

TOWN OF SANDGATE, VERMONT

PLANNING COMMISSION

NOTICE OF PUBLIC HEARING

Zoning Bylaw Amendment

Pursuant to 24 VSA, §§ 4441, the Sandgate Planning Commission will hold a public hearing to receive comments regarding the proposed amendments to the Sandgate Town Bylaw and Subdivision Regulations.

The public hearing will be held:
Wednesday, January 17, at 6:00pm
Sandgate Town Offices
3266 Sandgate Road
Sandgate, VT 05250

The proposed Zoning Bylaw Amendment affects the entire Town of Sandgate and its residents. The Sandgate Planning Commission has prepared the Revised Zoning Bylaw with technical support from Bennington County Regional Commission staff.

The purpose of the amendments is to realign the bylaw with the town's current planning policies, address inconsistencies resulting from the many changes that have been made to state statute since the regulations were last updated, and fix identified shortcomings of the current regulations which have resulted in confusion or difficulties for applicants. The amendments also expand Flood Hazard Regulations to include River Corridor Protections and seek to improve the clarity of the regulations and the town's development review and permitting processes. The proposed amendments will apply town-wide. Because the format of the proposed bylaw is completely different from the current one, all sections of the proposed bylaw are different. A list of section headings of the proposed bylaw is shown below.

Section 1: Legal Framework
Section 2: Administration and Enforcement
Section 3: Zoning Districts
Section 4: General Development Standards
Section 5: Specific Use Standards
Section 6: Subdivision Standards
Section 7: Flood Hazard and River Corridor Regulations
Section 8: Definitions
Section 9: Maps

Copies of the proposed Town Plan are available for review at the Town Offices by request and on the website of the Bennington County Regional Commission at the following web page:
<http://www.bcrcvt.org/sandgate.html>

The Planning Commission may be contacted with questions about the plan or a request to view a printed copy of the plan by email to sangatevtza@gmail.com or by leaving voicemail at 802-379-9961

Richard Zoppel, Chair
Sandgate Planning Commission

State of Vermont Agency of Commerce & Community Development Department of Housing & Community Development **Municipal Planning Commission Bylaw Reporting Form**

Provisional Form pursuant to Act 47 of 2023, The HOME Act

This provisional form issued pursuant to the Act 47 of 2023 is subject to change. The Department welcomes feedback on the form's implementation of the Act. A standing form will be issued by December 31, 2023.

Published June 30, 2023

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Why is this form required?

Vermont's Municipal & Regional Planning & Development Act (24 V.S.A 4441) requires a municipal planning commission to prepare a report when considering an amendment to a bylaw. Act 47 of 2023 adds a requirement to the report to include findings on conformance with sections 4412, 4413, and 4414 of the Act. It also adds a requirement that the municipal planning commission provide the report to the Department of Housing and Community Development upon approval of an adoption or amendment. The report must be submitted with GIS (Geographic Information Systems) files, a complete bylaw, and information about municipal planning and governance and systems. The form will be published on the Vermont Planning Data Center, here: <https://accmaps.vermont.gov/MunicipalPlanningDataCenter/>. Bylaw submission and posting supports the availability of Vermont's adopted municipal bylaws from a central digital source for statewide access and use.

Vermont Municipal Bylaw Reporting Form

How does a municipality submit the form?

Upon completion of the sections below, upload a saved version of the file [here](#). The form must be submitted with the approved bylaw(s) and any GIS shapefiles (when adding or amending district boundaries of record on the Vermont Open [Geodata Portal](#)). The form can be saved as a Microsoft Word document (DOC) or converted to a Portable Document Format (PDF) file. If you need assistance completing the form, please reach out to the contact above or your municipality's regional planning commission.

Type of Bylaw Filing

Select all that apply.

- ☐ New bylaw(s)
- ☐ Amendment to existing bylaw(s)
- ☐ Repeal of existing bylaw(s)

Explain multiple selections.

Type of Bylaw(s)

Select all that apply.

- ☐ Unified Development *(select all bylaws included in the unified bylaws below)*
- ☐ Zoning

Does the bylaw add or change any zoning districts or boundaries?

- ☐ Yes
- ☐ No

- ☐ Subdivision
- ☐ Interim
- ☐ Flood Hazard
- ☐ River Corridor
- ☐ Shoreland Protection
- ☐ Other: *(explain)*

Vermont Municipal Bylaw Reporting Form

Date of Hearing(s)

Planning Commission Hearing(s) *(enter date[s])*

Legislative Body Hearing(s) *(enter date[s])*

Date of Adoption

Skip this section if the bylaw is proposed for hearing.

Date of Popular Election *(enter date only if subject to a popular election/vote)*

Date of Last Action *(enter date of final approval action by voters or legislative body)*

Bylaw Summary & Statement of Purpose

Provide a brief explanation of the bylaw and a statement of purpose (per 24 V.S.A. 4441). Use as much space as needed.

Findings on Municipal Plan Furtherance

Explain how the bylaw conforms with or furthers the goals and policies contained in the municipal plan. Use as much space as needed.

Vermont Municipal Bylaw Reporting Form

Findings on Safe & Affordable Housing

Explain the effect of the bylaw on the availability of safe and affordable housing. Use as much space as needed.

Findings on Required Provisions & Prohibited Effects

Explain how the bylaw conforms with 24 V.S.A. 4412. Use as much space as needed.

Include explanations on how the bylaws conform with these provisions (as applicable):

- *Mobile, modular and prefabricated housing*
- *Mobile home parks*
- *Duplex uses*
- *Multi-unit dwelling uses*
- *Accessory dwelling unit uses*
- *Residential care homes or group homes*
- *Hotels for emergency housing*
- *Existing small lots*
- *Required frontage*
- *Home occupations*
- *Childcare home or facility*
- *Heights of renewable energy structures*
- *Nonconformities*
- *Communications antennae and facilities*
- *Planting projects in flood hazards*
- *Accessory on-farm businesses*
- *Lot and dimensional standards for minimum dwelling unit density*
- *Density for affordable housing*

Vermont Municipal Bylaw Reporting Form

Findings on Limitations on Municipal Bylaws

Explain how the bylaw conforms with 24 V.S.A. 4413. Use as much space as needed.

Include explanations on how the bylaws conform with these provisions (as applicable):

- *State- or community-owned and -operated institutions and facilities*
- *Public and private schools and other institutions*
- *Places of worship*
- *Public and private hospitals*
- *Regional solid waste management facilities*
- *Hazardous waste management facilities*
- *Emergency shelters*
- *Required agricultural practices*
- *Accepted silvicultural practices*
- *Solar energy devices*
- *Ancillary telecommunications improvements and lines*

Findings on Permissible Types of Regulation

Explain how the bylaw conforms with 24 V.S.A. 4414. Use as much space as needed.

Select all regulations adopted by the municipality:

- ☐ Zoning (§4414)
 - ☐ Downtown, Village Center, and Growth Center Districts
 - ☐ Agricultural, Rural Residential, Forest & Recreation Districts
 - ☐ Airport Hazard Areas
 - ☐ Shorelands
 - ☐ Design Review Districts
 - ☐ Historic District/Landmark Bylaws
 - ☐ River Corridors and Buffers
- ☐ Overlay Districts (§4414)

List overlays:

- ☐ Conditional Use Review (§4414)
- ☐ Parking & Loading Standards (§4414)
- ☐ Performance Standards (§4414)
- ☐ Energy Resource Standards (§4414)
- ☐ Inclusionary Zoning (§4414)
- ☐ Waiver Provisions (§4414)
- ☐ Stormwater Management Standards (§4414)
- ☐ Wireless Telecommunication Bylaws (§4414)
- ☐ Water/Wastewater Permit Sequencing Standards (§4414)
- ☐ Green Development Incentives (§4414)
- ☐ Solar Screening Standards (§4414)

Municipal Plan Future Land Uses & Density Compatibility

Explain how the bylaw is compatible with the proposed future land uses and densities of the municipal plan.

Planned Community Facilities

Explain how the bylaw carries out, as applicable, any specific proposals for any planned community facilities.

Municipal Planning Implementation Information

Upon adoption of the bylaw(s), select all elements of the municipal planning program that apply in the municipality:

- ☐ Unexpired Municipal Plan
- ☐ RPC-Approved Municipal Plan & Confirmed Planning Process (§4350)
- ☐ Interim Bylaws (§4415)
- ☐ Site Plan Review (§4416)
- ☐ Planned Unit Development (§4417)
- ☐ Subdivision (§4418)
- ☐ Administrative approvals of minor subdivisions/boundary adjustments (§4463)
- ☐ Unified Development Bylaws (§4419)
- ☐ Local Act 250 Review of Municipal Impacts (§4419)
- ☐ On The Record Review/Adopted Municipal Administrative Procedures (§4471)
- ☐ Official Map (§4421)

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- ☐ Public Facilities Phasing (§4422)
- ☐ Transfer Development Rights (§4423)
- ☐ Freestanding Shorelands Bylaws (§4424)
- ☐ Freestanding River Corridor Protection Areas (§4424)
- ☐ Freestanding Flood or Hazard Areas (§4424)
- ☐ Enrolled in the National Flood Insurance Program
- ☐ Other Special or Freestanding Bylaws (§4424)

List

- ☐ Capital Budget & Program (§4430)
- ☐ Impact Fees (Chapter 131, §4422)
- ☐ Judicial Bureau Ticketing Option for Enforcement (§4452 & 1974a of Title)
- ☐ Advisory Commissions/Committees (§4433(1))
- ☐ Historic Preservation Commissions (§4433(3))
- ☐ Design Review Commissions (§4433(4))
- ☐ Housing Commissions (§4433(5))
- ☐ Development Review Board (§4460)
- ☐ Zoning Board of Adjustment (§4460)
- ☐ Joint Board of Adjustment Development Review Board (§4460)
- ☐ Full-time Administrative Officer
- ☐ Part-time Administrative Officer
- ☐ Volunteer/stipend Administrative Officer
- ☐ Staff planner(s)
- ☐ Availability of planning Information on municipal website:
 - ☐ Municipal plan and maps
 - ☐ Bylaws
 - ☐ Fee schedule
 - ☐ Contact information for administrative officer
 - ☐ Information about Planning Commission
 - ☐ Information about the Appropriate Municipal Panel (ZBA/DRB)

Primary website URL:



SANDGATE LAND USE & DEVELOPMENT BYLAW

This bylaw constitutes the combined zoning, subdivision, and flood hazard and river corridor regulations of the Town of Sandgate, Vermont.

Adopted XXXX, XX, 2024

ADOPTED MAY 30, 1973

AMENDED AND ADOPTED NOVEMBER 6, 1978

AMENDED AND ADOPTED NOVEMBER 2, 1982

AMENDED AND ADOPTED MARCH 1, 1983

AMENDED AND ADOPTED NOVEMBER 6, 1984

AMENDED AND ADOPTED NOVEMBER 4, 1986

AMENDED AND ADOPTED MARCH 7, 2000

AMENDED AND ADOPTED MAY 2, 2005

AMENDED AND ADOPTED JULY 25, 2006

AMENDED AND ADOPTED FEBRUARY 18, 2013

AMENDED AND ADOPTED: XXXX, XX, 2024

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Section 1 Legal Framework

1.1 Title

These regulations constitute the zoning, subdivision, flood hazard, and river corridor regulations of the Town of Sandgate and shall be known and cited as the Sandgate Land Use and Development Bylaw (hereinafter, this Bylaw).

1.2 Authority

This Bylaw is adopted under the authority of the Vermont Municipal and Regional Planning and Development Act, 24 VSA Chapter 117, (hereinafter, the “Act”) and is intended to supersede and replace any previous zoning, subdivision, and flood hazard bylaws.

1.3 Purpose

The purpose of this Bylaw is to encourage the appropriate development of all lands in the Town of Sandgate in a manner that will promote the public health, economy, and general welfare, to provide methods for the prevention of such development problems currently existing or which may be foreseen, and to implement the goals of the Town Plan of Sandgate.

1.4 Applicability

- (A)** No land or premises or part thereof shall hereafter be used, changed in use, no structure or part thereof or other structure shall be constructed, reconstructed, extended, enlarged, moved, or altered, no parcel of land shall be divided into two or more parcels or a boundary line adjustment between parcels made, except in conformity with this Bylaw.
- (B)** Unless specifically exempted in Section 1.5, all land development within the Town of Sandgate requires a zoning permit issued in accordance with this Bylaw. Land development shall mean (a) the division of a parcel into two or more parcels or any change in the location of lot lines, (b) the construction, reconstruction, demolition, structural alteration, conversion, relocation, or enlargement of any structure, and (c) any change in use or extension of the use of land or any structure.
- (C)** No lot shall have an area, width, or front, side, or rear yard less than that set forth in the applicable zoning district except as otherwise provided in this Bylaw.
- (D)** Nothing contained in this Bylaw shall require any change in structure or use of a structure complying with local laws in force prior to the effective date of this Bylaw.

1.5 Exemptions

Except within the designated and Flood Hazard Overlay (FHO) and River Corridor Overlay (RCO), the following are exempt from the requirement for a zoning permit in conformance with this Bylaw:

- (A)** Interior alterations and normal maintenance activities that do not enlarge a structure or result in a change of use.
- (B)** Accessory buildings under 150 square feet in area and under 8 feet tall, not located in a designated FHO or RCO, and limited to two such buildings per residential property. Setbacks or other zoning restrictions must be kept.

- (C) Required agricultural practices as defined by the Vermont Agency of Agriculture, Food and Markets.
- (D) Farm structures, but notification in writing shall be filed with the Zoning Administrator of the intent to build a farm structure and such structure shall abide by setbacks approved by the Secretary of the Agency of Agriculture, Food and Markets before any construction.
- (E) Accepted silvicultural practices as defined by the Vermont Department of Forests, Parks and Recreation.
- (F) Development that has secured a Certificate of Public Good from the Vermont Public Utilities Commission.
- (G) Property Maintenance
- (H) Emergency Repair
- (I) Landscaping
- (J) Mechanical Equipment
- (K) Fuel Tanks serving a one- or two-unit dwellings.
- (L) Antennas
- (M) Fences or walls that meet the following characteristics:
 - 1) Fences that do not exceed 6 feet in height or walls that do not exceed 4 feet in height;
 - 2) Do not extend into or obstruct a public right of way;
 - 3) Do not interfere with corner visibility for vehicular traffic;
 - 4) Are not designed to inflict physical harm; and
 - 5) Do not affect drainage patterns of adjacent property or rights of way.
- (N) Accessibility Structures
- (O) Public Art that does not function as a commercial sign, extend into or obstruct a public right of way, interfere with corner visibility for vehicular traffic, and does not affect drainage patterns of adjacent property or rights of way.
- (P) Utility Poles erected by a public utility entity
- (Q) Outdoor Light Fixtures that are fully shielded and downcasting on a one- or two-unit residential property.
- (R) Noncommercial Hunting, Fishing, or Trapping
- (S) Noncommercial Passive Outdoor Recreation
- (T) Work within a public road right-of-way by the town or state.
- (U) Group Homes operated under state license or registration within a one-unit dwelling that will house no more than 8 people with a handicap or disability on a property that is located no closer than 1000 feet to a property containing any other licensed or registered group home.
- (V) Customary Home Occupations carried out fully within a dwelling unit by a resident of the dwelling, occupies not more than 30% of the habitable floor area of the dwelling, and does not have any non-resident employees.
- (W) Sales of personal goods limited to 30 days in any calendar year and limited to no more than 3 items at any given time if displayed outside.

1.6 Limitations

The following uses may be regulated only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping, and screening requirements, and only to the extent that regulations do not have the effect of interfering with the intended functional use:

- (A) State- and community-owned and operated institutions and facilities.

- (B) Public and private schools and other educational institutions certified by the Agency of Education.
- (C) Churches and other places of worship, convents, and parish houses.
- (D) Emergency shelters.
- (E) Public and private hospitals.
- (F) Regional solid waste management facilities certified under 10 V.S.A. chapter 159.
- (G) Hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. §6606a.

Except for state-owned and operated institutions and facilities, each of the land uses listed above may be regulated for compliance with flood hazard area or river corridor standards as established in these regulations. These regulations shall not have the effect of interfering with the intended functional use.

1.8 Relationship with Other Laws or Regulations

- (A) If any provision of these regulations is more restrictive than any other law or regulation, the provision of these regulations will apply and take precedence.
- (B) If any provision of another law or regulation is more restrictive than these regulations, the provision of these regulations will be superseded and the more restrictive provision will apply.
- (C) If any applicable provision of these regulations is in conflict or more restrictive than another applicable provision, the more restrictive provision will apply.
- (D) The provisions regulating development within the Flood Hazard Overlay District (See Section 7) will take precedence over any other provision of these regulations.

1.9 Amendment

This Bylaw, or the boundaries of zoning districts established herein, may be amended from time to time after public hearing, as provided by 24 V.S.A. §4441, §4442, and §4444.

1.10 Severability

If a court of competent jurisdiction invalidates any provision of these regulations, that decision will not affect the validity, application, or enforcement of the remaining provisions.

1.11 Disclaimer of Liability

These regulations do not create any liability on the part of the village, its officials, agents, employees, or representatives for alleged damages that result from reliance on these regulations, or any lawful administrative action or decision taken under these regulations.

Section 2 Administration and Enforcement

2.1 Zoning Administrator

- (A) The Planning Commission shall nominate and the Selectboard shall appoint a Zoning Administrator (ZA) in accordance with the Act. The Selectboard may appoint an Acting or Assistant Zoning Administrator to act in the Zoning Administrator's absence, or if the Zoning Administrator has a conflict of interest.
- (B) The Zoning Administrator shall literally enforce the provisions of this Bylaw, inspect land developments and perform all other necessary and required tasks to carry out the provisions of this Bylaw and the duties of the office.
- (C) The Zoning Administrator will refer applications to the Planning Commission or Zoning Board of Adjustment as required by the provisions of this Bylaw.
- (D) The Zoning Administrator shall maintain a full and accurate record of all applications, permits, and violations acted upon.

2.2 Planning Commission

- (A) The Selectboard shall appoint members to the Planning Commission in accordance with the Act.
- (B) The Planning Commission shall prepare amendments to this Bylaw and make recommendations to the Selectboard on the amendment of this Bylaw in accordance with the Act.
- (C) The Planning Commission shall review and decide upon applications for subdivision, cluster development, and site plan approval as specified in the provisions of this Bylaw.

