Town of Bakersfield

ZONING AND SUBDIVISION BYLAW

Adopted by the Voters:

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ARTICLE 1 AUTHORITY AND PURPOSE

1.1 STATUTORY AUTHORIZATION AND ENACTMENT

In accordance with the Vermont Planning and Development Act, 24 V.S.A., Chapter 117 (hereinafter referred to as "the Act"), there is hereby established a Zoning and Subdivision Bylaw for the town of Bakersfield, Vermont, which consists of this text and an Official Zoning Map and the latest Flood Insurance Rate Map. These regulations shall amend in their entirety any existing zoning and subdivision Bylaw for the Town of Bakersfield. These regulations shall take effect and may be amended only according to the procedures and requirements specified in Sections 4441 and 4442 of the Act.

1.2 SEVERABILITY

If any provision of these regulations is held unconstitutional or invalid, all other unaffected provisions shall remain in force.

1.3 GENERAL PURPOSE

The purpose of these regulations is to implement the Bakersfield Town Plan, as authorized by the Act (§ 4302), to promote the health, safety and general welfare of the residents of Bakersfield, Vermont, to provide for orderly community growth and to maintain and enhance the natural beauty and environment of the town.

1.4 APPLICABILITY

In Bakersfield, no land development (as defined in Article 11) shall commence except in compliance with all regulations and provisions of these regulations. Any land development not authorized under these regulations shall be prohibited. The provisions of these regulations shall take precedence over any less restrictive controls.

1.5 INTERPRETATION

Except where defined in Article 11 of these regulations, all words shall carry their customary dictionary meanings. Any interpretation of words or provisions in these regulations by the Zoning Administrator may be appealed to the Board of Adjustment for a declaratory ruling. The Board shall publish (and update from time to time) such rulings of interpretation to ensure consistent and uniform application of these regulations.

1.6 COMPUTATION OF TIME

When computing a period of time beginning with an event (e.g. submission of a permit application) the day of the event shall not be counted.

1.7 LIMITATIONS AND EXEMPTIONS

A. **Limitations on Local Zoning**

1. Public Facilities 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 (24 V.S.A. §4413a). Public facilities include:

a. State- or community-owned and operated institutions and facilities;

b. Public and private schools and other educational institutions certified by the state Department of Education;

c. Churches and other places of worship, convents, and parish houses;

d. Public and private hospitals;

e. Regional solid waste management facilities certified under 10 V.S.A. Chapter 159;

f. Hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. § 6606a.

2. Except as otherwise provided by this section and by 10 V.S.A. § 1976, if any Bylaw is enacted with respect to any land development that is subject to regulation under state statutes, the more stringent or restrictive regulation shall apply.

B. **State Exemptions**. The following uses and structures are specifically exempted from municipal land use and zoning and subdivision by state law. Therefore no municipal zoning permit or approval under these regulations shall be required for:

1. Public utility power generating plants and transmission facilities that are regulated by the Vermont Public Service Board under 30 V.S.A. § 248 including wind generation facilities and solar generation facilities.

2. Required agricultural and silvicultural practices, including the construction of farm structures, as those practices are defined by the Secretary of Agriculture, Food and Markets or the Commissioner of Forests, Parks and Recreation, respectively, under subsections 1021(f) and 1259(f) of Title 10 and section 4810 of Title 6.

   a. For purposes of these regulations, “farm structure” means a building, enclosure, or fence for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with accepted agricultural or farming practices, including a silo, as “farming” is defined in subdivision 6001(22) of Title 10, but excludes a dwelling for human habitation.

   b. A person shall notify the Zoning Administrator in writing of the intent to build a farm structure, shall provide a site plan with the proposed facility, and a letter of determination from the Agency of Agriculture, Food and Markets indicating that the proposed structure is a farm structure. The structure shall abide by setbacks approved by the Secretary of Agriculture, Food and Markets. No municipal permit for a farm structure shall be required.

3. Hunting, fishing or trapping on public or private land as specified by the state [under 24 V.S.A. §2295]. This excludes facilities that may support such activities, such as firing

ranges, rod and gun clubs, and fish and game clubs, which are subject to these regulations.

