agency of Natural Resources, or the expiration of 30 days from the date the application was mailed to the Vermont Agency of Natural Resources, whichever is sooner.

#### **SECTION 904: FLOOD HAZARD AREA DEVELOPMENT STANDARDS**

- A.** All Development:
1. In Special Flood Hazard Areas where floodways and/or Base Flood Elevations 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 water surface elevation of the base flood 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 registered professional engineer.
  2. All development in the Special Flood Hazard areas shall be reasonably safe from flooding and:
    - designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure during the occurrence of the base flood;
    - constructed with materials resistant to flood damage;

- constructed by methods and practices that minimize flood damage; and
- 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.

**B. Residential Development:**

1. New construction and existing buildings to be substantially improved that are located in Zones A1-30, AE, and AH shall have the lowest floor, including basement, elevated to or above the base flood elevation.
2. Manufactured homes to be placed and existing manufactured homes to be substantially improved that are:
  - located in a new manufactured home park or subdivision, outside of a manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in a manufactured home park or subdivision which has incurred substantial damage from a flood shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement during the occurrence of the base flood.

**C. Non-residential Development:**

1. New construction located in Zones A1-30, AE, and AH shall have the lowest floor, including basement, elevated to or above the base flood elevation.
2. Existing buildings to be substantially improved located in Zones A1-30, AE, and AH shall have the lowest floor, including basement, elevated to or above the base flood elevation or together with attendant utility and sanitary facilities be designed so that below 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. (Note: while buildings need only be floodproofed to the base flood elevation for floodplain management purposes, the building must be floodproofed to an elevation at least one foot above the base flood elevation to receive credit for base flood protection for flood insurance rating purposes.
3. A permit for a building proposed to be floodproofed shall not be issued until a registered professional engineer or architect has reviewed the structural design, specifications and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.

**D. Subdivisions:**

1. New subdivision developments (including planned unit developments manufactured home parks) of more than 5 acres or 50 lots, whichever is less, shall be designed to assure: such proposals minimize flood damage within the flood-prone area,
  - Such proposals minimize flood damage within the flood-prone area,
  - public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and
  - adequate drainage is provided to reduce exposure to flood hazards.

- E. Enclosed Areas Below the Lowest Floor:**
1. Enclosed areas below the lowest floor which are subject to flooding shall be used solely for parking of vehicles, building access, or storage.
  2. New construction and existing buildings to be substantially improved with fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.
  3. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings 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.
- F. Recreational Vehicles:** Recreational Vehicles placed on sites with special flood hazard areas shall either:
1. be on the site for fewer than 180 consecutive days,
  2. be fully licensed and ready for highway use, or
  3. be permitted in accordance with the elevation and anchoring requirements for “manufactured homes” in section B.2(b).
- G. Accessory Structures:** A small accessory building that represents a minimal investment need not be elevated to the base flood elevation provided the structure meets the following requirements:
1. The structure must only be used for parking or storage,
  2. The structure must have the required openings to allow floodwaters in and out,
  3. The structure must be constructed using flood resistant materials below the Base Flood Elevation,
  4. The structure must be adequately anchored to resist flotation, collapse, and lateral movement, and
  5. All building utility equipment including electrical and heating must be elevated or floodproofed.
- H. Water Supply Systems:** New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- I. Sanitary Sewage Systems:** New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- J. On-Site Waste Disposal Systems:** On-site wastewater disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- K. Watercourse Carrying Capacity:** The flood carrying capacity within any altered or relocated portion of a watercourse shall be maintained.

**SECTION 905: STANDARDS FOR REVIEW OF NONCONFORMING STRUCTURES.**

The Zoning Board of Adjustment may approve the repair, relocation, replacement, or enlargement of a nonconforming structure within a regulated flood or other hazard area, subject to compliance

with applicable federal and state laws and regulations, and provided that the following criteria are met:

- A. The appropriate municipal panel finds that the repair, relocation, or enlargement of the nonconforming structure is required for the continued economically feasible operation of a nonresidential enterprise.
- B. The appropriate municipal panel finds that the repair, relocation, or enlargement of the nonconforming structure will not increase flood levels in the regulatory floodway, increase the risk of other hazard in the area, or threaten the health, safety, and welfare of the public or other property owners.
- C. The permit so granted states that the repaired, relocated, or enlarged nonconforming structure is located in a regulated flood or other hazard area, does not conform to the regulations pertaining to that area, and will be maintained at the risk of the owner.