2.3 Zoning Board of Adjustment

- (A) The Selectboard shall appoint members to the Zoning Board of Adjustment (ZBA) in accordance with the Act.
- (B) The ZBA shall review and decide upon appeals and applications for conditional use, waiver, and variance as specified in the provisions of this Bylaw.

2.4 Permits

- (A) Before any land, building, or accessory building is devoted to a new use or change of use, or before the erection, expansion, demolition, installation, or relocation of any building or accessory building, a zoning permit shall be obtained from the Zoning Administrator.
- (B) Application for such permit shall be made on a prescribed form accompanied by a fee as set by the Selectboard. Permit forms may be obtained from the Zoning Administrator, the Town Clerk, or the official Sandgate website: sandgatevermont.org.
- (C) Before issuing any permit, the Zoning Administrator shall confirm that the proposed development or use complies with all applicable provisions of this Bylaw.
- (D) Permits shall be voided in the event of misrepresentation or failure to undertake construction within 2 years of the date of approval.
- (E) If the Zoning Administrator fails to act on an application for a permit within 30 days

from the date of receipt of a complete application, a permit shall be deemed issued on the 31st day,

- (F) Each zoning permit issued shall contain a statement of the period of time within which an appeal may be taken. No permit shall take effect until the time for appeal has passed, as provided for in 24 V.S.A. §4465. If an appeal is taken, the permit shall not take effect until final adjudication of the appeal by the appropriate municipal panel or environmental court, as provided for in 24 V.S.A. §4449.
- (G) Within three days of the issuance of a zoning permit, the Zoning Administrator shall post the permit on the town bulletin board and file a copy with the Board of Listers. Permits shall remain posted for at least 15 days from the date of issuance.
- (H) Within three days of the issuance of a zoning permit, a notice of permit also shall be posted at a location within view of the public right-of-way most nearly adjacent to the subject property until the time for appeal has passed.
- (I) Within 30 days of issuing a permit, the Zoning Administrator shall submit a copy of the permit to the Town Clerk for recording in the land records.
- (J) Any development requiring a new or approved access drive onto a town road requires an access permit from the Sandgate Selectboard, which shall be a condition of the zoning permit.
- (K) No zoning permits shall be issued for a building or structure, the useful occupancy of which requires a sewage disposal system, until the Vermont Agency of Natural Resources has granted a water supply and wastewater system permit.
- (L) No zoning permit shall be issued for a building, structure, or use on a lot until all state permits required for the creation of such lots are obtained and submitted to the Zoning Administrator.

2.5 Site Development Plan

- (A) Except for one- and two-unit residential use and development outside of the FHO or RCO, a site development plan shall be submitted with an application for a permit or other approval. No permits shall be issued until the Planning Commission, or the Zoning Board of Adjustment in the case of conditional use applications, has approved the site development plan.
- (B) Such site development plan shall be at a scale that shows the boundaries and area of the lot, existing and proposed buildings on the lot and on adjacent lots within a distance of 200 feet from the subject lot, proposed vehicular circulation and parking, proposed pedestrian circulation, open space, park and playground facilities, landscape details, proposed drainage and natural drainage-ways and water-courses, existing contours, land conditions, and such other information as the Planning Commission or ZBA may require.
- (C) Topography shall be mapped at twenty (20) foot intervals, unless the Planning Commission or ZBA determines that a larger scale is necessary. Slopes of greater than 15% across linear distances of 25 feet should be delineated.
- (D) The site plan shall clearly show forested and open areas, surface waters, proposed building footprints and limits of clearing, and road and driveway locations.
- (E) Images of the site shall be included showing the area where development will occur as seen from public highways.

- (F) Soil types based on the USDA soils classification and depth to bedrock shall be identified.
- (G) A site plan may be approved by the Planning Commission, or ZBA in the case of a conditional use, after public hearing upon a determination that the applicable standards of this Bylaw will be met by the proposed development or use.

2.6 Conditional Use Review

The commencement or expansion of a conditional use as identified in Table 3-2 (Use Table) requires approval from the Zoning Board of Adjustment before the Zoning Administrator may issue a permit.

- (A) A narrative shall be prepared by the applicant and submitted to the Zoning Administrator at least 21 days prior to the public hearing. Said narrative shall address the following:
 - 1) Impact on surface water quality;
 - 2) Impact on ground water quality;
 - 3) Effects on important wildlife habitats, botanical features, geologic and archaeological features, and scenic resources;
 - 4) Capability of soils, natural characteristics of the site, vegetation cover, and proposed erosion control efforts to support the proposed development without danger of erosion, silting, or instability;
 - 5) The protection or loss of timber resources;
 - 6) The impacts on the Town services such as, but not limited to, roads and schools; and
 - 7) The nature of existing or proposed roads and access to the development.
- (B) A conditional use may be approved by the Zoning Board of Adjustment only after a public hearing and upon finding that such use shall not adversely affect:
 - 1) The capacity of existing or planned community facilities;
 - 2) The character of the area affected, as defined by the purpose of the zoning district within which the project is located, and specifically stated policies and standards of the Town Plan;
 - 3) Traffic on roads and highways in the vicinity;
 - 4) Other provisions of ordinances, regulations, and bylaws of the Town of Sandgate applicable thereto; or
 - 5) The utilization of renewable energy resources.

Each use so approved shall meet any standards applicable to the specific use as to lot and building dimensional requirements, landscaping, design, and locations of service areas, and other applicable standards of this Bylaw

2.7 Boundary Line Adjustment

- (A) **Application.** An application for Boundary Line Adjustment shall consist of the following:
 - 1) Payment of applicable fee according to the fee schedule established by the Selectboard.
 - 2) A written request for the adjustment.

- 3) A proposed plat prepared by a licensed land surveyor that includes:
 - a. North arrow, scale, date of map, and dates of any revisions.
 - b. Names of the owners of record of all involved lots.
 - c. Names of abutting property owners of record.
 - d. Existing and proposed boundary lines.
 - e. Indication of applicable zoning districts, including district boundaries falling on the involved lots.
 - f. Lot areas for each involved lot within each applicable zoning district before and after the adjustment.
 - g. Delineation of any easements or rights of way on the involved lots.
 - h. Locations of existing structures and roadways, driveways, septic systems and replacement areas, and water systems.
 - 4) Copies of any other required state or local permits, and
 - 5) Draft deeds or draft boundary line agreements to define the revised lots.
- (B) Procedure.** The Zoning Administrator shall review the requested Boundary Line Adjustment for conformity with the applicable provisions of this Bylaw.
- 1) Upon a determination that the boundary adjustment will not result in any nonconformity, the Zoning Administrator shall issue a permit for the Boundary Line Adjustment.
 - 2) Upon a finding that a proposed Boundary Line Adjustment would result in a nonconformity, the Zoning Administrator shall deny a permit and submit such decision in writing to the applicant with citations to provisions of this Bylaw that would be violated.
 - 3) For an approved Boundary Line Adjustment, the applicant shall submit to the Zoning Administrator a final Mylar plat meeting the specifications of the permit. The Zoning Administrator shall endorse Mylar plat to indicate conformance with the permit.
 - 4) The applicant shall file and record the final deeds and endorsed Mylar plat in the land records of the Town within 180 days of the date of the issuance of the permit.

2.8 Subdivisions

Application and approval procedures for subdivisions shall be as set forth in Section 2.8.

- A. Sketch Plan:** Simultaneously with the submission of an application for the subdivision of land, the subdivider shall submit to the Zoning Administrator a sketch plan of the proposed subdivision drawn to scale showing the proposed layout of lots, streets, and other features, and the names of owners of the subject property and of adjoining property owners. The Zoning Administrator shall classify the proposed subdivision into one of the following categories:
- 1) Boundary Line Adjustment, which shall be reviewed according to Section 2.7.
 - 2) Minor Subdivision: A subdivision containing not more than four (4) lots fronting on an existing public street, and not requiring any new street, street extension or extension of municipal facilities.
 - 3) Major Subdivision: Any subdivision which does not meet the criteria for a minor subdivision and any Planned Unit Development (PUD).
 - 4) Within 30 days of the submission of the sketch plan for a minor or major subdivision,

the Planning Commission shall determine whether the proposed subdivision conforms to this Bylaw and may make specific written recommendations for changes to ensure that the proposed subdivision meets the standards established herein.

- 5) Upon approval of the sketch plan of a minor subdivision, the applicant then proceeds to file an application for final plat approval according to Section 2.8(C). Upon approval of the sketch plan of a major subdivision, the applicant must proceed to file an application for preliminary plat approval according to Sections Section 2.8(B).

B. Preliminary Plat: Applications, along with the appropriate fee as set by the Selectboard, for preliminary plat approval of a major subdivision shall be submitted to the Planning Commission at least 10 days prior to a meeting at which the application will be reviewed. The Planning Commission shall consider the preliminary plat at its next regularly scheduled meeting following such submittal. The application shall be accompanied by a preliminary plat conforming to the following requirements.

1) The preliminary plat shall be prepared by a licensed land surveyor at a scale of 1-inch equals 100 feet.

2) The preliminary plat shall indicate the underlying zoning district(s) and the corresponding dimensional standards for the district(s).

3) It shall have contour lines with an interval of 10 feet or as the Planning Commission may require as necessary.

4) The preliminary plat shall comply with the sketch plan as approved and shall contain, or be accompanied by, the following information:

- a. Name of subdivision, name and address of the owners of record, subdivider and designer.
- b. The location and dimensions of all existing boundaries and area of the entire parcel in single ownership, whether or not all land therein is to be subdivided.
- c. The location and dimensions of all proposed lots along with proposed building envelopes.
- d. North arrow, scale, date of the map, and dates of any revisions.
- e. Names of abutting property owners of record.
- f. The locations of existing and proposed buildings structures, roadways, driveways, septic systems, replacement areas, and water systems
- g. Existing and proposed street lines, width of streets, road profiles and cross section, and a statement of the work required, including cost estimates, to construct or improve streets to meet the requirements of this Bylaw.
- h. The location of existing and proposed easements and rights of way, and the location and dimensions of existing and proposed lot lines.
- i. The location of any streams, waterbodies, or wetlands.
- j. A copy of the state water supply and wastewater permit or permit application.

C. After the preliminary plat review meeting the Planning Commission shall give tentative approval and authorize the preparation of a final plat or shall disapprove the preliminary plat. The Planning Commission shall state in its records and on copies of the preliminary plat any modification which it will require in the final plat, or any reasons for disapproval. Such written approval shall also indicate the amount, surety, and conditions of any bonds which will be required before the approval of the final plat. A copy of the Planning

Commission's decision shall be given to the applicant.

- D. Final Plat:** The application for final plat approval shall be submitted within 6 months of the approval of the sketch plan for minor subdivisions and or preliminary plat for major subdivisions, otherwise the Planning Commission may require resubmission of the sketch plan or preliminary plat. The application for final plat approval shall be submitted no less than 20 days prior to the next regularly scheduled meeting of the Planning Commission and shall be accompanied by a fee established by the Selectboard.
- E. Public Hearing:** A public hearing upon public notice according to 24 VSA §4463 shall be held by the Planning Commission within thirty (30) days after the official submission of the final plat for approval. At least 15 days prior to the hearing, in the case of a plat located within 500 feet of Sandgate boundaries, notice of the hearing must be sent to the Clerk of the adjacent municipality.
- F. Approval:** The final subdivision plat shall be printed on Mylar. It shall be submitted along with a digital copy and two copies printed on paper. Space shall be reserved on the plat for endorsement by the Chair of the Planning Commission. The final plat shall conform to the approved preliminary plat, except as specifically approved by the Commission. Approval of a final subdivision plat shall not constitute any acceptance by the Town of any street, easement or other open space shown on such plat.
- G. Performance Bond:** The Planning Commission may require the subdivider to file with the Planning Commission an estimate of the costs of street improvements, together with maps, plans, and supporting data, accompanied by:
 - 1) A surety bond, cash or other financial instrument from an institution authorized to do business in Vermont, to be filed with the Selectboard in form and amount satisfactory to the Selectboard;
 - 2) Each approval of a plat shall contain a time limit within which streets and public improvements shall be completed, not to exceed 3 years, unless extended by the Planning Commission at the applicant's request;
 - 3) In addition to surety guaranteeing completion of improvements, surety covering maintenance of roads and improvements for a period of 2 years from completion may be requested in an amount based on the cost of such improvements, as approved by the Selectboard.
- H. Void If Revised:** No changes, erasures, modifications, or revisions shall be made in any subdivision plat after approval has been given by the Planning Commission and endorsed in writing on the plat, unless the applicant resubmits the application to the Planning Commission, and the Planning Commission approves any modifications.
- I. Recording:** Once the final plat has been approved and endorsed by the Chair of the Planning Commission the subdivider shall submit it to the town clerk for recording in the town land records. Any subdivision plat not so filed and recorded within 180 days of the date on which the plat is approved shall become null and void.

2.9 Waivers

When renovation or expansion is proposed for a structure, a waiver of setback or other dimensional requirements may be approved by the Zoning Board of Adjustment if the following standards are satisfied:

- (A) If the expansion is proposed on a nonconforming structure, the new or renovated part of the structure does not extend beyond the existing nonconforming structure, unless needed to accomplish the intended goal (an expanded, improved entry deck, for example).
- (B) The result will improve the property and the neighborhood.
- (C) The result will not alter the character of the neighborhood, impair reasonable or appropriate use of adjoining properties, nor cause harm to the public welfare.
- (D) The result is helpful or necessary to allow for continued reasonable use of the property.
- (E) The proposed work or construction does not encroach any more than necessary to accomplish the desired results.

2.10 Variances

Where a variance from the strict requirements of this Bylaw is requested, the ZBA must adhere to and act strictly within the limitations of 24 V.S.A. §4469. Accordingly, the board may render a decision in favor of the applicant only if it makes positive findings on all of the following facts:

1. That 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 such conditions and not the circumstances or conditions generally created by the provisions of this Bylaw in the district or neighborhood in which the property is located;
2. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulation and that the authorization of a variance is therefore necessary to enable the reasonable use of the property;
3. That the appellant has not created the unnecessary hardship;
4. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, nor be detrimental to the public welfare; and
5. That the variance, if authorized, will represent the minimum variance affording relief and will represent the least deviation possible from the zoning bylaw and the town plan.

A. Flood Hazard Variance:

Variances for development within the Flood Hazard Overlay (FHO) District shall comply with 44 C.F.R. § 60.6. Any variance issued in the Flood Hazard Overlay shall not increase flood heights and shall inform the applicant in writing over the signature of a community official that the issuance of a variance to construct a structure below the BFE 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.

B. Renewable Energy Variance

In the case of a renewable energy project that does not receive a certificate of public good from the Vermont Public Utilities Commission, the Zoning Board of Adjustment may approve a variance for a renewable energy structure according to the criteria indicated in Table 2-1.

Table 2-1. Waiver and Variance Review Criteria				
CRITERIA	WAIVER	GENERAL VARIANCE	RENEWABLE ENERGY VARIANCE	FLOOD HAZARD VARIANCE
1. The proposed land development will not alter the essential character of the area or district in which the property is located.	X	X	X	X
2. The proposed land development will not substantially or permanently impair the lawful use or development of adjacent property.	X	-	-	-
3. The proposed land development will not be detrimental to public health, safety, or welfare.	X	-	-	-
4. The proposed land development is beneficial or necessary for the continued reasonable use of the property.	X	-	-	-
5. The applicant is proposing adequate mitigation of any dimensional encroachment through design, screening, or other remedy.	X	-	-	-
6. The applicant has not created the unnecessary hardship.	-	X	X	X
7. The applicant is proposing the least deviation possible from these regulations that will afford relief.	X	X	X	X
8. 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. These conditions, and not the circumstances or conditions generally created by the provisions of these regulations in the district in which the property is located, have created an unnecessary hardship for the applicant. These physical circumstances or conditions prevent the property from possibly being developed in strict conformity with these regulations and a variance is necessary to enable reasonable use of the property.	-	X	-	X
9. The proposed land development will not result in an increase in flood heights and meets all applicable federal and state rules for compliance with the National Flood Insurance Program.	-	-	-	X
10. It would be unusually difficult or unduly expensive for the applicant to build a renewable energy structure in conformance with these regulations.	-	-	X	-
11. The proposed land development will not reduce access to renewable energy resources on adjacent property.	-	-	X	-
KEY: X Applicable - Not Applicable				

2.11 Hearings & Decisions

- (A) The Planning Commission or Zoning Board of Adjustment must hold a public hearing within 60 days of the zoning administrator determining that an application is complete unless otherwise specified in these regulations or the applicant agrees to a later hearing date.
- (B) Any notice required for a public hearing for conditional use review, variances, appeals, and final plat review for subdivisions shall be given not less than 15 days prior to the date of the public hearing as required by the Act.

- (C) Any public notice for a public hearing for site plan review, waivers, and preliminary review for subdivisions shall be given not less than 7 days prior to the date of the public hearing as required by the Act.
- (D) Pursuant to 24 VSA §4464, such public notice shall include the following:
 - 1) Publication of the date, place, and purpose of the hearing in a newspaper of general circulation in the municipality affected.
 - 2) Posting of the same information in three or more public places within the town, including posting within view from the public right-of-way most nearly adjacent to the property subject to the proposed development or use.
 - 3) Written notification to the applicant and to owners of all properties adjoining the property subject to proposed development or use.
- (E) The Planning Commission or Zoning Board of Adjustment must conduct public hearings, hear testimony, and take evidence according to their adopted rules of procedures.
- (F) All hearings must be open to the public as follows:
 - 1) Any individual or group may appear and participate in a public hearing in person or by authorized representative or counsel or may submit written testimony in advance of the hearing.
 - 2) The Planning Commission or Zoning Board of Adjustment must give all those wishing to participate an opportunity to be heard as is relevant to the proceeding.
- (G) The applicant or an authorized representative must be present at any public hearing or meeting when the Planning Commission or Zoning Board of Adjustment will be considering their application.
 - 1) The commission or board will continue its consideration of an application to its next regularly scheduled meeting if the applicant or an authorized representative is not present.
 - 2) In the case of such a continuation, the intervening days will not be counted as part of any time period within which the commission or board is required to act.
- (H) Planning Commission or Zoning Board of Adjustment members must not communicate directly or indirectly with any applicant, interested person, or their representative regarding a matter that is under consideration except during a properly noticed hearing.
- (I) The Planning Commission or Zoning Board of Adjustment may recess a hearing pending submission of additional information necessary to determine compliance with these regulations or upon the applicant's request.
- (J) If the Planning Commission or Zoning Board of Adjustment recesses a hearing to a specific date and time, the hearing will not have to be warned again when resumed.
- (K) The Planning Commission or ZBA may impose conditions to ensure conformance with the provisions of this Bylaw.
- (L) The Planning Commission shall act to approve or disapprove in writing any site plan, subdivision, or Planned Unit Development within forty-five (45) days of the close of the final public hearing.
- (M) The Zoning Board of Adjustment shall act to approve or disapprove in writing any requested conditional use, waiver, or variance within forty-five (45) days after the close of the final public hearing.
- (N) Failure to act by the Planning Commission or Zoning Board of Adjustment within 45 days of the close of a hearing shall be deemed approval which shall be effective on the 46th day.