C. **Local Exemptions.** The following uses and structures are locally exempted from requirements to receive a municipal zoning permit or approval under these regulations. However, such structures and uses shall still be subject to minimum standards required in these regulations:

1. One detached accessory structure less than 100 square feet and less than 35 feet tall, unless located in the flood hazard overlay district (See Section 10). All attached accessory structures require a zoning permit.

2. Interior renovations that do not change the use of a structure.

3. Handicapped ramps.

4. Patios.

5. Sidewalks located on a property with a single family home use and used to provide access to the single family home.

6. Stairs used to access structures provide that the stairs are not located within a setback.

7. Fences less than 6 feet in height. Fences shall be exempt from all setback requirements in these regulations.

8. Recreational trails on public lands.

9. Driveways providing access to single family homes. All driveways shall still be required to meet the standards in Section 5.4 – Access and Driveways.

10. Fire escapes required per the Vermont State Fire and Building Safety Code.

11. Grading, excavation, and/or fill of less than 100 cubic feet of soil or material provided that such activity does not occur within the setback area and is the only exempt grading action to occur within a 3 year period on an individual lot or series of lots in contiguous ownership.

TABLE 1.1 MUNICIPAL PERMITS AND APPROVALS: TOWN OF BAKERSFIELD			
Permit/Approval	**Required for**	**Issued by**	**See**
Zoning Permit	All land development as defined in Article 11, including signs, accessory structures, conversions and changes of use unless specifically exempted from these regulations under Section 1.7.	Zoning Administrator	Section 4.1
Site Plan Approval	All uses identified as requiring site plan review in Table 2.	Planning Commission	Section 4.3
Conditional Use Approval	All uses classified as conditional uses in certain zoning districts in Table 2 and nonconformities under Section 5.8.	Board of Adjustment	Section 4.4
Variance Approval	Requests for a variance from the provisions of these regulations.	Board of Adjustment	Section 4.5
Flood Hazard Area Development Approval	Requests for land development in the Flood Hazard Overlay District.	Board of Adjustment	Article 10
Planned Unit Development (PUD) Approval	All planned unit developments, as defined in Article 11.	Planning Commission	Article 9
Certificate of Compliance	All new principal structures, additions to principal structures, and accessory dwelling units that have been issued a zoning permit before such structures may be occupied for their intended use.	Zoning Administrator	Section 2.6
Subdivision Approval	All land subdivisions as defined in Article11, including boundary line adjustments.	Planning Commission	Article 7
Sketch Plan Approval	All applications for subdivision approval.	Planning Commission	Section 7.3
Preliminary Plan Approval	All applications for major subdivisions (creating 3 or more lots)	Planning Commission	Section 7.3
Final Plan Approval	All applications for subdivision approval.	Planning Commission	Section 7.3
Plat Recording	All approved subdivisions of land, including boundary line adjustments.	Planning Commission	Section 7.4
Access by Right-of-Way Approval	Development on or access to lots without frontage on a maintained public road or public waters.	Planning Commission	Section 5.4
Road Access Permit	Installation of a driveway or road intersection with a Town or State road, or a right-of-way.	Town Road Commissioner	Section 2.5

ARTICLE 2 ADMINISTRATION & ENFORCEMENT

2.1 ADMINISTRATION

These regulations shall be administered by a Zoning Administrator, the Planning Commission and the Board of Adjustment, whose appointment, removal, power and duties shall be as prescribed in Subchapters 9 and 10 of the Act.

A. **Zoning Administrator**. The Select Board shall appoint, from nominations submitted by the Planning Commission, a Zoning Administrator for a term of three (3) years in accordance with the Act §4448. An acting or assistant Zoning Administrator may also be appointed by the Select Board pursuant to the Act.

The Zoning Administrator shall literally administer and strictly enforce the provisions of these regulations and perform the following tasks:

- Approve, deny, or refer applications for Zoning Permits;
- Approve or deny applications for Certificate of Compliance
- Inspect and investigate public or private property as necessary and/or in response to a written complaint in order to determine compliance with these regulations;
- Pursue violations of these regulations through procedures set forth under Section 2.8;
- Provide forms and maintain a full and exact record, available to the public, of all applications and fees received, permits issued and denied, and violations reported; and
- Maintain a record of development in the flood hazard area.
- All other duties as required by the Act.