**SECTION 906: VARIANCES TO THE DEVELOPMENT STANDARDS.**

Variations shall be granted by the Board of Adjustment only in accordance with 24 V.S.A. § 4469 and in accordance with the criteria for granting variances found in 44 CFR, Section 60.6, of the National Flood Insurance Program regulations. A decision in favor of the appellant shall be granted if all the following facts are found, and the supporting findings are specified in the decision:

- A. variances are generally limited to a lot size less than one-half acre relating to historical structures (provided the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure), or a necessary development functionally dependent on stream access;
- B. the variance, if authorized shall be issued by the Board of Adjustment only upon:
  - 1. determination that failure to grant the variance would result in exceptional hardship to the applicant; and,
  - 2. determination that the variance will not result in increased flood heights, increased susceptibility to flooding or erosion, additional threats to public safety or infrastructure (including emergency services during flood events), or extraordinary public expense;
  - 3. the variance will not increase the potential of materials being swept onto other lands or into the stream and causing damage to others;
- C. the variance if granted will represent the minimum variance that will afford relief and will represent the least deviation possible from the bylaw and from the plan;
- D. any variance issued will inform the applicant in writing over the signature of a community official that the issuance of a variance to construct a structure below the base flood elevation increases risk to life and property and will result in increased flood insurance premiums up to amounts as high as \$25 for \$100 of coverage. Such notification shall be maintained with a record of all variance actions.

**SECTION 907: RECORDING REQUIREMENTS**

The Administrative Officer shall maintain a record of development within the Flood Hazard Area Overlay District including:

- A. All permits issued for development in areas of special flood hazard;
- B. The elevation, in relation to mean sea level, of the lowest floor, including basement, of all new or substantially improved buildings;
- C. The elevation, in relation to mean sea level, to which buildings have been floodproofed;
- D. All flood proofing certifications required under this regulation; and
- E. All variance actions, including justification for their issuance.

**SECTION 908: VIOLATION OF FLOOD HAZARD AREA REGULATIONS**

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

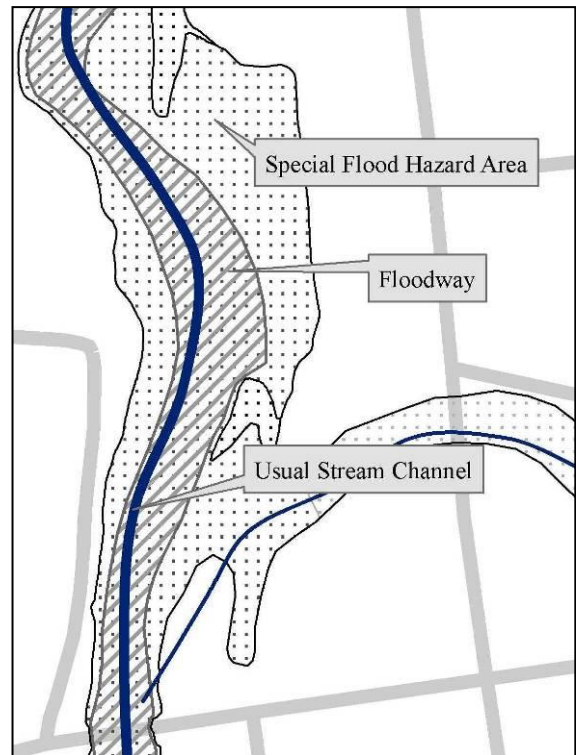
**SECTION 909: FLOOD HAZARD DEFINITIONS**

Definitions in this section apply only to the Flood Hazard Regulations in this article. Additional definitions are found in Appendix A.

**AREA OF SPECIAL FLOOD HAZARD:** Special flood hazard area.

**BASE FLOOD:** The flood having a one percent chance of being equaled or exceeded in any given year (commonly referred to as the 100-year flood).

**BASE FLOOD ELEVATION (BFE):** The height of the base flood, usually in feet, in relation to the National Geodetic Vertical Datum of 1929, the North American Vertical Datum of 1988, or other datum referenced in the Flood Insurance Study report, or average depth of the base flood, usually in feet, above the ground surface.