2.11 Appeals

- (A) An interested person, as defined in 24 V.S.A. Section 4465, may appeal any decision or act taken by the Zoning Administrator by filing a notice of appeal, accompanied by the appropriate fee as set by the Selectboard, with the Secretary of the ZBA. Such notice of appeal of a decision of the Zoning Administrator must be filed within 15 days of the decision or act, and a copy of the notice of appeal shall be filed with the Zoning Administrator.
- (B) An interested person may appeal any decision of the Planning Commission or the ZBA to the Environmental Division of the Vermont Superior Court in accordance with the Act. Such an appeal must be filed within 30 days of the decision.

2.12 Violations

- (A) **Civil Offense.** A violation of these regulations shall constitute a civil offense enforced in accordance with the provisions of 24 VSA §1974(a) or 24 VSA §4451.
- (B) **Notice of Violation.** The Zoning Administrator may pursue an enforcement action for any violation of these regulations by issuing a notice of violation.
 - 1) No enforcement action may be brought unless the alleged offender has had at least seven days warning notice by certified mail.
 - 2) The seven-day notice shall state that a violation exists, that the alleged offender has an opportunity to correct the violation within the seven days, and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days.
 - 3) The notice of violation shall also state the regulation or permit condition alleged to have been violated, the facts giving rise to said violation, that appeal to the Zoning Board of Adjustment may be made within 15 days of the date of the notice, and that failure to appeal within 15 days will render the notice of violation the final decision on the violation addressed in the notice.
 - 4) An action may be brought without the seven-day notice and opportunity to correct, if the alleged offender repeats the violation of these regulations after the seven-day notice period and within the next succeeding 12 months.
- (C) **Penalties.** After the required seven-day notice, each day that the violation continues shall be considered a separate violation. Any person who violates a provision of this Bylaw shall be fined not more than \$200.00 for each offense. In default of payment of the fine, the offender shall pay double the amount of the fine. Fines in excess of \$1,000 will be brought to the Selectboard with a request from the Planning Commission that a lien against the property be sought for recovery of unpaid fees. All fines collected for the violation of bylaws shall be paid to the Town of Sandgate.

Section 3 Zoning Districts

3.1 Division into Districts

For the purposes of this Bylaw, the Town of Sandgate is divided into zoning districts.

- (A) Base Zoning Districts:** The following basic zoning districts are established and shall be designated by the abbreviations set forth below (See map p.65):
 - 1) Rural Residential (RR) District
 - 2) Forest 1 (F1) District
 - 3) Forest 2 (F2) District
- (B) Overlay Districts:** The following overlay zoning districts are established and shall be designated by the abbreviations set forth below (See map p.66):
 - 1) Flood Hazard Overlay (FHO) District
 - 2) River Corridor Overlay (RCO) District
- (C) Zoning Map:** The boundaries of these districts are hereby established, as shown on the Official Zoning Maps of the Town of Sandgate. Reproductions of the maps are included herein as an appendix and the Official Zoning Maps are incorporated by reference into this Bylaw.
- (D) Streets:** Zoning districts shall include the beds of streets lying within them. Where opposite sides of a street lie in different districts, the boundary shall be deemed to be the center of the right-of-way.
- (E) Land Under Water:** Zoning districts shall include any land under rivers, streams, lakes or ponds lying within them. Where opposite sides of a river or a stream lie in different districts, the boundary shall be the thread of the river or stream. Where opposite sides of a lake, pond, swamp, or water body lie in different districts, the boundary shall be deemed to be the center thereof.
- (F) Interpretation of Map:** Any question as to the location of a district boundary on the Official Zoning Maps shall be resolved by the Zoning Administrator with appeals of any such decision made to the Zoning Board of Adjustment (ZBA).

3.2 Rural Residential (RR) District

- (A) Purpose:** The Rural Residential District is intended for the following purposes:
 - 1) To assure the preservation of the natural rural and scenic qualities of areas planned to be predominantly residential in character.
 - 2) To encourage development close to existing roads and to minimize the length of new roads.
 - 3) To avoid the need for public water supply and public sewer systems.
- (B) Permitted Uses in the RR District:** The following uses are permitted uses in the RR District, subject to all other applicable standards of this Bylaw:
 - 1) One-unit dwelling (DU)
 - 2) Two-unit dwelling
 - 3) Customary Home occupation
 - 4) Accessory On-farm Business
 - 5) Agriculture
 - 6) Rooming house
 - 7) Tourist home
 - 8) Cemetery
 - 9) Community care home
 - 10) Family childcare home

- 11) Religious Institution
- 12) Accessory dwelling unit

(C) Conditional Uses in the RR District: The following uses are conditionally permitted in the RR District, subject to the requirements of Section 2.6 and all other applicable standards of this Bylaw:

- 1) Multiple Unit dwelling
- 2) Recreational facility
- 3) Campground
- 4) Family childcare facility
- 5) School
- 6) Clinic or Hospital
- 7) Mobile home park

(D) Accessory Uses in the RR District: In the RR district, accessory uses customarily incidental to a permitted or conditional use on the same lot shall be allowed, subject to all other applicable standards of this Bylaw.

(E) Dimensional Standards in the RR District: Dimensional standards for the RR district are as shown in Table 3-1.

3.3 Forest 1 (F1) District

(A) Purpose: The Forest 1 District is intended for the following purposes:

- 1) To guide growth in an orderly manner by concentrating residential and other development where it will most efficiently be served by public facilities, utilities and roads.
- 2) To preserve tracts suitable for perpetuating forest resources and forest-related industries.
- 3) To protect the vital sources of pure water for public supplies.
- 4) To maintain a high-quality environment for forest and mountain-based recreation.
- 5) To assure the preservation of natural rural and scenic qualities of the town.

(B) Permitted Uses in the F1 District: The following uses are permitted uses in the F1 district, subject to all other applicable standards of this Bylaw:

- 1) One-unit dwelling
- 2) Two-unit dwelling
- 3) Customary Home occupation
- 4) Agriculture
- 5) Commercial forestry
- 6) Accessory On-farm Business
- 7) Group home
- 8) Family childcare home
- 9) Religious Institution
- 10) Accessory dwelling unit

(C) Conditional Uses in the F1 District: The following uses are conditionally permitted in the F1 District, subject to the requirements of Section 2.6 and all other applicable standards of this Bylaw:

- 1) Multi-unit Dwelling
- 2) Primitive camp
- 3) Recreational facility
- 4) Campground
- 5) Family childcare facility

6) School

(F) Accessory Uses in the F1 District: In the F1 district, accessory uses customarily incidental to a permitted or conditional use on the same lot shall be allowed, subject to all other applicable standards of this Bylaw.

(D) Dimensional Standards in the F1 District: Dimensional standards for the F1 district are as shown in Table 3-1.

3.4 Forest 2 (F2) District

(A) Purpose: The Forest 2 district is intended for the following purposes:

- 1) To preserve tracts suitable for perpetuating forest resources and forest-related industries;
- 2) To maintain a high-quality environment for forest and mountain-based recreation
- 3) To identify those areas where substantial development of the land in terms of buildings, structures, or other intensive uses are prohibited because of:
 - a. Topography, soil depth, drainage, slope, or other natural conditions present environmental limitations to development in the general area.
 - b. Use involves the inefficient development of roads, utilities, and public services.
 - c. Vital watershed areas require protection to maintain and preserve a safe, healthful, and reliable water supply for the present and future residents of the Town of Sandgate.

(B) Permitted Uses in the F2 District: The following are permitted uses in the F2 District, subject to all other applicable standards of this Bylaw:

- 1) One-unit dwelling on a conforming lot, provided such dwelling is located within 250 feet of the center line of the traveled portion of a Class II or III town highway.
- 2) Accessory dwelling unit
- 3) Customary home occupation
- 4) Family childcare home
- 5) Group home, located within 250 feet of the center line of the traveled portion of a Class II or III town highway
- 6) Agriculture
- 7) Accessory On-farm business
- 8) Commercial forestry
- 9) Forestry for research, demonstration, education, and related purposes
- 10) Recreational facility
- 11) Primitive camp

(C) Conditional Uses in the F2 District: The following uses are conditional uses in the F2 District, subject to the requirements of Sections 2.6 and all other applicable standards of this Bylaw.

- 1) One-unit dwelling, located more than 250 feet from the center line of the traveled portion of a Class II or III town highway, on a conforming lot

(D) Accessory Uses in the F2 District: In the F2 district, accessory uses customarily incidental to a permitted or conditional use on the same lot shall be allowed, subject to all other applicable standards of this Bylaw. Accessory structures shall not be used for dwelling purposes, except that accessory dwelling units are permitted within 250 feet of a town road.

(E) Dimensional Standards in the F2 District: Dimensional standards in the F2 district shall be required as indicated in Table 3-1 and as further established by the following standards:

- 1) Development shall be sited so that no building or structure constructed on any lot shall exceed the height of land serving as the visual and physical backdrop to the site as viewed from a public highway.
- 2) A lot shall have at least 25 acres below 1,600 feet in elevation for development and no dwelling on that lot shall be above 1,600 feet in elevation

3.5 Flood Hazard Overlay

A. Purpose: The Flood Hazard Overlay is intended for the following purposes:

- 1) 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 services that result from flooding-related inundation.
- 2) Ensure that the selection, design, creation, and use of development in flood hazard areas is reasonably safe, accomplished in a manner that minimizes or eliminates the potential for loss and damage to life and property due to flooding-related inundation and erosion hazards, and does not impair stream equilibrium or floodplain services.
- 3) Protect the beneficial functions of undeveloped floodplains.
- 4) Avoid encroachments in flood hazard areas that may result in cumulative degradation of natural floodplain function leading to increased flood elevations, velocities, and river instability.
- 5) Protect infill and redevelopment from inundation hazards.
- 6) Discourage new encroachments on undeveloped property within the FHO that provide for floodwater and sediment storage.
- 7) Make the Town of Sandgate, its citizens, and businesses eligible for federal flood insurance, federal disaster recovery funds, and hazard mitigation funds, as may be available.

B. Applicability: The Flood Hazard Overlay (FHO) includes the following areas:

- 1) The Special Flood Hazard Area (SFHA, also referred to as “flood hazard area”) in the Town of Sandgate.
- 2) Flood hazard areas are identified in and on the most current flood insurance studies and maps published by the Department of Homeland Security, Federal Emergency Management Agency (FEMA), National Flood Insurance Program (NFIP), as provided by the Secretary of the Agency of Natural Resources (ANR) pursuant to 10 V.S.A. § 753, which are hereby adopted by reference and declared to be part of this bylaw.
- 3) Within the SFHA, the inundation risk and type of damages may differ according to the type of flooding that occurs. Therefore, the SFHA is separated into different sub-zones (labeled as Zone A, AE, A1-30, AH, AO) to provide protection based upon flooding type.
- 4) Unless one of these sub-zones is specifically named, reference to the FHO District includes all portions of the SFHA.

C. Base Flood Elevations and Floodway Limits

- 1) Where available, base flood elevations and floodway limits provided by the NFIP and in the Flood Insurance Study and accompanying maps shall be used to administer and enforce the flood hazard regulations.
- 2) The floodway shall consist of the channel of a river or other watercourse and the adjacent land areas that shall be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point.

- 3) In the FHO District where base flood elevations or floodway limits have not been provided by the NFIP in the Flood Insurance Study and accompanying maps, it is the applicant's responsibility to develop the necessary data. Where available, the applicant shall use data provided by FEMA or state or federal agencies.

D. Jurisdictional Determination and Interpretation:

- 1) FEMA National Flood Hazard Layer map data must be used for all measurements and interpretations of the FHO boundaries. The information presented on any maps, or contained in any studies, adopted by reference, is presumed accurate.
- 2) If uncertainty exists with respect to the boundaries of the FHO District, the location of the boundary shall be determined by the Zoning Administrator (ZA).
- 3) The ZA may require additional topographic or base flood elevation information if necessary to make such determination.
- 4) If available, the ZA shall use a FEMA Letter of Map Amendment (LOMA) or Letter of Map Revision (LOMR) in making a determination.
- 5) Once issued, the LOMA or LOMR shall constitute proof of the FHO boundary and whether the proposed development is within the FHO.
- 6) A FEMA Letter of Map Revision based on Fill (LOMR-F) that has been issued after the effective date of this Bylaw shall not be used to remove lands from the jurisdiction of this Bylaw.
- 7) When the ZA deems a property is within the FHO District, an applicant seeking to challenge such determination shall have 15 days from the date of receiving the ZA's determination to notify the ZA of his or her intent to seek proof of the boundary. Upon timely filing of such notification letter by the applicant, the application for the zoning permit shall not be considered complete until the ZA has received a LOMA or LOMR issued by FEMA or any other evidence identified in such notice.

E. Allowed Uses

The uses allowed within the FHO shall be those allowed in the underlying zoning district, except that uses involving development activity as summarized in Table 3-3 shall be as indicated in Table 3-3.

F. Development Standards

Development standards for the FHO are as established in Section 7 of this Bylaw.

3.6 River Corridor Overlay

A. Purpose: The River Corridor Overlay is intended for the following purposes:

- 1) Help provide rivers and streams in the Town of Sandgate with the lateral space necessary to maintain or reestablish floodplain access and minimize erosion hazards through natural, physical processes.
- 2) Allow for wise use of property within river corridors that minimizes potential damage to existing structures and development from flood-related erosion.
- 3) Discourage encroachments in undeveloped river corridors.
- 4) Make the Town of Sandgate, its citizens, and businesses eligible for federal disaster recovery funds, and hazard mitigation funds, as may be available.

B. Applicability

- 1) The River Corridor Overlay (RCO) shall apply to the Statewide River Corridors in the Town of Sandgate as published by the Agency of Natural Resources (ANR)

including refinements to that data based on field-based assessments which are hereby adopted by reference.

- 2) On streams with a watershed size greater than one half a square mile for which river corridors are not mapped, the RCO shall apply to the area measured 50 feet from top of the stream bank or slope.
- 3) Boundaries of the River Corridor Overlay (RCO) are available online from the Vermont Center for Geographic Information (VCGI) and can be viewed via the ANR online Natural Resources Atlas depicting river corridors.
- 4) Requests to update a river corridor map shall be in accordance with the procedure laid out in the ANR *Flood Hazard Area and River Corridor Protection Procedure*.

C. Jurisdictional Determination and Interpretation

- 1) If uncertainty exists with respect to the boundaries of the RCO, the location of the boundary shall be determined by the Zoning Administrator (ZA).
- 2) If an applicant disagrees with the determination made by the ZA or the river corridor as mapped, the applicant has the option to:
 - a. Hire a licensed land surveyor or registered professional engineer to stake out the RCO boundary on the property;
 - b. Provide data as needed for ANR to update the river corridor map according to the *Flood Hazard Area and River Corridor Protection Procedure*; or
 - c. Request a letter of determination from ANR that the proposed development meets the performance standards of the *Flood Hazard Area and River Corridor Protection Procedure*.
- 3) When ANR receives a request for a letter of determination, ANR evaluates the site and existing data to see if a change to the river corridor delineation is justified, necessitating a river corridor map update
- 4) An ANR letter of determination will either confirm the existing river corridor delineation or will result in an update to the river corridor delineation for the area in question. If a map update is justified, an updated map will be provided with the letter of determination.

D. Allowed Uses

The uses allowed within the RCO shall be those allowed in the underlying zoning district, except that uses involving development activity as summarized in Table 3-3 shall be as indicated in Table 3-3.

E. Development Standards

Development standards for the RCO are as established in Section 7 of this Bylaw.

Table 3-1: Zoning District Dimensional Standards						
Dimensional Standard	Zoning District					
	RR		F1		F2	
Minimum Lot Area	2 acres		5 acres		25 acres	
Maximum Residential Density*	1 DU/2 acres		1 DU/5 acres		1 DU/25 acres	
Minimum Frontage	300 ft.		300 ft.		300 ft.	
	Principal Structure	Accessory Structure	Principal Structure	Accessory Structure	Principal Structure	Accessory Structure
Minimum Front Setback	50 ft.	25 ft.	50 ft.	25 ft.	50 ft.	25 ft.
Minimum Side Setback	50 ft.	25 ft.	50 ft.	25 ft.	50 ft.	50 ft.
Minimum Rear Setback	50 ft.	25 ft.	50 ft.	25 ft.	50 ft.	50 ft.
Minimum Surface Water Setback	100 ft.	25 ft.	100 ft.	25 ft.	100 ft.	100 ft.
Maximum Building Height	30 ft.	30 ft.	30 ft.	30 ft.	Height of Backdrop	Height of Backdrop
*Two-unit dwellings shall be allowed as one-unit dwellings without the requirement for additional acreage for the second dwelling unit.						