The Zoning Administrator must refer all land development that requires conditional use review, site plan review, subdivision approval, variance approval, access by right-of-way approval, and any other board approval to the Planning Commission or Board of Adjustment before a zoning permit or denial may be issued.

B. **Planning Commission**. There shall be a Planning Commission consisting of not less than 3 or more than 9 voting members who are elected to serve a specified term. Vacancies shall be filled by the Selectboard until the next meeting of the municipality, at which time the voters shall elect a member to fill the unexpired term. The Planning Commission shall adopt rules of procedure and ethics policies in regard to conflicts of interest to guide its official conduct in conformance with the Act [§ 4323 and 4461] and Vermont's Open Meeting Law [1 V.S.A. 310-314].

The duties of the Planning Commission include:

- Prepare and update the Town Plan, undertake capacity studies and make recommendations on matters of land development, and perform other duties as described in 24 V.S.A. § 4325;
- Prepare amendments to these regulations and other regulations as permitted by the Act;
- Consider and act on applications for access by right-of-way;
- Consider and act on applications for Planned Unit Developments;
- Consider and act on applications for Site Plan Approval;

- Consider and act on applications for subdivision approval; and
- All other duties as required by the Act.

C. **Zoning Board of Adjustment**. A Board of Adjustment, consisting of not less than 3 nor more than 9 members, shall be appointed by the Selectboard for specified terms. Vacancies shall also be filled by appointment of the Selectboard for unexpired terms. Any member of the Board of Adjustment may be removed for just cause by the Selectboard upon written charges and after a public hearing. The Board shall adopt rules of procedure and ethics policies with regard to conflicts of interest to guide its official conduct in accordance with the requirements of the Act [§4461] and Vermont's Open Meeting Law [1 V.S.A. §§310-314].

The Board of Adjustment shall have all powers set forth in the Act to administer the provisions of these regulations, including:

- Consider and act on applications for conditional use;
- Consider and act on requests for variance;
- Consider and act on appeals of any decision or act of the Zoning Administrator; and
- Any other reviews required by these regulations.

2.2 FEES

The Selectboard shall establish a schedule of application fees and amend the schedule as needed to cover some or all of the cost of the administration and enforcement of these regulations. In accordance with the Act [§ 4440], the fee schedule may include provisions that require applicants to pay for reasonable costs of an independent technical review of their applications. The schedule of fees shall be posted in the offices of the Town Clerk and Zoning Administrator, and may be altered or amended only by resolution of the Selectboard.

2.3 PUBLIC NOTICE REQUIREMENTS

A. In accordance with the Act §4464, a warned public hearing shall be required for conditional use, appeals of decisions of the Zoning Administrator, variances, access by right-of-way, and final subdivision review. Public notice shall be given not less than fifteen (15) days prior to the date of the hearing and shall include *all* of the following:

1. Publication of the date, place and purpose of the public hearing in a newspaper of general circulation in Bakersfield;
2. Posting of the same information in three (3) or more public places within the municipality, including the posting of a hearing notice, on a form provided by the Town of Bakersfield, within view of the public right(s)-of-way nearest to the property for which the application is being made;
3. Written notification to the applicant and to owners of all properties adjoining the property subject to subdivision or development, without regard to public rights-of-way. This notice shall include a description of the proposed project, information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal; and
4. Written notification to the clerk of the adjoining municipality for hearings on subdivision plats located within 500 feet of a town boundary.

B. Public notice for site plan review, preliminary subdivision review, and sketch subdivision shall be given not less than seven (7) days prior to the date of the public hearing, and shall at minimum include the following:

1. Posting of the date, place and purpose of the hearing in three (3) or more public places within the municipality; and

2. Written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to public rights-of-way, which includes a description of the proposed project, information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal.

C. No defect in the form or substance of any required public notice under this section shall invalidate the action of the Planning Commission and/or Board of Adjustment where reasonable efforts have been made to provide adequate posting and notice. However, the action shall be invalid when the defective posting or notice was materially misleading in content. If an action is ruled to be invalid by the Board of Adjustment or the Environmental Court, the action shall be remanded to the Board to provide new posting and notice, hold a new hearing, and take a new action.