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

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

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

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

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

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

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

**FLOOD:** (a) A general and temporary condition of partial or complete inundation of normally dry land areas from: the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and mudslides which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current. (b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

**FLOOD INSURANCE RATE MAP (FIRM):** An official map of a community, on which the Federal Insurance Administrator has delineated both the special flood hazard areas and the risk

premium zones applicable to the community. In some communities the hazard boundaries are available in paper, pdf, or Geographic Information System formats as a Digital Flood Insurance Rate Map (DFIRM).

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

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

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

**FLOODWAY:** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point. Please note that where the Special Flood Hazard Areas have established base flood elevations, the extent of FEMA floodways may be shown on a separate series of panels

**FLOODWAY, REGULATORY IN THE TOWN OF SOUTH HERO:** The regulatory floodway in of the Town of South Hero is the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point.

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

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

**LETTER OF MAP AMENDMENT (LOMA):** A letter issued by the Federal Emergency Management Agency officially removing a structure or lot from the flood hazard zone based on information provided by a certified engineer or surveyor. This is used where structures or lots are located above the base flood elevation and have been inadvertently included in the mapped special flood hazard area.

**LOWEST FLOOR:** The lowest floor of the lowest enclosed area, including basement, except an unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR 60.3.

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

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

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

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

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

**SPECIAL FLOOD HAZARD AREA:** The floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. For purposes of these regulations, the term "area of special flood hazard" is synonymous in meaning with the phrase "special flood hazard area". This area is usually labeled Zone A, AO, AH, AE, or A1-30 in the most current flood insurance studies and on the maps published by the Federal Emergency Management Agency. Maps of this area are available for viewing in the town office or online from the FEMA Map Service Center: [msc.fema.gov](http://msc.fema.gov). Base flood elevations have not been determined in Zone A where the flood risk has been mapped by approximate methods. Base flood elevations are shown at selected intervals on maps of Special Flood Hazard Areas that are determined by detailed methods. Please note, where floodways have been determined they may be shown on separate map panels from the Flood Insurance Rate Maps.

**START OF CONSTRUCTION:** Includes substantial improvement, and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date.

The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, regardless whether that alteration affects the external dimensions of the building.

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

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

**SUBSTANTIAL IMPROVEMENT:** Any reconstruction, rehabilitation, addition, or other improvement of a structure after the date of adoption of these regulations, the cost of which, over three years, or over a the period of a common plan of development, cumulatively equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either: (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specification which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (b) Any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”

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

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**GENERAL DEFINITIONS**

**ACT:** The Vermont Municipal and Regional Planning and Development Act. Title 24, Chapter 117, Vermont Statutes Annotated.

**AVERAGE NATURAL GRADE:** The average of the highest and lowest elevation of the land around a structure or building. See Figure 2.2.

**CAMPING FACILITIES:** A parcel of land upon which three or more campsites/lots are located for occupancy by a camper, travel trailer, recreational vehicle (RV), or similar motor home which is mounted on wheels, a truck or camper body (not including mobile homes), and tents, as temporary living quarters for recreation, education or vacation purposes.

**CHILD CARE FACILITY:** A state registered or licensed establishment operated as a business or service on a regular or continuous basis, whether for compensation or not, whose primary function is protection, care, and supervision of children. See Section 605.

**COMMERCIAL:** A commercial use shall include, but not be limited to, grocery, hardware, drug, general stores, as well as car and boat sales and service, department stores, gift shops, youth or other camps, clubs, indoor recreation facilities, and any other facility for wholesale or retail sales of goods or services.

**COMMUNICATION TOWER:** A guyed, monopole, or self-supporting tower, constructed as a free standing structure or in association with a building, other permanent structure or equipment, containing one or more antennas intended for transmitting and/or receiving television, AM/FM radio, digital, microwave, cellular, telephone, or similar forms of electronic communication. This is considered the primary structure for the purposes of determining set-backs.

**COMMUNICATIONS FACILITY:** A land facility supporting antennas and/or microwave dishes that sends and/or receives radio frequency signals. Communications facilities may include structures, towers or accessory buildings.