Table 3-2: Zoning District Use Allowances							
USE			Permit Required	Site Plan Required	DISTRICT		
P=Permitted	C=Conditional	X=Prohibited			RR	F1	F2
One-unit Dwelling			Yes	No	P	P	P/C
Two-unit Dwelling			Yes	No	P	P	C
Multiple Unit Dwelling			Yes	Yes	C	C	X
Accessory Dwelling Unit (DU)			Yes	No	P	P	P
Mobile Home Park			Yes	Yes	C	X	X
Planned Unit Development (PUD)			Yes	Yes	P	P	X
Customary Home Occupation			No	No	P	P	P
Home-based Business			Yes	Yes	C	C	X
Family Childcare Home			No	No	P	P	P
Family Childcare Facility			Yes	Yes	C	C	C
Childcare Facility			Yes	Yes	C	C	X
Residential Treatment Facility			Yes	Yes	C	C	X
Boarding House			Yes	Yes	C	C	X
Inn			Yes	Yes	C	C	X
Motel			Yes	Yes	X	C	X
Hotel			Yes	Yes	X	C	X
Primitive Camp			Yes	No	X	C	C
Campground			Yes	Yes	C	C	X
Commercial Outdoor Recreation			Yes	Yes	P	P	C
School			Yes	Yes	C	C	X
Hospital or Medical Clinic			Yes	Yes	C	C	X
Emergency Shelter			Yes	Yes	C	C	X
Religious Institution			Yes	Yes	P	C	X
Cemetery			Yes	Yes	P	P	X
Light Manufacturing			Yes	Yes	C	C	X
Agriculture			No	No	P	P	P
Accessory On-farm Business			Yes	Yes	P	P	P
Commercial Forestry			No	No	X	P	P
Forestry Research or Education			Yes	Yes	X	P	P
Contractor's Yard			Yes	Yes	C	C	C
Earth Products Removal			Yes	Yes	X	X	C
Solid Waste Facility			Yes	Yes	X	C	X

Table 3-3: Development Review in the FHO and RCO			
X = Prohibited C = Conditional P = Permitted E=Exempt			
Use or Development Activity	Floodway	Flood Hazard Areas	River Corridor
New Structures	X	C	C
New Small Accessory Structures Including Fences	X	P	P
Demolition	P	P	P
Storage	X	C	P
Salvage Yards	X	X	C
Substantial Improvements to Existing Structures	C	C	P
At Grade Parking	X	P	P
Fill or Grading (with no net loss of flood storage)	X	C	P
Fill or Grading (with net loss of flood storage)	X	X	X
Bridge or Culvert Installation	C	C	P
Recreational Vehicle Storage or Parking	X	C	P
Work within a Public Right of Way by the Town, State, or a Utility Provider	E	E	E
Development that Has Secured a CPG from the PUC	E	E	E
Minor Interior Improvements to Existing Structures	E	E	E
Maintenance of Existing Structures and Landscaping	E	E	E
Subdivision with No Authorized Additional Development	E	E	E
Required Agricultural Practices	E	E	E
Accepted Silvicultural Practices	E	E	E
Passive Outdoor Recreation	E	E	E
Hunting, Fishing, or Trapping	E	E	E
<i>Note: All development activity must comply with the standards established in Section 7 if not exempt as indicated in this table.</i>			

Section 4 General Development Standards

4.1 Principal Structures

If more than one principal structure is to be placed on any one lot, each principal structure shall be located so that each such principal structure, with any structure accessory to it, could be subdivided off as a separate lot conforming to all of the applicable provisions of this Bylaw. This requirement shall not apply to accessory dwelling units as defined in this Bylaw. No principal structure shall be sold into separate ownership except in compliance with the above.

4.2 Use Standards

No land or structures, or part thereof, shall be used for any use other than one listed as a permitted or conditional use in the zoning district in which it is located. Except as otherwise provided herein, any use not specifically permitted shall be deemed to be prohibited.

4.3 Nonconformities

4.3.1 Nonconforming Use

Any nonconforming use of a building or premises which was lawfully existing at the time of adoption of this Bylaw, or any pertinent amendment thereto, may be continued, and any building so existing which was designed, arranged, intended for, or devoted to a nonconforming use, may be reconstructed and structurally altered, and the nonconforming use therein changed, subject to the following regulations:

- (A) A nonconforming use may not be changed, except to a conforming use, or with the approval of the Zoning Board of Adjustment, to another nonconforming use not more objectionable in character.
- (B) If a nonconforming use is changed into a conforming use, it shall not be changed back into a nonconforming use.
- (C) No nonconforming use shall be extended or expanded, except with the approval of a site plan by the Planning Commission and with the approval of the Zoning Board of Adjustment upon concluding that such extension or expansion will have no undue adverse effect upon the public health, safety, or the use of other property in the vicinity, and where strict enforcement of this Bylaw would result in exceptional and unnecessary hardship on the owner of an established nonconforming use.
- (D) Any nonconforming use, which has been discontinued for a period of one year, shall not be resumed thereafter.
- (E) Nothing herein shall require the discontinuance of use of a building that does not comply with the requirements of this Bylaw if such use lawfully conformed to all prior bylaws or ordinances of the town.

4.3.2 Nonconforming Structures

- (A) Any structure which does not conform to the dimensional requirements of this Bylaw shall not be enlarged, moved or substantially altered (extension of building footprint or construction of additional usable floor area on an upper floor) unless such enlarged,

moved or altered portion conforms to the regulations applicable to the zoning district in which it is located.

- (B) A landowner may apply for a variance or waiver for alterations to a nonconforming structure that fail to conform to the dimensional requirements of the underlying zoning district.
- (C) Except in the Flood Hazard Overlay, upon application by the property owner, the Zoning Administrator shall grant without fee a permit for the restoration or reconstruction, within 18 months of a nonconforming structure damaged or destroyed by fire, explosion, accident, or by the public enemy, to its condition prior to such damage or destruction. Any other construction on the site or reconstruction after 18 months will be subject to all requirements of this Bylaw.

4.3.3 Nonconforming Lots

- (A) Any lot in individual, separate and non-affiliated ownership from surrounding properties in existence on the effective date of this zoning regulation may be developed for the purposes allowed in the district in which it is located, even though not conforming to the minimum lot size requirements, if such lot is not less than one-eighth acre in area with a minimum width or depth dimension of forty feet. The development must meet all other applicable zoning requirements.
- (B) A structure located on an existing nonconforming lot lying in more than one district must meet all the requirements of the district where it is placed.
- (C) A landowner may develop a lot that does not meet the minimum lot frontage for the applicable zoning district if:
 - 1) The development meets all other applicable standards of these regulations.
 - 2) The lot has secured access to a maintained public or private road by way of the lot's frontage or a permanent easement or right-of-way at least 20 feet in width approved by the Planning Commission.
- (D) If an existing small lot comes under common ownership with one or more contiguous lots, the nonconforming lot shall be deemed to be merged with the contiguous lot. However, a nonconforming lot shall not be deemed merged and may be separately conveyed if all the following apply:
 - 1) The lots are conveyed in their preexisting, nonconforming configuration.
 - 2) On the effective date of this Bylaw, each lot was developed with a water supply and wastewater disposal system with a State water supply and wastewater permit..
 - 3) At the time of transfer, each water supply and wastewater system is functional as determined by the Department of Environmental Conservation Water and Wastewater Division.
 - 4) The deeds of conveyance create appropriate easements on both lots for replacement of one or more wastewater systems, potable water systems, or both, in case there is a failed system or failed supply as defined in 10 V.S.A. Chapter 64.

4.4 Site Development Standards

Applicants seeking site plan approval must demonstrate that proposed development conforms to the site development standards put forth in Section 4.4.

- (A) Architectural Design. Architectural design shall complement the rural environment and be compatible with surrounding land uses. Consideration shall be given to building height and size, roof shape, pitch and direction, exterior materials and texture, color, and architectural features including but not limited to, cornices, entablatures, doors, windows, shutters, chimneys, porches, stairways, signs, and accessory structures.
- (B) Materials utilized for the exterior of any structures shall be of a kind and positioned on structures to minimize glare and avoid undue adverse visual impact. Particular attention may be given to the number, position, and type of window and door glass, skylights, etc. to minimize glare, without imposing undue cost or burden on the applicant.
- (C) Parking. One parking space per dwelling unit shall be required for one-unit dwellings, two-unit dwellings, and accessory dwelling units. Multiple unit dwellings shall provide a maximum of 1.5 parking spaces per dwelling unit. For non-residential uses, sufficient parking shall be required to accommodate expected numbers of users during business hours.
- (D) Exterior Lighting. Exterior lighting, including, but not limited to, lighting of exterior walls of buildings and lighting of walks and drives, shall direct light away from adjacent lots and public ways. Exterior lighting directed off-site is prohibited. Lighting to highlight architectural features is prohibited. Continuous dusk to dawn lighting is prohibited.
- (E) Refuse Disposal. No refuse shall be dumped stored upon any part of the lot outside the buildings constructed thereon. Refuse stored outside buildings shall be placed in completely enclosed containers.
- (F) Stormwater. Natural drainage patterns shall be maintained to the maximum extent possible and stormwater generated by new development shall be captured and infiltrated on site.
- (G) Protection of Scenic Resources. The project shall be designed to maintain the natural terrain and vegetation to the greatest extent possible by ensuring that the following conditions are satisfied:
 - 1) Adequate vegetation will be retained or installed to provide a visual backdrop and to soften and screen the façades of buildings. Particular attention should be given to the impacts associated with removal of extensive areas of vegetation downslope from development sites.
 - 2) Land which is not occupied by buildings, streets, or parking lots shall be reserved and maintained in open green space; the location, character, landscaping, and size of such areas shall be planned so as to contribute favorably to the property's appearance from the town road.
 - 3) Construction of or improvements to access roads, to the extent possible, shall follow the contour of the land. Access roads and driveways should be located within existing forest or forest fringe areas and not in open spaces, when and where possible.
 - 4) Development will maintain the sense of order or harmony of the natural landscape formed by ridgelines, mountainsides, forests, open spaces, or agricultural fields. Buildings should not be located in open spaces, but rather in existing forested areas or at the forest-field fringe when possible.

4.5 Riparian Areas:

- (A) No permanent or temporary structure shall be placed, and no land shall be excavated, filled, or graded in any zoning district within a distance of at least one hundred (100) feet from the normal bank of any stream or watercourse, nor shall land within twenty-five (25) feet of any stream bank be stripped of natural vegetation, except with the approval of the Planning Commission.
- (B) The requirements of this section shall not apply to agricultural uses, normal maintenance of existing lawns, or to the shoreline of ponds.
- (C) Notwithstanding paragraph 1, any land development which requires a Stream Alteration Permit under 10 V.S.A. Chapter 41 or a permit for construction of a dam under 10 V.S.A. Chapter 43 may receive a zoning permit from the Zoning Administrator without the approval of the Planning Commission after presentation of evidence that all required state permits have been granted.
- (D) For all other land development within the riparian buffer (i.e., within 100 feet of a stream or watercourse), application for approval shall be submitted to the Planning Commission with such surveys, maps, and other data as the Planning Commission may require to reach its decision.
- (E) Prior to granting such approval, the Planning Commission shall have concluded that the proposed construction, earth excavation, filling, or grading will not contribute to any impeded drainage, flood hazard, erosion, silting, or other adverse effect on natural conditions, or on fish or wildlife habitat, nor interfere with present or planned storm water drainage system of the Town of Sandgate.
- (F) Land development within the required riparian buffer shall follow the standards put forth in the *Vermont Handbook for Soil Erosion and Sediment Control on Construction Sites* and the *Vermont Streambank Conservation Manual*.

Section 5 Specific Use Standards

5.1 Campgrounds

5.1.1 Standards

Campgrounds shall comply with the following standards:

- (A) A campground shall have a lot area not less than twenty-five (25) acres, plus an additional 8,000 square feet for each campsite.
- (B) Campgrounds shall provide for individual campsites, access driveways, and parking.
- (C) Each campsite must have frontage onto an access driveway, which must be at least 20 feet in right-of-way width and have a gravel or paved surface.
- (D) At least one (1) parking space per campsite, plus an additional parking space for every two (2) campsites, to accommodate visitors, shall be provided. Parking spaces must be paved or graveled.
- (E) A buffer strip of land, at least 200 feet in width, shall be maintained as a landscaped area within and abutting all property lines and public road frontage of the campground. No structures or uses shall be permitted within this buffer strip.

- (F) Campground facilities must provide adequate water supply and access. The water supply source and hookups must be approved by the appropriate State agencies.
- (G) Campground facilities must provide adequate sewage disposal facilities and public rest rooms. The sewage disposal method and hookups must be approved by the appropriate State agencies.

5.1.2 Operation

The operator of a campground facility shall maintain all parts of the facility in good condition according to the following standards:

- (A) The operator shall provide for the collection and removal of refuse.
- (B) The operator of a campground shall maintain safe conditions on all driveways at all times. If in operation during the winter, this shall include snow removal.
- (C) The commercial sale of travel trailers or vehicles in connection with the operation of a campground, or otherwise, is prohibited.
- (D) Concession stands and small dry goods or package stores may be allowed within a campground, after site plan review and approval by the Planning Commission, and conditional use review and approval by the Zoning Board of adjustment.

5.2 Childcare Facilities

- (A) Pursuant to 24 V.S.A. Section 4412(5), a state licensed or registered family childcare home serving six or fewer children shall be considered to constitute a permitted one-unit residential use of property but shall be subject to site plan approval pursuant to Section 2.5 of this Bylaw.
- (B) A childcare facility serving in excess of six full-time and four part-time children may be allowed as a conditional use in the RR and F1 Districts only.

5.4 Customary Home Occupations

Pursuant to 24 VSA §4412(4), a customary home occupation within a dwelling unit shall be considered a permitted use concurrent with residential use of property. To qualify as a customary home occupation the business activity must meet the following criteria:

- (A) The occupation or profession is carried on by a resident of the dwelling unit;
- (B) It is carried on wholly within the dwelling unit or in a building or structure accessory to the dwelling unit;
- (C) It is clearly incidental and secondary to the primary use of the property for residential purposes by occupying or using less than 40% of the livable floor space within the dwelling unit or occupying all or part of an accessory structure on the property up to a maximum of 1,500 square feet.
- (D) There is no exterior storage of materials, and no other exterior indication of a home occupation or variation from the residential character of the property.
- (E) No persons who are not residents of the dwelling unit are employed on the premises by the customary home occupation at any point in time;
- (F) No offensive noise, vibrations, smoke, dust, odors, heat, light, or glare are produced;
- (G) There are no retail sales unless the items sold are the product of the business owner's own labor, are incidental to the products of the owner's own labor, or are antiques; and

- (H) The customary home occupation does not affect the residential or rural character of the neighborhood.

However, a customary home occupation shall not be interpreted to include the following: commercial stables and kennels, restaurants and tea rooms, garages or shops for repair of motor vehicles, and other trades and businesses of a similar nature.

5.5 Driveways

Driveways shall be designed to protect important natural features, provide safe access to users, and provide adequate access to fire and emergency services. Accordingly, driveways shall comply with the following standards.

- (A) Any development requiring a new or approved access drive onto a town road requires an access permit from the Sandgate Selectboard.
- (B) Driveways may be located within side or rear yard setback areas and may pass through front yards.
- (C) Driveways shall not exceed an average grade of 15% within any 50-foot section. The approach area within 20 feet of the road right-of-way should not exceed a 3% grade.
- (D) Driveways longer than 500 feet long shall include, at minimum, one 12-foot by 50-foot turnout area and a turnaround (a “Y” or “T”) at the end.
- (E) Driveways, to the extent feasible, shall be sited to avoid primary agricultural soils, surface waters, wetlands, and associated buffer areas.
- (F) The course of driveways shall be planned to minimize the number and extent of stream crossings.
- (G) Shared driveways serving up to three lots are encouraged and may be required for development subject to review by the Planning Commission.
- (H) For shared driveways, the interests of the owner of each lot served shall be protected by an easement recorded in the deed of each lot.

5.6 Earth Product Removal

- (A) Except as otherwise provided in this subsection, there shall be no removal from the premises in any district of earth, sand, gravel, clay, or stone, except as surplus material resulting from a bona fide construction, landscape, or agricultural operation being executed on the premises, and provided that the disturbed soil is reseeded and mulched within one month of the completion of the extraction to prevent erosion by establishing a permanent vegetative cover.
- (B) The Zoning Board of Adjustment, after a public hearing, may grant conditional use approval for the removal of earth, sand, gravel clay, or stone, under the following conditions:
 - 1) The applicant shall submit a plan showing existing grades in the area from which the material is to be removed, together with finished grades at the conclusion of the operation.
 - 2) The operator shall provide for proper drainage during and after completion of the operation, and any excavated bank shall be stabilized to prevent erosion or collapse.

- 3) No removal shall take place within twenty feet of a property line, except where the grade from a property line rises toward the lot where removal is to take place, materials lying above the grade at the property line may be removed.
 - 4) In addition to the requirements of applicable state regulations, when the extraction is wholly or partly from a stream bed, it shall be carried on in such a manner that there shall be no obstruction or substantial change in normal flow, and at the conclusion of work in any section there shall be no increase in erosion or flood hazards.
 - 5) Subsequent to initial approval by the Zoning Board of Adjustment, permits for removal of earth products will be issued by the Zoning administrator for a maximum of three-years and may be renewed by the Zoning Board of Adjustment at that time free of charge.
- (C) In accordance with the provisions of 24 V.S.A. §4407(8), and before a permit is granted under this section, the applicant may be required to post a surety bond with the Treasurer of the Town of Sandgate in an amount and in a form approved by the Zoning Board of Adjustment as sufficient to guarantee conformity with the conditional use approval.
- (D) Existing sand and gravel, or other extractive operations, must conform to State law. Those operations existing prior to the adoption of this Bylaw shall be exempt from posting a surety bond.

5.7 Home-Based Businesses

A home-based business not meeting the strict criteria for customary home occupation established by Section 5.4 shall require a zoning permit after site plan approval by the Planning Commission and conditional use approval by the Zoning Board of Adjustment. In addition to meeting site plan and conditional use standards, a home-based business shall conform to the following standards:

- (A) The business activity is conducted by a resident of a dwelling unit on the premises;
- (B) No more than two persons not residing on the premises shall work on the premises in the home-based business at any point in time.
- (C) No offensive noise, vibrations, smoke, dust, odors, heat, light, or glare are produced.
- (D) There are no retail sales unless the items sold are the product of the business owner's own labor, are incidental to the products of the owner's own labor, or are antiques.

5.8 Junk Storage

- (A) No more than one inoperable motor vehicle may be stored on any lot for a period in excess of thirty days unless within a building or totally screened from view off the premises, including adjoining properties. "Inoperable" means unregistered or used for salvage.
- (B) No scrap or waste material not originating on the premises may be stored or disposed of on any lot, except at a municipal solid waste disposal area.
- (C) No scrap or waste material originating on the premises may be stored on any lot unless within a building or totally screened from view from off the premises, except that a reasonable time shall be allowed for removal of scrap or waste material resulting from a construction operation, or for fire, flood, or similar emergency.

- (D) Violations of this section of the Bylaw shall be brought by the Zoning Administrator to the Selectboard to determine required remedies and any penalties.