2.4 ISSUANCE OF ZONING PERMITS AND DECISIONS

A. **Permits Issued by Zoning Administrator.** Within thirty (30) days of receipt of a completed application, including all application materials and fees, the Zoning Administrator shall either issue or deny a permit in writing, or refer the application to either the Planning Commission or the Board of Adjustment for their review and action. The issuance of permits is subject to the requirements of § 4449 and 4424(D) of the Act. If the permit is denied, the Zoning Administrator shall so notify the applicant in writing, stating the reasons for denial. If the Zoning Administrator fails to act within the 30 day period, the result shall be deemed approval. If a permit is approved, it shall take effect fifteen days from the date of issuance and shall run with the land.

1. When the Zoning Administrator issues a zoning permit, the applicant shall post a permit notice, on a form provided by the Town of Bakersfield, within view of the public right-of-way most nearly adjacent to the subject property until the applicable time for appeal has passed (see Section 2.7). The notice shall contain a statement of the appeal period and information noting where a full description of the project and approval can be found.

2. In accordance with the Act [§4449(a)], when an application for a zoning permit seeking approval of a structure is submitted, the Zoning Administrator shall provide the applicant with a copy of the applicable building energy standards under 30 V.S.A. §§ 51 (residential building energy standards) and 53 (commercial building energy standards). However, the Zoning Administrator need not provide a copy of the standards if the structure is a sign or a fence or the application certifies that the structure will not be heated or cooled. In addition, the Zoning Administrator may provide a copy of the Vermont Residential Building Energy Code Book published by the Department of Public Service in lieu of the full text of the residential building energy standards.

3. Within three (3) days following the issuance of a zoning permit, the Zoning Administrator shall post a copy of the permit in the Town Clerk's Office until the expiration of the appeal period.

4. Within 30 days after the issuance of a zoning permit or notice of violation, the Zoning Administrator shall comply with the recording requirements in Section 2.4(D)

5. For development where a prior permit or approval has been issued, including subdivision plat approval, no zoning permit shall be issued until documentation is provided that all applicable conditions of the prior permit or approval have been met.

6. Any zoning permit issued based upon material inaccuracies or misrepresentation in an application or in any supporting documentation to an application shall be considered null and void, and shall not be construed as waiving any provision of these regulations. At a minimum, reapplication to complete and/or continue any activities shall be required. Written notice of alleged gross or consistent misrepresentation of facts or incompetence by an attorney, professional engineer, land surveyor, site technician or other professional person who misrepresents facts pertaining to a client's property or who submits erroneous plats, surveys, evidence, etc., shall be sent to the person so charged and to State of Vermont Licensing Authorities by registered mail, return receipt requested, and shall request the suspension of the accused person's right to practice in matters addressed by these regulations within the Town of Bakersfield for a period of two years.

B. **Decisions Issued by Planning Commission and Board of Adjustment.** The Planning Commission and/or Board of Adjustment shall prepare a written decision for all land development applications within 45 days after the adjournment of the final public hearing. The Zoning Administrator shall send the Board's decision to the applicant or appellant by certified mail. Copies of each decision shall also be mailed to every person or body both appearing and having been heard at the hearing. The Zoning Administrator shall record a copy of the decision in the municipal land records in accordance with Section 2.4(D) and a copy maintained on file in the Town Clerk's Office in accordance with the Act. Failure to issue a decision within the 45-day period shall result in deemed approval. In addition:

1. All decisions shall be issued in writing and shall separately state findings of fact and conclusions of law. Findings of fact shall explicitly and concisely restate the underlying facts that support the decision, based exclusively on recorded evidence. Conclusions shall be based on the findings of fact. The decision shall also include a statement of the time within which appeals under Section 2.7 may be taken. The minutes of a meeting may suffice, provided that the factual basis and conclusions relating to the review standards are provided in accordance with these requirements.

2. In making a decision in favor of the applicant, the Planning Commission and/or Board of Adjustment may attach conditions and safeguards as it deems necessary to implement the purposes of the Act, these regulations, and the Town Plan currently in effect.

Once an applicant has received all necessary board approvals, a zoning permit shall be issued by the Zoning Administrator.