**CONGREGATE HOUSING:** A form of housing frequently provided for elderly or partially disabled individuals which provides individual dwelling units, which may or may not contain cooking facilities and which also provides common facilities for use by all residents.

**DWELLING UNIT, ACCESSORY:** See Section 603.

**DWELLING, MULTI-FAMILY:** A residential building on a single lot containing three or more dwelling units.

**DWELLING, PERMANENT:** A dwelling which has physical properties of a structure, such as permanent winterized water system, and insulated walls and roof, which characterize it as permanent.

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

**DWELLING, SINGLE FAMILY:** A building containing one dwelling unit and that is not attached to any other primary dwelling by any means.

**DWELLING, TWO FAMILY:** A building on a single lot containing two dwelling units.

**DWELLING UNIT:** Building or self contained part thereof, complete with housekeeping facilities, used as living quarters for one family and all accessory buildings associated with the primary use of the unit.

**FAMILY:** One or more persons living, sleeping, cooking and eating on the same premises as a single housekeeping unit. More than five persons, not related by blood, marriage or adoption, shall not be considered to constitute a family.

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

**FRONTAGE:** The distance of the portion of a lot line abutting a road right-of-way.

**GREEN SPACE:** Undeveloped area on a lot containing vegetative screening, landscaping, grass or other vegetative cover versus some manmade covering (buildings, asphalt, cement, etc.).

**GROUP HOME OR RESIDENTIAL CARE HOME:** A residential facility operated under state licensing or registration, serving not more than eight persons who have a handicap or disability as defined in 9 VSA 4501. See Section 604.

**HABITABLE FLOOR AREA:** A space inside a dwelling unit intended to be used for living, sleeping, bathing/toiletry, eating or cooking. Unfinished basements and unfinished attics will not be counted toward the total habitable floor area if they are unused or used only for storage.

**HOTELS AND MOTELS:** A building or group of buildings containing guest rooms for occupancy on a short-term basis, and having a management entity operating the building(s) and providing services.

**INDUSTRIAL:** An industrial use shall include, but not be limited to, manufacturing and associated activities.

**LAND DEVELOPMENT:** Means the division of a parcel into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, or of any mining, excavation or landfill, and any change in the use of any building or other structure, or land, or extension of use of land.

**LOT:** A designated parcel, tract or area of land established by plat subdivision, or as otherwise permitted by law, to be separately owned, used developed or built upon.

**MAJOR SUBDIVISION:** Any residential subdivision containing four or more lots, including all lots created from a single parcel within the past 10 years; any subdivision requiring installation of new public streets; any nonresidential subdivision.

**MARINA:** A place or business whose purpose is the sale, servicing, fueling, or rental of boats and/or the sale or rental of moorings or docking berths.

**MINOR SUBDIVISION:** Any residential subdivision containing less than four lots, including all lots created from a single parcel within the past 10 years, and which does not require installation of new public streets.

**MULTIFAMILY DWELLING:** A building or portion thereof containing three or more dwelling units.

**NONCONFORMING USE:** A use of land that does not conform to the present regulations, but did conform to all applicable laws, ordinances, and regulations prior to the enactment of the present regulations. Uses that were improperly authorized by the Administrative Officer are considered a nonconforming use.

**PARKS:** A tract of land, designed for and typically used, by, the public for active or passive recreation.

**PLACES OF WORSHIP:** A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose. Includes church, synagogue, temple, mosque, or other such place for worship and religious activities.

**PLAN:** The town plan of the Town of South Hero.

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

**PROFESSIONAL SERVICES:** Financial institutions, consulting firms, real estate or insurance agencies, doctors, lawyers, architects, accountants, travel agencies, and establishments providing similar services, but not including manufacturing, repairing, processing, or fabrication of any article, substance, or commodity.

**PUBLIC OR SEMI-PUBLIC FACILITIES:** A building or other facility owned, leased, held, used, and/or controlled exclusively for public or semi-public purposes by a municipality, state or federal government, regulated utility or railroad. Such facilities included, but are not limited to municipal buildings and garages, water and wastewater facilities, and educational facilities; this definition includes uses in Section 4413(a) and Section 607.

**QUALIFIED PERSON:** One who is certified by the State of Vermont or otherwise qualified to conduct an independent technical review or provide testimony as appropriate and requested.