5.9 Mobile Home and Travel Trailer Occupancy

5.9.1 Temporary Use:

- (A) No permit is required for a trailer, trailer coach, mobile home, bus, or travel trailer used as a temporary office or temporary shelter to a construction or logging operation on the premises, provided that all dimensional requirements for the district are satisfied.
- (B) A state registered recreational vehicle or travel trailer may be occupied on any lot by a non-paying guest of the occupant of such lot for a period not exceeding thirty days in any twelve-month period.
- (C) A mobile home or travel trailer may be used as a dwelling, without meeting the setback requirements of the district in which it is located, by the owner of the lot upon which the mobile home is located, for a period not exceeding one year, provided that the owner is actively constructing a residence thereon for which a valid permit has been obtained.

5.9.2 As primary dwelling unit:

- (A) A mobile home may be used as a one-unit dwelling provided that it is located on a lot meeting all of the requirements of this Bylaw applicable to a one-unit dwelling in the district in which it is located, including water and wastewater requirements.
- (B) Such mobile home shall be anchored to a permanent concrete foundation
- (C) Such mobile home shall be enclosed by some form of permanent skirting.

5.10 Mobile Home Parks

No person shall construct or occupy a mobile home park without first obtaining site plan approval from the Planning Commission and conditional use approval from the Zoning Board of Adjustment, as well as any required state permits. The following additional requirements also apply to any mobile home park:

- (A) The lot occupied by a mobile home park shall be not less than 2 acres.
- (B) The maximum density allowed in a mobile home park is 4 mobile home units per acre of lot area.
- (C) Mobile home parks shall provide for individual mobile home lots, access driveways, parking, and recreation and open space.
- (D) Each mobile home site must have frontage onto an access driveway which must include a right- of-way of at least 50 feet in width and have a gravel surface at least 24 feet in width and a compacted gravel base of at least 12 inches.
- (E) At least 8,000 square feet of lot area for each mobile home site shall be provided.
- (F) Each mobile home shall be located a minimum of 15 feet from its individual lot line.
- (G) At least one vehicle parking space per mobile home shall be provided.
- (H) Pedestrian walkways must be provided to allow for safe movement within the mobile home park.
- (I) A buffer strip of land, at least 50 feet in width, shall be maintained as a landscaped area abutting all property lines and public road frontage of the mobile home park. No structures shall be permitted within this buffer strip.

- (J) Each mobile home site must have an approved water supply and sewage disposal system.
- (K) The base of each mobile home mobile home shall be enclosed by some form of permanent skirting.
- (L) Open space occupying not less than 10 percent of the gross area of the mobile home park shall be required, conveniently located to all mobile home sites. Such open space shall be suitably landscaped and equipped for recreational purposes.
- (M) The operator of a mobile home park shall maintain all parts of the facility in good condition and shall provide for the regular collection and removal of waste and garbage.
- (N) The operator of the mobile home park shall provide for snow removal from all roads and driveways and shall maintain safe conditions on roads and driveways at all times.

5.11 Primitive Camps

Primitive camps shall meet the following standards.

- (A) A primitive camp may have no connection to a water or water supply or wastewater system and may not contain toilet facilities other than an a composting or incinerating toilet that does not yield a liquid provided its contents are disposed of in compliance with Chapter 1 § 1-929 of the State of Vermont Agency of Natural Resources Environmental Protection Rules: Wastewater System and Potable Water Supply Rules.
- (B) All structures associated with any primitive camp shall conform to the Zoning District Setbacks established in table 3-1.
- (C) Primitive camps shall not be served by electricity generated at an off-site power source.
- (D) A primitive camp shall constitute a principal recreational use of a lot and not a residential use.
- (E) A primitive camp shall not be occupied for more than 3 consecutive weeks and no more than 60 days in a calendar year.

Section 6 Subdivision Standards

6.1 Purpose

The purposes of these subdivision regulations are to:

1. Provide for orderly growth and coordinated development within the Town of Sandgate.
2. Assure the comfort, convenience, safety, health, and welfare of the people.
3. Carry out the purposes of the Sandgate Town Plan
4. Provide for the proper design and location of streets and driveways
5. Further the purposes of the Act.

6.2 Applicability

No subdivision of land shall be made, and no land in any subdivision shall be sold or offered for sale or lease, and no street construction shall be started within the Town of Sandgate until a final plat, prepared in accordance with the requirements of Section 2.8 and Section 7, has been approved by the Planning Commission and other required permits have been issued.

6.3 Lot Layout

- (A) The layout of lots shall be appropriate for the intended construction and shall conform to the dimensional standards of the underlying zoning district. For lots lying in more than one zoning district, the portion of the lot to be developed must contain at least the minimum acreage required for that district, with all said acreage lying in that same district. Topographic and soil conditions shall be given consideration in lot layout.
- (B) All lots within a subdivision shall have at least 50 feet of frontage on a public street or be served by a permanent easement or right-of-way of at least 50 feet in width.

6.4 Street Standards

Streets shall be logically related to the topography to produce usable lots, reasonable grades, and safe intersections. Any new street within a subdivision shall meet the following minimum requirements, whether intended for acceptance by the Town of Sandgate or not:

- (A) All rights-of-way for any street to serve lots within a subdivision shall be at least 50 feet wide.
- (B) Where a watercourse or drainage ditch crosses a proposed street, adequately sized culverts or other suitable structures shall be required.
- (C) Where proposed street intersects with a public street, an access permit must be obtained from Selectboard.
- (D) Street grade shall not exceed 10%, except that the maximum grade may be modified for short sections of streets in hilly topography, with the approval of the Planning Commission. In no case shall the grade be greater than 3% within 50 feet of any intersection or town highway.
- (E) Width of traveled portion of a street to serve a subdivision shall be a minimum of 14 feet.
- (F) Streets shall be comprised of 15" compacted gravel sub-base with 18" in ledge cuts and a 6" sand cushion over clay subgrade.
- (G) The Planning Commission may impose Vermont Department of Highway Standard A-76 standards to assure that slopes, horizontal and vertical curvature, and soil erosion precautions are adequate to meet the needs of the subdivision and protect the environment. The Planning Commission may seek the advice of a qualified engineer, the road commissioner, or the Selectboard in making a determination under this subsection.
- (H) That portion of any existing private street serving two or more lots to be created shall be improved to meet the standards of Section 6.4.
- (I) If the access road to the subdivision is a Class 4 Public Highway, the Planning Commission shall require the subdivider to improve the access road to the standards of Section 6.4.
- (J) For subdivisions of 4 or more lots, pathways shall be provided to facilitate pedestrian movement throughout the subdivision, either in the street right-of-way, or elsewhere within the development. If not within a street right-of-way, easements for the pathways shall be provided.
- (K) The subdivider shall be required to make arrangements for maintenance of the access road and pathways satisfactory to the Planning Commission until such time as the Selectboard may accept such street as a public road. Such maintenance arrangements shall be reflected in the deeds for each lot within the subdivision.

- (L) Any street intended for dedication to the Town of Sandgate shall be constructed to meet the Standards established by the Selectboard. However, construction to such standards shall not obligate the Selectboard to accept the street as a public road.

6.5 Deferral of Street Standards

Except for the requirement for an access permit from the Selectboard, the Planning Commission may waive the standards of Section 6.4. This waiver may be granted only for subdivisions creating no greater than three lots, provided a statement to be recorded in the deed for each lot served by such street within the subdivision, has been submitted to the Commission indicating:

- (A) The access road serving the lot does not meet the minimum standards for streets established by the Sandgate Subdivision Regulations;
- (B) The subdivider waives their right to convey, by sale or by lease, the lot without first either meeting the requirements of Section 6.4 or submitting to the Planning Commission prior to sale or lease a statement signed by the subsequent purchaser or lessee indicating their agreement to also bring the street into compliance with the standards of Section 6.4.
- (C) Any waiver of the street standards granted by the Planning Commission shall be stated in any deed noted on the subdivision plat for any lot served by such street in the form as follows:
"The access road serving this lot does not meet the minimum road standards for the Town of Sandgate with regard to gradient, width, sub-base materials, or other design criteria, and therefore the use of this road for residential purposes is not permitted."

6.6 Water Supply and Wastewater Treatment

- (A) For each lot within a subdivision, a specific on-site sewage disposal system designed by a professional engineer, certified site technician shall require approval and a permit from Vermont Department of Environmental Conservation. The design shall identify the possible location or locations of the sewage disposal system. Such design and accompanying Information shall be made available for the use of subsequent purchasers of each lot. Final Inspection of the system installation shall be the responsibility of the property owner at the time of installation.
- (B) Notwithstanding the above, any lot to be created which contains an existing structure connected to a sewage disposal system constructed before the effective date of these regulations is exempt from the requirements of Section 6.6 provided that all portions of the existing system are located at least 100 feet from any new or existing lot line and are in compliance with state regulations.

6.7 Deferral of State Water Supply and Wastewater Permit

- (A) If in the judgment of the Planning Commission, it is unlikely that a lot within a subdivision will be developed with a structure requiring plumbing or sewage facilities, the Planning Commission may defer the requirements of Section 6.6 for that lot provided the subdivider waives their development rights. The Planning Commission may defer the requirements of Section 6.6 only deed language for the lot has been submitted to the Planning Commission indicating that:

- (B) The purchaser waives his or her right to construct or place on the lot any building or structure, the useful occupancy of which would require the installation of plumbing or sewage disposal facilities, unless the requirements of Section 6.6 of these regulations are met, and the purchaser waives their right to convey, by sale or by lease, the parcel of land without first either meeting the requirements of Section 6.6 or submitting to the Planning Commission a statement signed by the subsequent purchaser or lessee indicating their agreement to also abide by the conditions of this section.
- (C) Any waiver of developmental rights granted by the Planning Commission shall be stated in any deed noted on the subdivision plat for any lot served by such street in the form as follows:

"In order to comply with the State of Vermont Wastewater Rules and Town of Sandgate subdivision standards, the grantee shall not construct, place, or erect a structure or building on the parcel of land conveyed herein, the useful occupancy of which will require the installation of plumbing or sewage disposal facilities, without first securing a potable water supply and wastewater system approval from the Vermont Department of Environmental Conservation."

6.8 Planned Unit Development (PUD):

6.8.1 Purpose

The purposes of planned unit development are to:

- (A) Enable and encourage flexibility of design and development of tracts of land to promote the most appropriate use of land.
- (B) Facilitate the economical provision of streets and utilities.
- (C) Enhance the environmental quality of the area through maximum preservation of open space.

6.8.2 Applicability

- (A) Planned Unit Development may be approved by the Planning Commission in the Rural Residential (RR) and Forest 1 (F1) zoning districts according to the procedures for site plan approval outlined in Section 2.8 and the procedures and standards for subdivisions established in Section 6 of this Bylaw.
- (B) Planned Unit Development may include reserved open space or working lands on that portion of a tract of land that is located within the Forest 2 (F2) zoning district; however, all development must occur within the RR or F1 districts. Land in the F2 district may be considered in calculating the density of lots, as provided in Section 6.8.3.

6.8.3 Density

The total number of lots not reserved for open space or working lands shall not exceed the number which could be permitted if the parcel were subdivided into lots conforming to the dimensional standards of the underlying zoning district. For tracts of land lying in more than one district, the maximum density shall be determined by calculating the number of lots that could be permitted within each district individually, and then adding those results together (See Table 6-1 for an example calculation).

Table 6-1: Lot Density Example			
Zoning District	Number of Acres	Minimum Lot Size	Allowable Lots
RR	10	2 acre	10
F1	32	5 acres	6
F2	110	25 acres	4
Total			20

6.8.4 Open Space

- (A) The land area not included in building lots or in streets or parking areas shall be permanently preserved as open space for recreation, conservation, forestry, or agriculture. Such open space shall be of character, size, extent, and shape suitable for the above purposes. Such open space shall contain not less than 50 percent of the gross area of the Planned Unit Development. No future development of land designated as open space shall be permitted other than for recreation, conservation, forestry, or agricultural uses.
- (B) Land to be preserved as open space shall be dedicated to a non-profit community or development association or to a public or other non-profit entity.

6.8.5 Common Elements

- (A) As a condition of the approval of a Planned Unit Development, the applicant shall establish a non-profit community or development association, corporation, or cooperative, organized under the laws of the State of Vermont, composed of all present and future owners of lots in the PUD.
- (B) The non-profit community association, corporation, or cooperative shall be responsible for maintenance of all common open space, roadways, and other common elements of the development.
- (C) Prior to final plat approval, the applicant shall submit a set of deed restrictions or covenants for the non-profit association, corporation, or cooperative that run with the land and at a minimum shall describe the development restrictions for the open land and shall assign the maintenance responsibilities for all other common elements of the PUD.
- (D) The approved deed language or covenants shall be recorded in the Town of Sandgate land records simultaneously with the final plat.

Section 7 Flood Hazard and River Corridor Regulations

7.1 Authority

In accordance with 10 V.S.A. Chapter 32, and 24 V.S.A. Chapter 117 §4424, §4411 and §4414, these regulations for areas at risk of flood and fluvial erosion damage in the Town of Sandgate are hereby adopted. Except as additionally described below, all administrative procedures follow municipal procedures under 24 VSA Chapter 117.

7.2 Applicability

These flood hazard and river corridor regulations apply to all development falling within the Flood Hazard Overlay (FHO) as established by Section 3.5 and the River Corridor Overlay (RCO) as established by Section 3.6.

7.3 Precedence

The provisions of Section 7 shall not in any way impair or remove the necessity of compliance with any other local, state, or federal laws or regulations. Where Section 7 imposes greater restrictions, the provisions of this section shall take precedence.

7.4 Waiver of Liability

These flood hazard and river corridor regulations do not imply that land outside of the areas covered by the FHO and RCO districts will be free from flood or erosion damages. These regulations shall not create liability on the part of the Town of Sandgate or any municipal official or employee thereof, for any flood or erosion damages that result from reliance on these regulations, or any administrative decision lawfully made hereunder.

7.5 Application Requirements

7.5.1 All Applications

All applications for development within the FHO or RCO shall include:

- (A) A site plan that depicts the proposed development, all water bodies, all zoning district boundaries, the shortest horizontal distance from the proposed development to the top of bank of any river, any existing and proposed drainage, any proposed fill, pre- and post-development grades, and the elevation of the proposed lowest floor as referenced to the same vertical datum as the elevation on the current Flood Insurance Rate Maps;
- (B) The Vermont Agency of Natural Resources Permit Navigator results summary.

7.5.2 Supplemental Application Requirements

Some applications may require additional information based on the location and type of development. The following information shall be provided with an application, as required below:

- (A) **Base Flood Elevation (BFE).** BFE information is required for: i. Replacement, substantially improved, or substantially damaged structures located within any Flood Hazard Overlay District, including Zone A, where no BFEs have been provided; ii. Projects requiring elevation or dry floodproofing above BFE; iii. Additions to existing historic structures; and iv. Any accessory structure proposed to be built in accordance with Section E.IV.D.4 and having building utility systems that will need to be protected from flood waters through elevation above the BFE.
- (B) **Floodway Data.** The following information is required for development located in the floodway.
 - 1) All floodway data shall be certified by a registered professional engineer.
 - 2) All submitted proposals shall include electronic input/output files and mapping showing cross-section locations.

- 3) Hydraulic calculations demonstrating no rise in BFE or velocity for proposed new or expanded encroachments within the Floodway District.
 - 4) In accordance with 44 C.F.R. § 60.3(c)(10), where BFE data has been provided by FEMA, but no floodway areas have been designated, the applicant shall provide a floodway delineation that demonstrates that the proposed development, when combined with all existing and anticipated future development, will not increase the water surface elevation of the base flood by more than one foot at any point within the community.
- (c) **Compensatory Flood Storage.** The following information is required for applications that require compensatory flood storage pursuant to Section 7.8:
- 1) Designs shall provide equivalent storage volumes during peak flows up to and including the base flood discharge. This No Adverse Impact (NAI) volumetric analysis and supporting data shall be certified by a registered professional engineer.
 - 2) If it appears that the design may create an undue adverse impact to adjacent landowners or structures, a hydraulic analysis may be required to verify that a proposed development will not increase flood elevations or velocities of floodwaters. Hydraulic analyses and supporting data shall be certified by a registered professional engineer.
- (d) **River Corridor Assessment.** The following information is required for applications proposing development within the river corridor:
- 1) Information clearly demonstrating how the proposed development meets the infill or shadowing requirements in Section 7.8(D).
 - 2) A narrative and supporting technical information from a qualified consultant that demonstrates how the proposal meets the river corridor performance standards outlined in Section 7.8(D).
 - 3) Evidence of an approved major or minor map update issued by ANR in accordance with the process outlined in the *Flood Hazard Area & River Corridor Protection Procedure* finding the proposed development is not located within the river corridor.

7.5.3 Waiver of Application Requirements

Upon written request from the applicant, the ZBA may waive specific application requirements when the data or information is not needed to comply with the applicable provisions of this Bylaw. A determination to waive the compensatory storage requirement shall include written concurrence from the ANR Regional Floodplain Manager that the project will have only a minimal effect on floodwater storage.

7.5.4 Referrals

- (A) Upon receipt of a complete application for new construction or a substantial improvement, the ZA shall submit a copy of the application and supporting information to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources, in accordance with 24 V.S.A. § 4424. A permit may be issued only following receipt of comments from the Agency, or the expiration of 30 days from the

date the application was mailed to the Agency, whichever is sooner. The AO and ZBA/DRB shall consider all comments from ANR.

- (B) Any application for a proposed conditional use or a request for a variance from these regulations shall be referred to the ZBA/DRB in accordance with 24 V.S.A. § 4460.
- (C) 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 River Management 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.
- (D) If the ZA receives technical or scientific data that show deviation from published base flood elevations, the ZA must submit the data to ANR and the NFIP Map Specialist within 6 months of such receipt.

7.6 Administrative Responsibilities

7.6.1 Permits

The Zoning Administrator shall not issue a permit for development within the FHO or the RCO until all required federal, state, and local approvals have been secured by the applicant.

7.6.2 Records

The ZA shall properly file and maintain a record of:

- (A) All permits issued for development under the jurisdiction of these flood hazard and river corridor regulations.
- (B) All comments or recommendations provided by the Agency of Natural Resources.
- (C) All decisions of the ZA and ZBA (including those for substantial improvement, substantial damage, variances, and violations) and all supporting findings of fact, conclusions, and conditions.
- (D) A FEMA Elevation Certificate with the as-built elevation (consistent with the datum of the elevation on the current Flood Insurance Rate Maps for the community) of the lowest floor, including basement, of all new, replacement, substantially improved, substantially damaged or flood-proofed buildings (not including accessory buildings) in the Flood Hazard Overlay.
- (E) All floodproofing and other certifications required under these regulations.