C. **Zoning Permit Effective Date**.

1. No permit shall take effect until the 15-day appeal period has passed. In the event that a notice of appeal is properly filed, the permit shall not take effect until adjudication of that appeal by the Board of Adjustment is complete and the time for taking an appeal to the Environmental Court has passed without an appeal being taken. If an appeal is taken to the Environmental Court, the permit shall not take effect until the Environmental Court rules in accordance with 10 V.S.A. § 8504 on whether to issue a stay, or until the expiration of 15 days, whichever comes first.

2. Permits shall be effective for a period of twenty-four (24) months. The Zoning Administrator may grant one-year extensions if active construction has continued for, but has not been completed within, a 12-month period.

D. **Recording Requirements.** Within 30 days after the issuance of a zoning permit, Planning Commission and/or Board of Adjustment decision, or notice of violation, the Zoning Administrator shall deliver either the original, a legible copy, or a notice of the permit or violation to the Town Clerk for recording in the municipal land records as provided in 24 V.S.A. 1154(a). The applicant may be charged the cost of the recording fees as required by law.

1. The Zoning Administrator shall maintain a record of development within the Flood Hazard Area Overlay District including:

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

E. **Multiple Reviews and Combined Reviews.**

1. In cases where development proposals require more than one type of development review, the review process shall be conducted in the following order, to the extent feasible:

   a. Access by right-of-way; then
   b. Conditional Use Review; then
   c. Requests for Waivers or Variances; then
   d. Site Plan Review; then
   e. Subdivision Approval (preliminary and final)

   PUD approval shall occur concurrently with subdivision or site plan approval and in accordance with Section 9.2.

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

3. All notice requirements and provisions applicable to each purpose of the hearing shall be complied with. Notice for combined review, to the extent feasible, shall be made in the same public notice. In the case of differing notice requirements, the process that provides more notice, by amount of time or by other means, shall apply. The hearing notice shall include a statement that the hearing will be a combined review of the proposed project and list each review that will be conducted at the hearing.

4. All decision requirements and deadlines applicable to each purpose of the proceedings shall apply. Separate written decisions may be issued for each review conducted as part of the combined review, but decision shall be combined and coordinated when appropriate.

F. **Review Under Pending Amendment to these Regulations.** In accordance with 24 VSA §4449(d), once the Bakersfield Selectboard has issued a public notice to amend these regulations, the Zoning Administrator shall review any new application under both the proposed amendment and applicable existing regulations. If the new bylaw or amendment has not been adopted or rejected within 150 days of that notice or, if the bylaw is rejected, the application shall be reviewed under the existing regulations. An application that has been denied under a proposed bylaw or amendment that has not been adopted, or had been rejected, shall be reviewed again at no cost under the existing regulations at the request of the applicant.

2.5 ROAD ACCESS PERMIT

A. Road Access Permits shall be required for all new accesses to public roads, alterations to existing accesses to public roads, and for any work, construction, or land development performed within a public right-of-way per the Bakersfield Selectboard policy. If a Road Access Permit is required, it shall be obtained prior to the issuance of a Zoning Permit for any associated land development.

2.6 CERTIFICATE OF COMPLIANCE

A. All new principal structures, additions to principal structures, and accessory dwelling units that have been issued a zoning permit shall receive a Certificate of Compliance from the Zoning Administrator before such structures may be occupied for their intended use. A Certificate of Compliance shall be issued by the Zoning Administrator if the following criteria have been met:

1. The structure and use conforms to the Zoning Permit and the provisions of these Regulations.

2. The structure and use has a Wastewater and Potable Water Supply Permit from the State of Vermont if required (see Section 5.15).

3. The structure has a 911 address number displayed to be visible from the road (public or private).

4. The structure and use complies with any other relevant Town ordinances or regulations.

5. If an applicant has determined that a certificate as explained in 30 V.S.A. 51 (residential building energy standards) or 30 V.S.A. 53 (commercial building energy standards) is required for any land development, a signed copy of such certificate shall be provided to the Zoning Administrator before the issuance of a Certificate of Compliance.