**RECREATION:** Recreation facilities include but are not limited to trails, athletic fields, and outdoor seasonal skating rinks; except for such facilities which are accessory to an approved educational facility or residential use.

**REPEATER:** A small receiver/relay transmitter and antenna of relatively low power output designed to provide service to areas which are not able to receive adequate coverage directly from a base or primary station.

**RESIDENTIAL UNIT:** (See dwelling unit)

**RESUBDIVISION:** Any change in a recorded subdivision plat, if such change affects any street layout on such plat, or area reserved thereon for public use, or any lot line, or if the change affects any map or plan legally recorded prior to the adoption of any subdivision regulation by the Town of South Hero.

**RESTAURANTS:** Premises where food and drink are prepared and served for retail sale. This definition includes, but is not limited to, cafes, taverns and bars.

**ROAD:** A road or street and associated right-of-way serving 3 or more lots which is constructed within the boundaries of an officially deeded or dedicated private right-of-way or an officially deeded or dedicated and accepted public right-of-way.

**SKETCH PLAN:** An informal sketch of the proposed subdivision, the purpose of which is to enable the subdivider to reach general agreement with the Commission regarding the form of the subdivision and objective and requirements of these regulations.

**STREET:** Any road, highway, avenue, street, land or other way between right-of-way lines, commonly used for vehicular traffic.

**STRUCTURE:** Anything constructed or erected, the use of which requires location on the ground or attachment to something located on the ground. Examples of structures include, but are not limited to buildings and foundations.

**STRUCTURE, ACCESSORY:** A detached structure, the use of which is subordinate to the principal use or structure and located on the same lot. Examples of such a structure include, but are not limited to, detached garage, workshop, tool shed, or greenhouse, which does not meet any other definitions herein.

**STRUCTURE, FARM:** A building, enclosure, or fence for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with accepted agricultural or farming practices, including a silo, as “farming” is defined in subdivision 6001(22) of Title 10, but excludes a dwelling for human habitation. This definition shall follow the definition provided by Title 10 Section 6001 (22) and/or the secretary of agriculture, food and markets or the commissioner of forests, parks and recreation.

**STRUCTURE, INDEPENDENT:** A free-standing structure, the use of which is not residential nor commercial nor associated with any principal permitted or conditional use. Examples of such



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a structure include, but are not limited to, a garage, workshop, tool shed, greenhouse, or storage building which does not meet any other definitions in these regulations.

**STRUCTURE, INCIDENTAL:** See Section 611.

**STRUCTURE, LAKE ACCESS:** A ramp or stairway constructed to gain access to the lakeshore. See section 609.

**STRUCTURE, MIXED USE:** A building containing a variety of uses allowed as permitted or conditional uses in the district where the building is located.

**STRUCTURE, NONCONFORMING:** A structure, or part of a structure that does not conform to the present regulations, but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present regulations. Structures that were improperly authorized by the Administrative Officer are considered nonconforming structures.

**SUBDIVIDER:** Any person, firm, corporation, partnership, or association who shall propose to create a subdivision.

**SUBDIVISION:** Any land, vacant or improved, which is divided or proposed to be divided into two or more lots, plats, sites, or other divisions of land.

**TELECOMMUNICATIONS FACILITY:** A tower or other support structure, including antennae, that will extend 20 or more feet vertically, and related equipment, and base structures to be used primarily for communication or broadcast purposes to transmit or receive communication or broadcast signals.

**TELECOMMUNICATIONS PROVIDER:** An entity licensed by the FCC to provide telecommunications services to individuals or institutions.

**TRAIL:** A path of land used by the public for hiking, walking, bicycling, cross-country skiing, snowmobiling, all-terrain vehicle riding, horseback riding or other similar activities.

**VIEW CORRIDOR/VIEWSHED:** A three dimensional area extending out from a viewpoint. The width of the view corridor depends on the focus of the view. The focus of the view may be a single object, such as a mountain, which would result in a narrow corridor, or a group of objects, such as a downtown skyline, which would result in a wide corridor. Panoramic views have very wide corridors and may include a 360-degree perspective. Although the view corridor extends from the viewpoint to the focus of the view, the mapped portion of the corridor extends from the viewpoint and is based on the area where base zone heights must be limited in order to protect the view.

# DRAFT ZONING MAP

## Town of South Hero