7.6.3 Substantial Improvement and Substantial Damage Determinations

- (A) When a proposal for the renovation, rehabilitation, restoration, or repair of a structure located within the Flood Hazard Overlay is reviewed, the ZA shall make a substantial improvement determination.
- (B) In the event of damage to a structure located within the Flood Hazard Overlay from flooding or other causes (such as, but not limited to, fire, wind or snow), the ZA shall

make a substantial damage determination based on the damage sustained by the structure regardless of intended repair at that time.

- (C) Substantial improvement or substantial damage determinations shall be made in accordance with current FEMA guidelines and shall be used to determine the appropriate development standards for repair and rebuilding.
- (D) A substantial improvement or substantial damage determination can be appealed by an applicant or property owner to the ZBA in accordance with Section 2.11. In the consideration of an appeal of the ZA's determination, the ZBA shall consider additional documentation provided by the applicant which may include:
 - 1) A recent building appraisal (within the past calendar year, or as determined to still be applicable) completed by a licensed and qualified real estate appraiser that documents the structure's market value (excluding land value) prior to the damage or improvement; or
 - 2) A project/repair cost estimate provided by a qualified contractor, professional engineer or licensed architect. The material and labor cost estimate shall include a detailed accounting of the proposed improvements, additions, reconstruction or rehabilitation work, repairs or associated construction and development; or
 - 3) In the case of substantial damage, an estimate of structure damage provided or reviewed by a local official from FEMA's Substantial Damage Estimator software.

7.6.4 Certificate of Completion

- (A) In accordance with 24 V.S.A. §4449, it shall be unlawful to use or occupy, or permit the use or completion of any land or structure, or part thereof, created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure within the FHO or RCO, until a certificate of completion is issued by the ZA stating that the proposed use of the structure or land conforms to the requirements of these flood hazard and river corridor regulations.
- (B) A certificate of completion is not required for structures that were built in compliance with the bylaws at the time of construction and have not been improved since the adoption of this Bylaw. Upon receipt of the application for a certificate of completion, the ZA shall review the permit conditions and inspect the premises to ensure that:
 - 1) Any required state and federal permits have been received,
 - 2) All work has been completed in conformance with the zoning permit and associated approvals, and
 - 3) All required as-built documentation has been submitted to the ZA, *e.g.*, updated FEMA Elevation Certificate, dry floodproofing certificate, as-built volumetric analysis, or as-built floodway encroachment analysis.
- (C) If the ZA fails to grant or deny the certificate of completion within 29 days of the submission of the application, the certificate shall be deemed issued on the 30th day.
- (D) If the ZA denies issuance of a certificate of compliance due to noncompliance, the ZA shall notify the owner of such noncompliance.

7.6.5 Enforcement

- (A) This Bylaw shall be enforced in accordance with 24 V.S.A. §§1974a, 4451, and 4452. All notices of violation shall be provided to the NFIP Coordinator.

- (B) No new flood insurance shall be provided for any property which the Federal Insurance Administrator finds has been declared to be in violation of local flood hazard area regulations. If any appeals have been resolved, but the violation remains, the ZA shall submit a declaration to the Administrator of the National Flood Insurance Program requesting a denial of flood insurance to the property pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended. New and renewal flood insurance shall be denied to a structure upon a finding by the Federal Insurance Administrator of a valid declaration of a violation.

7.7 Prohibited Development

- (A) Fully enclosed areas below grades on all sides and critical facilities are prohibited throughout the entire FHO.
- (B) The following are prohibited in the floodway:
- 1) New structures of any kind.
 - 2) Storage of materials or junkyards
 - 3) New encroachments except the following:
 - a. New encroachments related to bridges, culverts, roads, stabilization projects, public utilities, functionally dependent uses, and river or floodplain restoration projects.
 - b. New encroachments related to health and safety measures, such as replacement of pre-existing on-site septic and water supply systems, if no other practicable alternative is available.

7.8 Development Standards

The standards set forth in Section 7.8 are the minimum standards for development in the FHO District. If the floodway or SFHA sub-zone is not specified, the standard applies to the entire FHO District. Where more than one district is involved, the most restrictive standard shall take precedence.

A. Floodway

- 1) For all proposed new encroachments and above-grade development within the floodway, a hydraulic analysis is required to be provided for review. The analysis should be performed in accordance with standard engineering practice, by a registered professional engineer, certifying that the proposed development will:
 - a. Not result in any increase in flood levels during the occurrence of the base flood;
 - b. Not increase base flood velocities; and
 - c. Not increase any risk to surrounding properties, facilities, or structures from erosion or flooding.
- 2) For development within the floodway that will not result in any change in grade, the hydraulic analyses may be waived, where the applicant will provide pre- and post-development elevations demonstrating that there will be no change in grade, and that the development will be adequately protected from scour.

- 3) For any new encroachment that is proposed within the floodway where a hydraulic analysis is required, the applicant may provide a FEMA Conditional Letter of Map Revision (CLOMR), in lieu of a hydraulic analysis, to demonstrate that the proposed activity will not have an adverse impact.

B. No Adverse Impact (NAI). No adverse impact of development shall be allowed within the SFHA. Accordingly, the following standards apply:

- 1) New development or redevelopment shall not decrease flood storage capacity. Therefore, unless waived per the standards of paragraphs 2 through 6 below, development that displaces floodwater storage in the SFHA shall provide compensatory storage to offset the impacts of the proposed project. This is required when the development will cause an increase or will contribute incrementally to an increase in the horizontal extent and level of flood waters during peak flows up to and including the base flood discharge.
 - a. NAI volumetric analysis and supporting data, demonstrating compensatory storage to offset the impacts of the proposal, shall be provided by the applicant.
 - b. An applicant may submit a hydraulic analysis that demonstrates that a project will not increase flood elevations and velocities on floodwaters in lieu of a NAI volumetric analysis.
 - c. Compensatory flood storage designs shall not materially impact adjacent landowners or structures. If the design may create an undue adverse impact to adjacent landowners or structures, a hydraulic analysis shall be required to verify that a proposed development will not increase base flood elevations and velocities.
- 2) The NAI compensatory storage requirement may be waived for proposed designs that have no more than a minimal effect on floodwater storage and will not result in diverting floodwaters onto an adjacent property or structure. Examples of designs that have a minimal effect on floodwater storage include an open foundation design; utility work that is largely or completely located below grade; minor above ground improvements such as fences or poles that minimally displace or divert floodwaters; and development that will not result in any change to the predevelopment ground elevations.
- 3) The NAI compensatory storage requirement may be waived for remediation of properties with contaminated soils, such as Brownfields sites, if hydraulic analysis demonstrates that the remediation will not increase flood elevations and velocities. Hydraulic analyses and supporting data shall be provided by the applicant and certified by a registered professional engineer.
- 4) The NAI compensatory storage requirement may be waived for a replacement structure if there is no increase in the structure's footprint, or an open foundation design is used. Examples include using compliant flood vents or openings, or elevating the structure on post, piers, or pilings with no structural foundation walls below the design flood elevation.
- 5) The NAI compensatory storage requirement may be waived for associated transportation and utility networks¹ and replacement of on-site septic system proposals if the applicant demonstrates that the placement of fill cannot be mitigated.

¹ "Associated transportation and utility networks" means those transportation and utility networks connected to a bridge, culvert, or utility for the purpose of crossing a river or stream and do not include transportation or utility networks within the river corridor that merely run parallel to a river or stream.

- 6) A determination to waive the NAI compensatory storage requirement shall include written concurrence from the ANR Regional Floodplain Manager, that the project will have only a minimal effect on floodwater storage.
- 7) All required volumetric and hydraulic analyses must be certified by a registered professional engineer.

C. Entire Flood Hazard Overlay. Within the FHO, the following standards shall apply:

- 1) All development shall be:
 - a. Reasonably safe from flooding.
 - b. Designed (or modified) and adequately anchored to prevent flotation, collapse, release, or lateral movement of the structure.
 - c. Constructed with materials resistant to flood damage.
 - d. Constructed by methods and practices that minimize flood damage.
 - e. Constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
 - f. Adequately drained to reduce exposure to flood hazards.
- 2) The removal of a building or other improvement in whole or in part shall result in no change to the ground elevations under and adjacent to the removed structure or improvement.
- 3) In Zones A, AE and A1 – A30 where floodway limits have not been determined, development shall not be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated encroachment, will not increase the base flood elevation more than one foot at any point within the community. The demonstration shall be supported by technical data that conform to standard hydraulic engineering principles and shall be certified by a registered professional engineer.
- 4) New structures, existing structures to be substantially improved or replaced, or that have incurred substantial damage shall be located such that the lowest floor is at least two feet above base flood elevation. This shall be documented in the proposed and as-built condition with a FEMA Elevation Certificate.
- 5) New non-residential structures, and non-residential structures to be substantially improved, replaced, or that have incurred substantial damage shall meet the standards of paragraph 3 above or:
 - a. Shall have the lowest floor, including basement, together with attendant utility and sanitary facilities, designed so that two feet above the base flood elevation the structure is dry floodproofed, meaning 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.
 - b. The structural design, specifications, plans, and proposed methods of construction are in accordance with accepted standards of practice for dry floodproofing as certified by a registered professional engineer or architect.
 - c. The dry floodproofing measures used shall work without the use of human intervention at the time of flooding unless the facility is adequately staffed at all hours

- with people trained and able to deploy the facility's floodproofing measures, or unless the facility is located in a floodplain that has a National Weather Service flood forecast stream gauge that provides adequate advanced warning of potential flooding for the deployment of the floodproofing system.
- 6) New structures, or existing structures to be substantially improved or replaced, or that have incurred substantial damage in Zone AO shall have the lowest floor, including basement, elevated above the highest adjacent grade, at least two feet above the depth number specified on the FIRM, or at least three feet if no depth number is specified.
 - 7) Critical facilities that are to be replaced, substantially improved, or meet the definition of substantial damage shall be constructed so that the lowest floor, including basement, shall be elevated or dry-floodproofed at least one foot above the elevation of the 0.2% annual flood height (500-year floodplain) or three feet above base flood elevation, whichever is higher.
 - 8) A critical facility shall have at least one access road connected to land outside the 0.2% annual chance floodplain that is capable of accommodating emergency services vehicles. The top of the access road shall be no lower than six inches below the elevation of the 0.2% annual chance flood event.
 - 9) For historic structures that would meet the definition of substantial improvement or substantial damage if not for their historic structure designation, the improved or repaired building shall meet the following mitigation performance standards for areas below the base flood elevation:
 - a. The likelihood of flood waters entering the structure during the base flood is reduced.
 - b. The building foundation shall be structurally sound and reinforced to withstand a base flood event.
 - c. Any future damage to enclosures below the lowest floor shall not result in damage to the foundation, utility connections, or elevated portions of the building or nearby structures.
 - d. Utility connections (e.g., electricity, water, sewer, natural gas) shall be protected from inundation and scour or be easily repaired.
 - e. There shall be no expansion of uses below base flood elevation except for parking, storage, building access, or, in the case of non-residential buildings, where the space is dry floodproofed.
 - f. The improvement or repair must not invalidate the structure's historic designation.
 - 10) Fully enclosed areas that are above grade, below the lowest floor, below BFE, and subject to flooding, shall:
 - a. Be solely used for parking of vehicles, storage, or building access, and such a condition shall clearly be stated on any permits.
 - b. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.
 - c. Such designs shall be certified by a registered professional engineer or architect or shall provide a minimum of two openings on two walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. The bottom of all such openings shall be no higher than one foot above adjacent grade. Such openings may be equipped with screens, louvers, valves, or other

coverings or devices provided that they permit the automatic entry and exit of floodwaters.

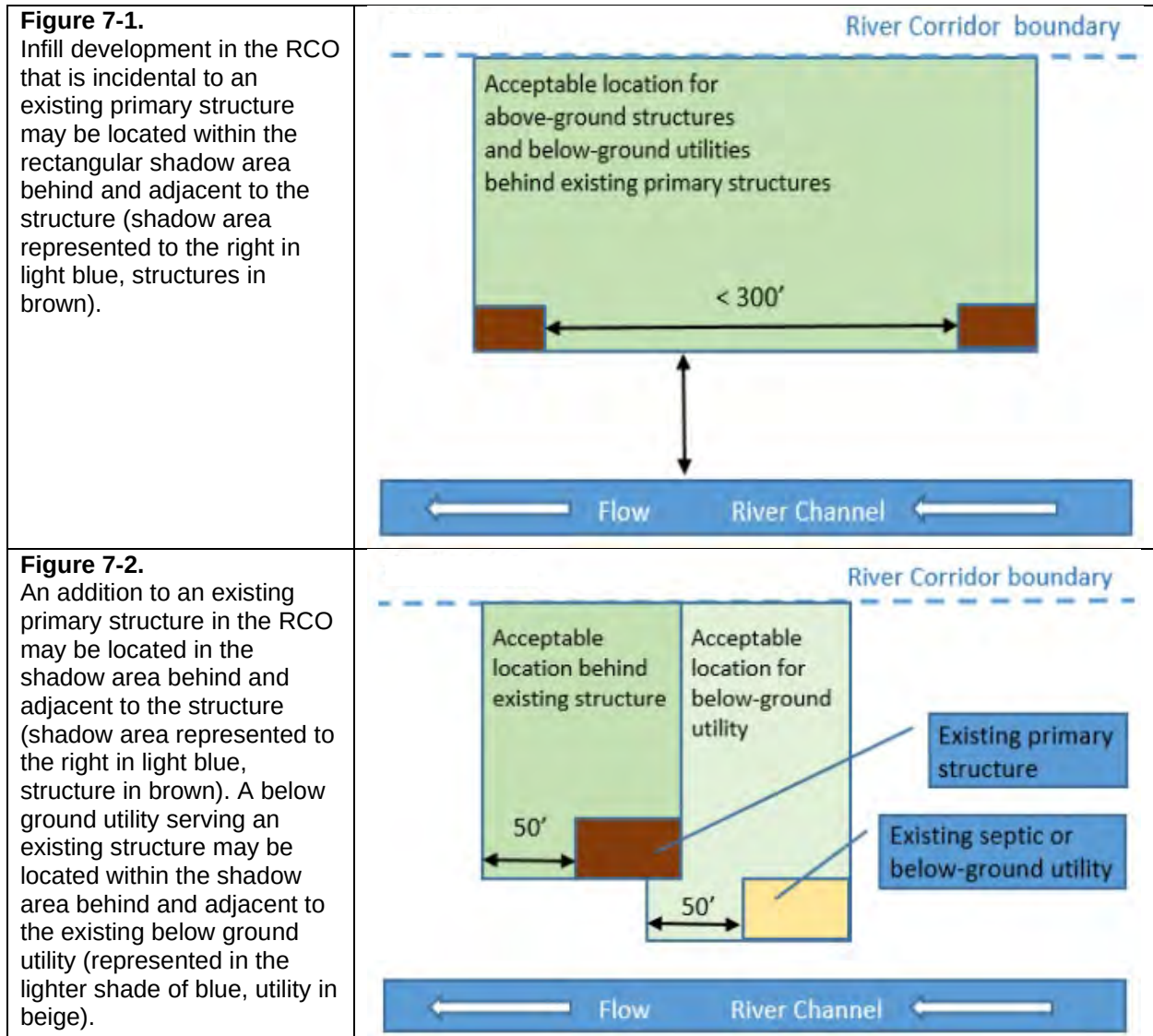
- d. Include a signed non-conversion agreement from the owner of the structure with the permit application stating that the enclosed area below the BFE will not be used for any purpose other than parking, storage, or building access and that the Town of Sandgate shall have the ability to inspect the exterior and interior of the enclosed area for compliance with the standards laid out in the non-conversion agreement.
- 11) A small accessory structure of 500 square feet or less need not be elevated to the base flood elevation provided the structure is placed on the site so as to offer the minimum resistance to the flow of floodwaters and complies with the standards of paragraph 9 above.
- 12) For any new structure, replacement structure, substantially improved structure, or structure that has experienced substantial damage, outdoor electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities (such as sewer, gas, and water systems), shall be located on the landward or downstream side of the building or behind structural elements, and located and constructed to minimize or eliminate flood damage.
- 13) Water supply systems shall be designed to minimize or eliminate infiltration by flood waters into the system.
- 14) Sanitary sewage systems shall be designed to minimize or eliminate infiltration by flood waters into the system.
- 15) On-site wastewater treatment systems shall be located to avoid impairment to them by floodwaters or erosion and to prevent contamination from them during flooding.
- 16) Any fuel storage tank shall be elevated or floodproofed by:
 - a. Elevating the fuel storage tank and all inlets, fill openings, line connections, and vents a minimum of two feet above the base flood elevation (BFE).
 - b. Securely anchoring the tank to prevent flotation.
 - c. Locating the tank on the land-ward or downstream side of the building.
 - d. Any structure or platform used to elevate the tank shall be designed to withstand anticipated flood loads and forces.
- 17) In places where elevation of a fuel storage tank is not possible due to the location of existing fuel hookup or fuel lines into an existing building:
 - a. The tank shall be securely anchored to prevent floatation while protecting it from flood forces and debris.
 - b. Any structure or platform used to anchor and protect the tank shall be designed to withstand anticipated flood forces and debris.
 - c. The tank vent pipe or valve shall be located at a minimum two feet above the BFE.
- 18) Alternatively, in places where elevation of a fuel storage tank is not possible due to the location of existing fuel hookup or fuel lines into an existing building, the tank may be placed underground if securely anchored and protected from flood forces such as scour, erosion, velocity flow, and buoyancy (uplift) force as certified by a registered professional engineer.
- 19) Bridges, culverts, and channel management activities located in or over the watercourse shall have a Stream Alteration Permit from the Agency of Natural Resources, if required.

- 20) Parked or stored recreational vehicles, camp trailers, portable restroom trailers, construction trailers, and other travel trailers shall be registered, licensed and ready for highway use. Such equipment shall be parked or stored in the FHO for a maximum of 180 consecutive days.

D. River Corridor

The criteria below are the minimum standards for development in the RCO District. Where more than one district is involved, the most restrictive standard shall take precedence.