6. If an applicant has applied for a Certificate of Compliance for the installation of a mobile home or manufactured home, the applicant shall provide the Zoning Administrator with a copy of a completed HUD Form 309 (as required in 24 C.F.R. 3285 and 3286) before the Certificate of Compliance is issued.

B. If the Zoning Administrator fails to grant or deny a Certificate of Compliance for land development within thirty (30) days after receiving an application, the Certificate of Compliance may be deemed issued. It shall be unlawful to use or occupy or permit the use or occupancy of any premises for which a Certificate of Compliance has not been issued.

C. A Certificate of Compliance may also be issued by the Zoning Administrator upon request of a property owner provided that the above criteria are met and provided that there are no outstanding zoning violations on the property.

2.7 APPEALS

A**.** **Appealing Decisions of the Zoning Administrator**. The applicant or any interested person (as defined in the Act § 4465(b)) may appeal any decision or act taken by the Zoning Administrator by filing a written notice of appeal with the Secretary of the Board of Adjustment within 15 days of the act or decision.

1. A notice of appeal filed under this section shall include the following information in accordance with § 4466 of the Act:

   a. the name and address of the appellant;
   b. a brief description of the property with respect to which the appeal is taken;
   c. a reference to the applicable provisions of these regulations;
   d. the relief requested by the appellant, including any request for a variance from one or more provisions of these regulations; and
   e. the alleged grounds why such relief is believed proper under the circumstances.

2. The Board of Adjustment shall set a date, time, and place for a public hearing on an appeal which shall be within 60 days of filing of the notice of appeal according to § 4465 of the Act. The secretary of the Board of Adjustment shall give public notice of the

hearings not less than 15 days prior to the hearing date in accordance with Section 2.3 of these regulations.

3. In accordance with the Act, § 4464(b), upon completion of a hearing, the Board shall render a written decision within forty-five (45) days and shall follow the requirements and procedures in Section 2.4.

B. **Appealing Decisions of the Planning Commission or Board of Adjustment**. The applicant or any other interested person who has participated in a municipal regulatory proceeding as defined in the Act § 4471(a) may appeal any decision of the Board of Adjustment or the Planning Commission within 30 days of such decision to the Vermont Environmental Court.

1. Within thirty (30) days following the date of decision rendered by the Board of Adjustment or Planning Commission, any notice of the appeal shall be:

   a. sent via certified mail, with fees, to the Environmental Court;
   b. sent to the Zoning Administrator, who shall provide a list of interested persons to the appellant within 5 working days;
   c. Upon receipt of the list of interested persons, the appellant shall, by certified mail, provide a copy of the notice of appeal to every interested person.

2.8 VIOLATIONS AND ENFORCEMENT

A. **Violations**. The commencement or continuation of any land development, subdivision or use which is not in conformance with the provisions of these Regulations shall constitute a violation. All violations will be pursued in accordance with 24 V.S.A. §§ 4451, 4452 and/or as a civil matter enforced in accordance with the provisions of 24 V.S.A. §§ 1974a et. seq. at the discretion of the Zoning Administrator. Each day that a violation continues shall constitute a separate offense.

B. **Notice of Violation**. Pursuant to 24 V.S.A.§ 4451, no action may be brought under this Section unless the alleged offender has had at least 7 days notice by certified mail that a violation exists. The warning notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the 7 day period, and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the 7 day period. Action may be brought without notice and opportunity to cure if the alleged offender repeats the violation of the bylaw after the 7 day notice period and within the next succeeding 12 months. Violations shall be recorded in the land records pursuant to Section 9.11.

C. **Enforcement.** In accordance with 24 V.S.A. §§ 4451, 4452, the Zoning Administrator shall commence or cause to be commenced in the name of the municipality any appropriate action, injunction or other proceeding to enforce the provisions of these Regulations.

   1. **Vermont Superior Court - Environmental Division**. The Zoning Administrator may pursue or cause to be pursued any appropriate action, injunction or other proceeding in the name of the municipality to enforce the provisions of these

Regulations through the Environmental Division of Vermont Superior Court. All fines imposed and collected for violations shall be paid over to the municipality.