1. Infill development must be located no closer to the channel than the adjacent existing primary structures, within a gap that is no more than 300 feet (see Figure 7-1).
2. An addition to an existing habitable structure or an accessory structure that is adjacent to an existing structure, shall be located in the shadow area directly behind and further from the channel than the existing structure, or within 50 feet to the downstream side and no closer to the top of bank (see Figure 7-2).
3. Below-ground utilities may be placed within the same shadow dimensions of an existing below-ground system (see Figure 7-2).
4. The applicant must demonstrate and the ZBA must conclude that the proposed development will not be located on land with a history of fluvial erosion damage or be threatened by fluvial erosion.
5. The applicant must demonstrate and the ZBA must conclude that the proposed development will not cause the river to depart from the channel width, depth, meander pattern, and slope associated with natural stream processes and equilibrium conditions.
6. The applicant must demonstrate and the ZBA must conclude that the proposed development will not cause an immediate or anticipated future need for stream channelization or cause an increase in flood elevations or velocities or alter the sediment regime triggering channel adjustments and erosion in adjacent and downstream locations.
7. The ZBA may require data and analysis from a consultant qualified in the evaluation of river dynamics and erosion hazards or comments provided by the DEC Regional Floodplain Manager on whether the proposed development meets the RCO standards of paragraphs 1 through 6 above.
8. Permits for stream water access or unimproved paths that provide stream water access shall include a condition prohibiting the permittee from actively managing the section of river solely to protect the access from lateral river channel adjustment.



7.9 Flood Hazard Area Definitions

The definitions provided in Section 8 apply throughout this Bylaw, including to the flood hazard and river corridor regulations as put forth in Section 3.5, Section 3.6, and Section 7. The definitions provided in Section 7.9 are specific to the flood hazard regulations.

7.9.1 "A"

Accessory structure: A structure which is: 1) detached from and clearly incidental and subordinate to the principal use or structure on a lot, 2) located on the same lot as the principal structure or use, 3) clearly and customarily related to the principal structure or use, and 4) only used for vehicle parking, storage, or primarily building access. Examples include, garages, garden and tool sheds, and playhouses, but do not include **accessory dwelling units**.

7.9.2 “B”

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 elevation of the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year. On the Flood Insurance Rate Map (FIRM) the elevation is 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 the average depth of the base flood, usually in feet, above the ground surface.

Basement: Any area of a building having its floor elevation below ground level on all sides, including crawlspaces.

BFE: See **Base Flood Elevation**.

7.9.3 “C”

Channel: The area that contains continuously or periodic flowing water that is confined by banks and a streambed.

Compensatory storage: A volume not previously used for flood storage and which shall be incrementally equal to the theoretical volume of flood water at each elevation, up to and including the base flood elevation, which would be displaced by the proposed project. Such compensatory volume shall have an unrestricted hydraulic connection to the same waterway or water body. Further, with respect to waterways, such compensatory volume shall be provided within the same reach of the river, stream, or creek.

Common plan of development: A development on which multiple separate construction activities may be taking place at different times on different schedules but under one approved plan.

Construction trailer: A vehicle which is: (1) built on a single chassis; (2) 500 square feet or less when measured at the largest horizontal projection; (3) designed to be self-propelled or permanently towable; and (4) designed for use as a temporary office facility used to support management of a construction project, and not as a permanent structure.

Critical facilities: Facilities that are vital to public health and safety, including police stations, fire and rescue facilities, hospitals, shelters, schools, nursing homes, water supply and waste treatment facilities.

7.9.4 “D”

Design Flood Elevation (DFE): The base flood elevation plus two feet.

Development: Any human-made change to improved or unimproved real estate, including buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

7.9.5 “E”

Encroachment: Activities or construction including fill, substantial improvements, and other development that reduces the functional river corridor (i.e., impairs the equilibrium condition) or increases flood levels.

Equilibrium condition: The width, depth, meander pattern, and longitudinal slope of a stream channel that occurs when water flow, sediment, and woody debris are transported by the stream in such a manner that it generally maintains dimensions, pattern, and slope without unnaturally aggrading or degrading the channel bed elevation.

7.9.6 “F”

Fill: Any placed material that changes the natural grade, increases the elevation, redirects the movement of flood water, or diminishes the flood storage capacity at the site. Temporary storage of material for less than 180 days is not considered fill.

“Flood” means (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 hazard: Those hazards related to damage from flood-related inundation or erosion.

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.

Flood Insurance Study (FIS): 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) or flood-related erosion hazards.

Floodplain: Any land area susceptible to being inundated by water from any source (see also **flood**).

Floodproofing: 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, or 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. Note that flood hazard areas and floodways may be shown on separate map panels.

Fluvial erosion: Erosion or scouring of riverbeds and banks during high flow conditions of a river. Fluvial erosion is most likely to occur within the river corridor.

“Functionally dependent use” means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water.

7.9.7 “G”

Grading: The movement or replacement of topsoil or other material originating on a site and within the hazard area. Grading results in minor or no changes in topographic elevations. If new material is brought from outside the hazard area and such new material is not offset with an equal or greater removal of material from the portion of the site within the hazard area, the new material shall be considered **fill** and shall not be considered grading.

7.9.8 “H”

Historic structure: Any structure that is: (a) listed individually in the National Register of Historic Places as 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 by the Vermont Division of Historic Preservation; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: by the Vermont Division of Historic Preservation as determined by the Secretary of the Interior.

7.9.9 “I”

Infill development: Construction, installation, modification, renovation, or rehabilitation of land, interests in land, buildings, structures, facilities, or other development in an area that was not previously developed but is surrounded by existing development.

7.9.10 “J”

7.9.11 “K”

7.9.12 “L”

“Letter of Map Change (LOMC)” is a letter issued by FEMA officially removing a structure or lot from the flood hazard area 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. A LOMC can include a Letter of Map Amendment (LOMA), Letter of Map Revision (LOMR), Letter of Map Revision based on Fill (LOMR-F), or a Letter of Map Revision for a Floodway (LOMR-FW).

“Lowest floor” means the lowest floor of the lowest enclosed area, including basement. 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 C.F.R. §60.3.

7.9.13 “M”

7.9.14 “N”

"National Flood Insurance Program" means the National Flood Insurance Program under 42 U.S.C. chapter 50 and implementing federal regulations in 44 C.F.R. parts 59 and 60. The National Flood Insurance Program aims to reduce the impact of flooding on private and public structures. It does so by providing affordable insurance to property owners in communities that adopt and enforce floodplain management regulations. These efforts help mitigate the effects of flooding on new and improved structures.

"Natural floodplain functions" means the functions associated with the natural or relatively undisturbed floodplain that includes moderating flooding, retaining flood waters, and reducing erosion, sedimentation and flood related damage. Ancillary beneficial functions include support of ecosystem services such as wildlife habitat, water quality, and recharge of ground water. Also referred to as "beneficial floodplain functions."

"New construction" means structures for which the start of construction commenced on or after the effective date of this bylaw and includes any subsequent improvements to such structures.

"Nonconforming structure" means a structure or part of a structure that does not conform to the present bylaws but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a structure improperly authorized as a result of error by the administrative officer. Structures that were in violation of the regulations in effect at the time of their creation, and remain so, remain violations and are not nonconforming structures.

"Nonconforming use" means use of land that does not conform to the present bylaws but did conform to all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a use improperly authorized as a result of error by the administrative officer.

"Non-residential" includes: businesses, churches, schools, nursing homes, pool houses, clubhouses, recreational buildings, government buildings, mercantile structures, industrial structures, and warehouses.

7.9.15 "O"

7.9.16 "P"

"Person" means an individual, a corporation, a partnership, an association, and any other incorporated or unincorporated organization or group.

"Public water access" means a public access to a water of the State and, except for toilet facilities, shall not include structures as defined in this bylaw.

7.9.17 "Q"

7.9.18 "R"

"Recreational vehicle" means 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.

"Redevelopment" means construction, installation, modification, renovation, or rehabilitation of land, interests in land, buildings, structures, facilities, or other development in a previously

developed area. The term includes substantial improvements and repairs to substantially damaged buildings.

“Replacement structure” means a new building placed in the same footprint as the pre-existing building and does not include a change in use.

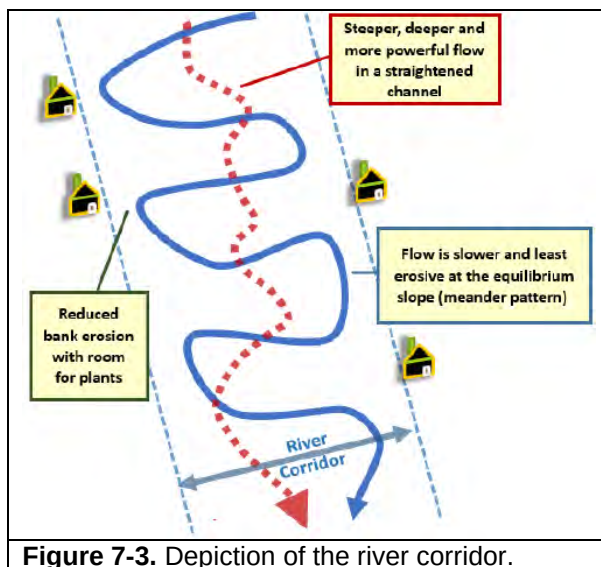


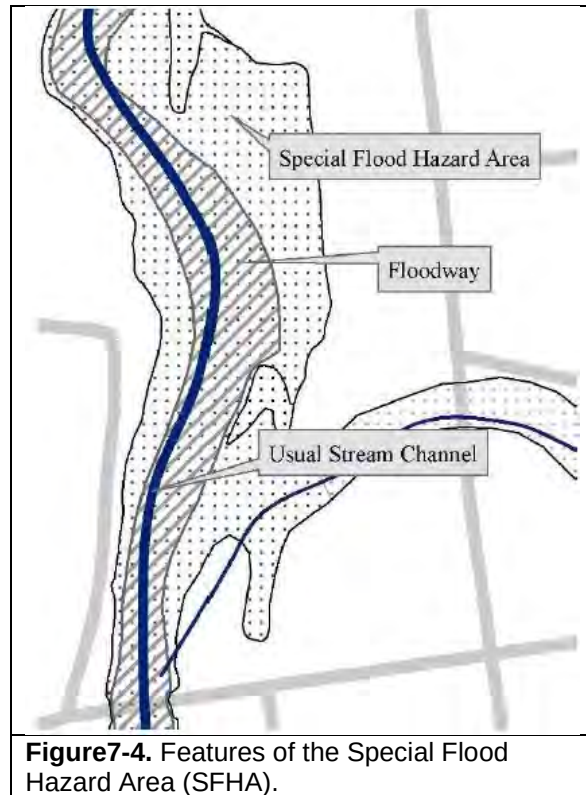
Figure 7-3. Depiction of the river corridor.

“River” means the full length and width, including the bed and banks, of any watercourse, including rivers, streams, creeks, brooks, and branches which experience perennial flow. “River” does not mean constructed drainageways, including water bars, swales, and roadside ditches.

“River corridor” means the land area adjacent to a river that is required to accommodate the dimensions, slope, planform, and buffer of the naturally stable channel and that is necessary for the natural maintenance or natural restoration of a dynamic equilibrium condition and for minimization of fluvial erosion hazards, as delineated by the Vermont Agency of Natural Resources in accordance with river corridor protection procedures. (10 V.S.A. § 1422).

7.9.19 “S”

“Special flood hazard area” is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. 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 FEMA. Maps of this area are available for viewing in the municipal office or online from the FEMA Map Service Center: 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” for purposes of floodplain management, determines the effective map or bylaw that regulated development in the special flood hazard area. The “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, whether or not that alteration affects the external dimensions of the building.

“Storage” means the aggregation of materials, items, or objects whether natural or human-made; that is kept as a stockpile, collection, or inventory; where individual materials from the stockpile, collection or inventory may change, but where the general footprint of the stored materials continues to be used for the same purpose; whether set upon the land or within a container, structure, or facility; and that would not otherwise be in compliance with these development standards.

“Structure” means a walled and roofed building, as well as a manufactured home, including gas or liquid storage tanks.

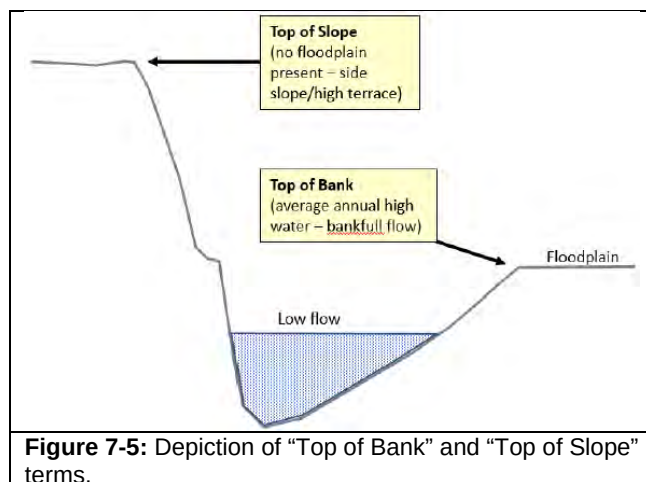
“Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged conditions would equal or exceed 50 percent of the market value of the structure before the damage occurred.

“Substantial improvement” means any repair, reconstruction, rehabilitation, addition, or other improvement of a structure after the date of adoption of this bylaw, the cost of which, over three year or over 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 specifications which have been previously identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (b) Any alteration of an “historic structure,” provided that the alteration will not preclude the structure’s continued designation as an “historic structure.”

7.9.20 “T”

“Top of bank” means the point along a streambank where an abrupt change in slope is evident, and where the stream is generally able to overflow the banks and enter the adjacent floodplain during flows at or exceeding the average annual high water stage.

“Top of slope” means a break in slopes adjacent to steep-banked streams that have little or no floodplain; or a break in slope where the side slopes adjacent to an incised, or deeply cut, channel meet floodplains that have been abandoned or are undergoing abandonment.



7.9.21 “U”

7.9.22 “V”

Violation: The failure of a structure or other development to be fully compliant with this bylaw. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 C.F.R. § 60.3 is presumed to be in violation until such time as that documentation is provided.

7.9.23 "W"

Watercourse: Any perennial stream and shall not include ditches or other constructed channels primarily associated with land drainage or water conveyance through or around private or public infrastructure.

7.9.23 "X"

7.9.25 "Y"

7.9.26 "Z"

Section 8 Definitions

8.1 Rules of Construction

- (A) In the construction of this Bylaw, the following provisions and rules shall be applied, except when the context clearly requires otherwise:
- 1) The "town" is the Town of Sandgate, Vermont.
 - 2) Words used in the present tense shall include the future and words used in the future tense shall include the present.
 - 3) Words in the singular number shall include the plural and words in the plural number shall include the singular number.
 - 4) The words "shall" and "must" are mandatory and not optional or merely directory.
 - 5) The words "may" and "should" are permissive.
 - 6) The word "person" includes an individual, firm, association, corporation, partnership, trust, company or other organization, governmental body or agency, and any other legal entity.
 - 7) The word "**lot**" includes the words parcel, plot, tract of land, or piece of land.
 - 8) The words "used" or "occupied" include the words intended, designed or arranged to be used or occupied, employed for, constructed for, altered for, converted for, rented for, leased for, maintained for, utilized for, or occupied for.
 - 9) The word "includes" shall not limit a term to the specified examples but is intended to extend its meaning to all other instances or circumstances of like kind or character.
 - 10) The terms "such as" and "for example" shall be considered as introducing typical or illustrative, rather than an entirely exclusive or inclusive designation of, permitted or prohibited uses, activities, conditions, establishments or **structures**.
 - 11) The word "built" includes "erected," "constructed," "reconstructed," "altered," "enlarged," or "moved."
 - 12) The word "premises" shall include land and **structures** thereon.
 - 13) The words "adjacent" and "next to" shall have the same meaning as "abut."
 - 14) The words "original" and "existing" mean the conditions existing on the effective date of these regulations.
 - 15) The word "land" includes the words "marsh," "**wetland**" and "water."
- (B) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or," or "either...or," the conjunction shall be interpreted as follows:

- 1) "and" indicates that all the connected items, conditions, provisions, or events shall apply.
 - 2) "or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
 - 3) "either...or" indicates that the connected item, conditions, provisions, or events shall apply singly but not in combination.
- (C) References made to officials and official bodies shall mean officials and official bodies of the Town of Sandgate, unless the natural construction of the wording indicates otherwise.
- (D) The words "regulation," "these regulations," "these land development regulations," "this ordinance," or "this **bylaw**" means the "Sandgate Land Use and Development Bylaw" or provisions therein.
- (E) Any word or phrase which is defined in Section 8, or elsewhere in these regulations, shall have the meaning as so defined whenever the word or phrase is used in these regulations, unless such definition is expressly limited in its meaning or scope.
- (F) Any word or phrase that is not defined in Section 8, or elsewhere in these regulations, shall have its plain and commonly accepted meaning.
- (G) Definitions contained in Title 24, Chapter 117, Vermont Statutes Annotated, shall be applicable throughout these regulations.

8.2 "A"

Accessory Dwelling Unit (ADU): See Dwelling Unit, Accessory.

Accessory Structure: A structure which is: 1) detached from and clearly incidental and subordinate to the principal use of or structure on a lot, 2) located on the same lot as the principal structure or use, and 3) clearly and customarily related to the principal structure or use. For residential uses these include, but may not be limited to garages, garden and tool sheds, and playhouses.

Accessory Use: A use customarily incidental and subordinate to a principal use.

8.3 "B"

Boarding House: An owner-occupied dwelling in which rooms are rented to six or more persons to serve as the boarder's primary or principal residence. Meals, housekeeping and laundry services are commonly included in the rent. Also referred to as Rooming House or Lodging House.

Boundary Line Adjustment: The exchange of properties in accordance with Sec. 2.7 of this regulation, between adjoining property owners, to adjust property line boundaries only. A boundary line adjustment shall not be considered a subdivision or revision of subdivision.

Building: Any structure larger than 64 square feet in area and more than 8 feet tall, having a roof and intended for the shelter, housing or enclosure of persons, animals, or materials, or any fence over eight feet high.

Building, Accessory: Any building which is subordinate to and whose use is incidental and accessory to the use of the principal building. Porches and decks are considered accessory buildings for the purpose of setback requirements.

Building, Principal: The building on the lot containing the principal use or uses, as opposed to a building containing an accessory use customarily incidental to the principal use.

Building Area: The ground area referred to as "footprint" enclosed by the walls of a building, together with the area of all covered porches and other roofed portions.

Building Coverage: The percentage which the aggregate area of all buildings on the lot bears to the area of the lot.

Building Footprint: See building area.

Building Height: The vertical distance from the average finished grade within 10 feet of the walls of the building to the highest point of flat or mansard roofs, including the top of the parapet, or to the mean level between the eaves and ridges for gable, hip or gambrel roofs.

Building Line: A line parallel to a street at a distance equal to the required front yard, or at a greater distance when otherwise legally established by the municipality or by private covenant.

8.4 "C"

Camp, Primitive: A building or tent not to exceed 600 sq. ft., which must be built on piers, and not used as a primary dwelling unit, but used occasionally or seasonally for temporary shelter in connection with a recreational activity, but not operated as a business.

Campground: A parcel of land designed and operated to accommodate more than three camping units, including but not limited to campers, travel trailers, RVs, cabins, lean-tos, tents, and yurts for outdoor recreational activities and overnight stays. It may provide additional facilities and services such as sanitary facilities, food services, and organized recreational or educational activities.

Change of Use: The modification of the use of an existing structure or parcel of land resulting in different zoning requirements or wastewater rules applying to the new use relative to the old use. A change of use shall include, but not be limited to, the conversion of camps or nonresidential buildings to one-, two- or multiple unit residential buildings, the conversion of a one-unit residential building to a two- or multiple unit residential building, the conversion of use within any residential building or residential accessory building to a commercial or industrial use, and the conversion of one commercial or industrial use to another as listed on the use table in this ordinance.

Channel Width: (or bankfull width) The width of a stream channel when flowing at a bankfull discharge. The bankfull discharge is the flow of water that first overtops the natural banks. This flow occurs, on average, about once every 1 to 2 years.

Childcare Facility: Any place or program 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 under 16 years of age outside their homes for periods of fewer than 24 hours a day by a person other than a child's own parent, guardian, or relative, as defined by rules adopted by the Department for Children and Families, but not including a kindergarten approved by the State Board of Education. See also **Family Childcare Home**.

Common plan of development: The scheduled plan for refurbishing a **structure**. Such work might be planned unit by unit.

Contractors Yard: Any parcel of land or portion thereof that is used by a contractor for the parking and storage of such contractor's construction vehicles and equipment when it is not being used.

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

Customary Home Occupation (CHO): A business that is customary in residential areas practiced within a dwelling unit and meeting the criteria set forth in Section 5.4. A CHO does not require a zoning permit. See also **Home Occupation**.

8.5 "D"

Deck: A floored structure usually attached to a dwelling with access via an outside door. A deck can be roofed and railed but does not have definable sidewalls except where abutting dwelling walls (See "Porch").

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.

Development Rights: The right of an owner or lessee of a parcel of land to construct, erect, or place any building or structure the useful occupancy of which will require the installation of plumbing or sewage disposal facilities.

District: See Zoning District.

Dwelling Unit: A building or part of a building occupied or intended to be occupied by one family or household for residential purposes, containing full kitchen and bathroom facilities, including properly functioning potable water supply and wastewater systems conforming to all applicable rules of the Vermont Agency of Natural Resources, and an independent entrance for the exclusive use of the residents.

Dwelling Unit, Accessory (ADU): A-dwelling unit located within or appurtenant to a one-unit dwelling that is clearly subordinate to the one-unit dwelling, which has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided that the property has sufficient wastewater capacity and that the unit does not exceed 30 percent of the total habitable floor area of the one-unit dwelling, or 900 square feet, whichever is greater. An accessory dwelling unit does not require any additional lot area beyond that which is required for the one-unit dwelling, and shall not be counted toward the residential density of a lot.

Dwelling, Multiple Unit: A building containing separate dwelling units for three or more households or families, having separate or joint entrances. May contain shared or separate utility, trash, and laundry facilities.

Dwelling, One-Unit: A detached building designated for or occupied solely as a dwelling unit for one household or family.

Dwelling, Two-Unit: A detached building constructed to serve as two independent dwelling units.

8.6 "E"

Easement: A legal interest in land, generally established in a deed or on a recorded plat, granted by the owner to another person, which allows that person(s) the use of all or a portion of the owner's land, generally for a stated purpose including but not limited to access or placement of utilities or conservation of open space.

Earth Product Removal: The use of a lot or portion thereof for the purpose of removing minerals, stone, sand, gravel, or topsoil for resale or reuse, other than removal that is incidental to construction of a permitted building or other structure or use on the lot.

8.7 "F"

Family: A group of individuals living together in a single housekeeping unit a household.

Family Childcare Home: A childcare facility that provides care on a regular basis in the caregiver's own residence for not more than 10 children at any one time. Of this number, up to six children may be provided care on a full-time basis and the remainder on a part-time basis. Care of a child on a part-time basis shall mean care of a school-age child for not more than four hours a day. These limits shall not include children who reside in the residence of the caregiver, except:

- (A) These part-time, school-age children may be cared for on a full-day basis during school closing days, snow days, and vacation days that occur during the school year.
- (B) During the school summer vacation, up to 12 children may be cared for, provided that at least six of these children are of school age and a second staff person is present and on duty when the number of children in attendance exceeds six. These limits shall not include children who are required by law to attend school (seven years of age and older) and who reside in the residence of the caregiver.

Farm Structure: A building for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with agricultural or farming practices, including a silo, as "farming" is defined in 10 V.S.A. 1021 (f), 6 V.S.A. 4810, and 24 V.S.A. 4413 (d). Excludes a dwelling for human habitation.

8.8 "G"

Group Home: A place providing room, board and personal care to three or more residents unrelated to the homeowner or caregiver. Group homes are also referred to as residential care homes and must be licensed by the Vermont Department of Aging and Disabilities

8.9 "H"

Historic Structure: means 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.

Home Occupation: A business that is carried out on a residential property that does not meet the criteria for a **Customary Home Occupation**. A **home occupation** shall require a zoning permit and be subject to the standards established in Section 5.4.

Hotel: A building operated as a business and providing lodging for persons with or without meals, and intended for the accommodation of transients, and so designed that normal access and egress are controlled from a central point. A hotel is not a dwelling unit.

8.10 "I"

Inn: An operator-occupied building or group of buildings used to provide overnight accommodation, and one or more meals, to guests for short periods of stay (tourists) and which shall not exceed 12 guest rooms. Also referred to as tourist home. See also hotel and motel.

8.11 "J"

Junk Yard: See **Salvage Yard**.

8.12 "K"

8.13 "L"

Lodging House: See **Boarding House**.

Lot: A plot or parcel of land.

Lot, Building: A plot or parcel of land occupied or capable of being occupied by one or more principal buildings and accessory buildings or uses customarily incident to it, including such open spaces as are required by this Bylaw. In the case of multiple dwellings and public, institutional, commercial, industrial or agricultural buildings, a group of buildings on the same or contiguous premises, all under one ownership, may be considered as occupying the same lot.

Lot, Corner: A lot at the intersection of and abutting two or more streets where the angle of intersection is not more than 135 degrees, or where the intersection is rounded by a curve having a radius of less than 100 feet.

Lot, Interior: A lot other than a corner lot or through lot.

Lot, Through: A lot other than a corner lot which abuts two or more streets which do not intersect at the lot.

Lot Line, Front: All dividing lines between a street and the lot shall be considered front lines.

Lot Line, Rear: The line or lines bounding a lot at the rear and approximately parallel to and at the maximum distance from the front lot line.

Lot Line, Side: The line or lines bounding a lot which extends from the street toward the rear in a direction approximately perpendicular to the street. In the case of corner lots or through lots, all lines extending from streets shall be considered side lot lines.

Lot, Minimum Width: The average distance between the side lot lines measured in a straight line between the side lot lines; such measurements to be taken every 50 feet over the full depth of the lot. In the case of a corner lot, the minimum width shall be similarly measured and, for the purpose of this measurement only, the front lot line which has the least dimension shall be considered the front lot line, and the lot lines adjacent thereto shall be considered as side lot lines.

8.14 "M"

Manufactured Home (or Mobile Home): means 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".

Manufacturing: Shall include fabricating, treating, processing, and similar operations performed on any materials permitted to be worked upon by the terms of this Bylaw.

Mobile Home: A prefabricated dwelling unit which is designed to be moved as a whole or in sections and installed at a site as a permanent residence; is anchored onto a foundation; and which bears a seal signifying conformance to the design and construction requirements of the Department of Housing and Urban Development Manufactured Home Construction and Safety Standards (24 CFR Part 3280).

Mobile Home Park: Any premises used or permitted to be used for more than two mobile

homes.

Motel: A building or group of buildings operated as a business and providing lodging for persons, intended primarily for the accommodation of transients, and each of which rooms or suites of rooms has automobile parking space provided on the premises.

8.15 "N"

Nonconforming structure: means a structure or part of a structure that does not conform to the present bylaws but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a structure improperly authorized as a result of error by the administrative officer. Structures that were in violation of the flood hazard regulations at the time of their creation, and remain so, remain violations and are not nonconforming structures.

Nonconforming use: means use of land that does not conform to the present bylaws but did conform to all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a use improperly authorized as a result of error by the administrative officer.

Nonconformity: means a nonconforming use, structure, lot, or parcel.

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.

Nonconforming Structure: A structure or part thereof not in conformance with zoning regulations covering building bulk, dimensions, height, area, yards (setbacks), density, or off-street parking or loading requirements, where such structure conformed to all applicable laws, ordinances, and regulations prior to the enactment of such zoning regulations.

Nonconforming Use: A use of land or structure which does not comply with all zoning regulations, where such use conformed to all applicable laws, ordinances, and regulations prior to the enactment of such regulations.

8.15 "O"

Open Space: A space, not occupied by a building or other roofed structure on the same lot as the principal building.

8.17 "P"

Plat: A map or representation of a parcel or piece of land subdivided into lots, drawn to scale. The plat may be digital or printed on paper or Mylar.

Porch: A structure attached to the main dwelling with access through an outside door.

Premises: A lot, as defined in this section.

Primitive Camp: See Camp, Primitive.

Public Sewer: A system of sanitary sewers owned by a municipality or other governmental unit.

Public Water Supply: A system of water supply owned and operated by a municipality or other governmental unit, or by a corporation authorized and regulated by the State of Vermont for the purposes of public water supply.

8.18 "Q"

8.19 "R"

Recreational vehicle: means 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 temporary living quarters for recreational, camping, travel, or seasonal use.

Road: A street, as defined in this section.

Rooming House: See **Boarding House**.

8.20 "S"

Salvage Yard: Any place of outdoor storage or deposit for storing, keeping, processing, buying, or selling junk or as a scrap metal processing facility. Salvage yard also means any outdoor area used for operation of an automobile graveyard. It does not mean a garage where wrecked or disabled motor vehicles are stored for less than 90 days for inspection or repairs.

Setback: See **Yard**.

Sewage Disposal System: A system for the disposal of waste using undisturbed soil on-site as a disposal medium, including a tank for collection of solids and leach area for liquids. Also referred to as wastewater system, or on-site septic system.

Street: A town or state highway, a street of an incorporated village or a street shown on a subdivision plan approved by the Planning Commission. The word "street" shall include the entire right-of-way thereof. (If a boundary of the right-of-way has not been surveyed and so recorded, the boundary shall be deemed to be 25 feet from the centerline of the traveled way).

STREET: Any road, highway, avenue, street, land, or other way between right-of-way lines, whether publicly or privately owned, used or to be used for vehicular traffic.

Street Line: The line dividing the street and lot.

Structure: An assembly of materials for occupancy or use, including, but not limited to, a **building, mobile home** or manufactured home, driveway, trailer, storage container or tank, sign, wall, or fence.

Structure, permanent: A **structure** that is affixed to a permanent foundation or is connected to electrical power, heating, cooling, or water and wastewater systems. As such, Quonset huts, tents, tipis, yurts and hoop houses may be considered permanent **structures**.

Structure, temporary: Any **structure** designed or used for purposes that are relatively impermanent in nature, not attached to a permanent foundation, and not connected to electrical power, heating, cooling, or water and wastewater systems. These may include, but are not limited to, box trailers, storage pods, Quonset huts, tents, tipis, yurts, and hoop houses.

Subdivider: Any person, firm, corporation, partnership, or association having an interest in land who shall lay out for the purpose of sale, lease, or development any interest, lot, unit, or plat in a **subdivision**.

Subdivision: Division of land by sale, gift, lease, mortgage foreclosure, court ordered partition or decree, or the filing of a plat, plot plan or deed in the Town land records where the act of subdivision creates one or more additional lots or a change in lot boundary. A **subdivision** shall also be deemed to have taken place when a lot is divided by a state or municipal highway, road or right-of-way, or when a lot is divided by surface waters with a drainage area of greater than

ten square miles. A subdivision of land shall not include leases for mobile homes when these leases are subject to the requirements of 10 V.S.A. Chapter 153. A boundary line adjustment, in accordance with Section 2.7 of this regulation, to adjust property boundaries only, shall not be considered a subdivision or revision of subdivision.

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 this Bylaw, 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**.

8.21 “T”

Tourist Home: See **Inn**.

Travel Trailer: A vehicle designed and used primarily for recreational travel purposes. To be considered a travel trailer such vehicle must rest on its own wheels. The provisions applicable to travel trailers shall also be applied to any motor vehicle whose body has been equipped for occupancy for recreational purposes.

Travel Trailer Camp: Any premises used or permitted to be used for the parking of more than one occupied travel trailer. See **Campground**.

8.22 “U”

8.23 “V”

Violation: means the failure of a structure or other development to be fully compliant with this Bylaw. 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.

8.24 “W”

8.25 “X”

8.26 “Y”

Yard, Front: An open space between the building and the front lot line, extending the full length of the lot, or in the case of a corner lot, extending along all streets.

Yard, Rear: The open space between the building and the rear lot lines, extending the full length of the lot.

Yard, Side: An open space between the building and a side lot line, extending the full length of the lot.

Yard, Required Front, Rear, or Side: As much of the front, rear, or side yard, as required by the applicable provisions of this Bylaw.

Yard, Depth or Width: The depth of front or rear yards, and the width of side yards, shall be measured perpendicularly to the respective lot lines.

8.27 "Z"

Zoning Administrator (ZA): Any person duly appointed pursuant to 24 VSA §4448 with the authority to administer the provisions of this ordinance by the issuance of zoning permits, certificates of compliance, administrative opinions, notices or citations of violation, or any other actions necessary to administer the provisions of the ordinance. The **Zoning Administrator** shall include any **Acting Zoning Administrator** or **Assistant Zoning Administrator**.

Zoning District: Delineated area within Town of Sandgate established by the provisions of Section 3 of this Bylaw and for which the requirements governing the use and form of development are uniform and defined herein.

Zoning Permit: A permit for land use or development issued by the Zoning Administrator signifying conformance with these regulations.

Appendix: Maps



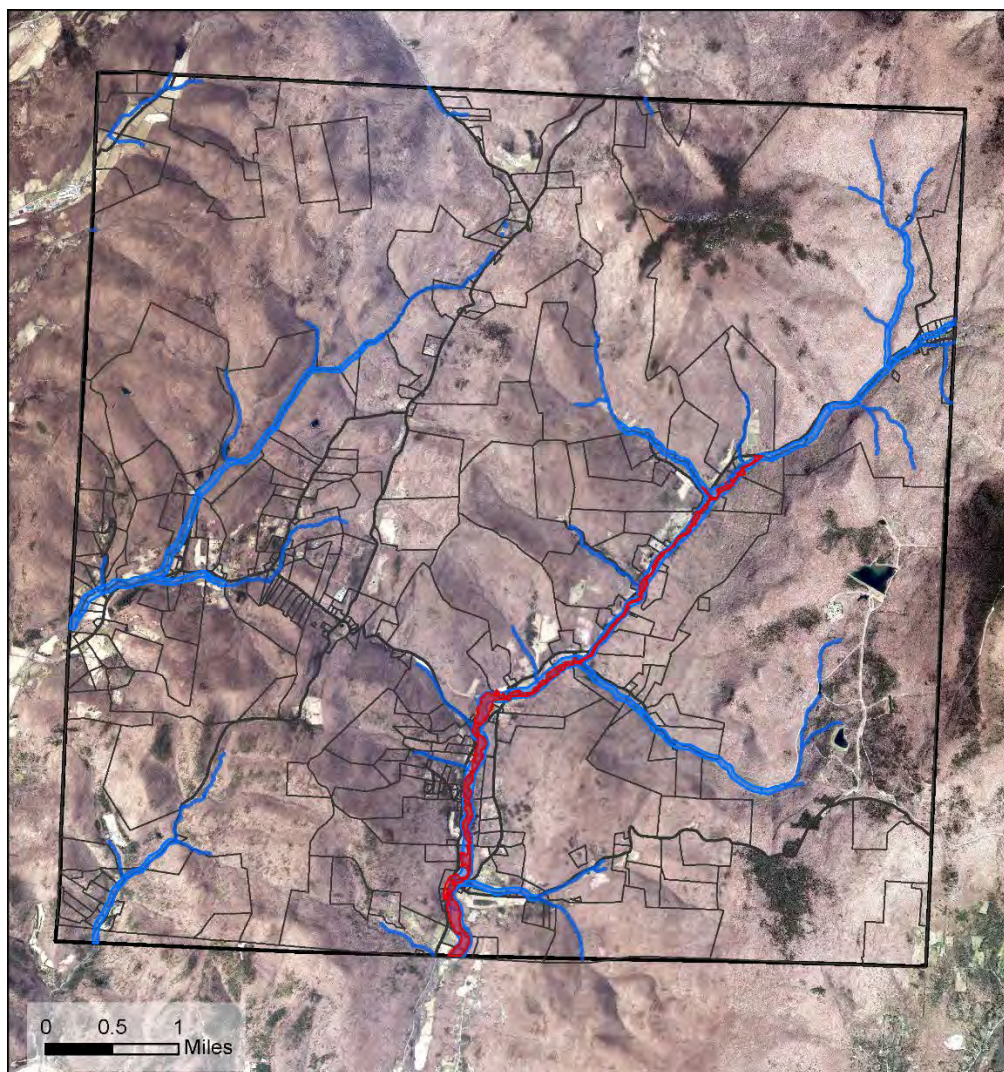
Zoning Districts Map Town of Sandgate, Vermont

Prepared by Bennington County
Regional Commission
November 15, 2023

Zoning Districts

- Rural Residential (RR)
- Forest 1 (F1)
- Forest 2 (F2)
- Parcels
- Town Boundary





Flood Hazard River Corridor Overlay Map Town of Sandgate, Vermont

Prepared by Bennington County
Regional Commission
November 15, 2023

Overlay Districts

- Flood Hazard Overlay (FHO)
 - Special Flood Hazard Area
- River Corridor Overlay (RCO)
 - River Corridor
 - Small Streams with 50' Setback (watershed size > 0.5 square mile)
- Parcels
- Town Boundary