2. **Civil Enforcement Pursuant to 24 VSA § 1974a.** The Zoning Administrator may pursue or cause to be pursued enforcement action in the name of the municipality through the Judicial Bureau if the penalty for all continuing civil ordinance violations is $800.00 or less. All enforcement matters under Title 24, Chapter 117 greater then $800.00 shall be brought in the Vermont Superior Court – Environmental Division. Penalties shall be imposed for violations of any provision of these Regulations in accordance with 24 VSA §1974a and the schedule below:

    a. A civil penalty of $50 may be imposed for the initial violation of these Regulations. The penalty for the second offense shall be $100, and the penalty for each subsequent offense shall be $200.

    b. A waiver fee may be collected, in lieu of a civil penalty, for any person who declines to contest a municipal complaint and pays the following waiver amounts for each violation. The waiver fee shall be set at $25 for the first offense, $50 for the second offense, and $100 for each subsequent offense.

3. **Enforcement Limitations.**

    a. The municipality shall observe any limitations on enforcement proceedings relating to municipal permits and approvals as set forth in 24 V.S.A. §4454. An action, injunction or other enforcement proceeding relating to any municipal land use permit may be instituted within 15 years of the date the alleged violation first occurred, and not thereafter. The burden of proving the date the alleged violation first occurred shall be on the person against whom the enforcement action is instituted.

    b. No action, injunction or enforcement proceeding may be instituted to enforce an alleged violation of a municipal land use permit which received final approval from the applicable board, commissioner, or officer of the municipality after July 1, 1998, unless the municipal land use permit or a notice of the permit was recorded in the land records of the municipality as required by 24 V.S.A. §4449.

    c. Nothing in this Section shall prevent any action, injunction or other enforcement proceeding by a municipality under any other authority it may have, including, but not limited to, a municipality's authority under Title 18 relating to the abatement or removal of a public health risk or hazard.

D. **Complaints**. Whenever a violation of these Regulations occurs, or is alleged to have occurred, any person may file a written complaint with the Zoning Administrator. The complaint shall state fully the causes and basis for the alleged violation. The Zoning Administrator shall properly memorialize such a complaint, investigate within 30 days, and take action as appropriate in accordance with these Regulations.

ARTICLE 3 ZONING DISTRICTS AND DISTRICT REGULATIONS

3.1 ESTABLISHMENT OF ZONING DISTRICTS AND OFFICIAL ZONING MAP

A. The Town of Bakersfield is hereby divided into the following zoning districts:

- Village Center District
- High Density Residential District
- Rural District
- Conservation District
- Aquifer Overlay District
- Flood Hazard Overlay District

B. The Official Zoning Map shall consist of the Town of Bakersfield Zoning Map and the Town of Bakersfield Flood Insurance Rate Maps (published by the Federal Emergency Management Agency). The locations of the zoning districts are on the Official Zoning Map, which is adopted by reference and declared to be part of these regulations. The Official Zoning Map signed by the Select Board and located in the Town Clerk's Office shall be the final authority as to the zoning status of all land and water areas in the Town of Bakersfield.

3.2 INTERPRETATION OF ZONING DISTRICT BOUNDARIES

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

1. Boundaries indicated as approximately following the centerlines of roads, streams, transportation and utility rights-of-way shall be construed to follow such centerlines. The abandonment of roads and/or rights-of-way shall not affect the location of boundaries.

2. Boundaries indicated as approximately following lot lines shall be construed to follow such lot lines.

3. Boundaries indicated as parallel to, or as extensions of, features in A or B above shall be so construed.

4. The Zoning Administrator shall be responsible for determining the location of a district boundary line by the above rules or by the scale or dimensions on the Official Zoning Map. All decisions by the Zoning Administrator regarding the location of a district boundary line may be appealed to the Zoning Board of Adjustment per Section 2.7.

5. When a zoning district boundary established by these regulations divides a lot, the lot may be developed in accordance with the following requirement:

   a. When subdividing the lot, each newly created parcel must meet the dimensional requirements for the district in which it is located unless it is part of a planned unit

development. If a newly created parcel lies in two districts, the more restrictive dimensional standards shall apply.

b. The permitted and conditional use restrictions for the district in which the use is to occur shall control, and if the use is to occur in both districts, it must conform to the restrictions of both.

c. When building a structure, the minimum frontage and setback requirements for the district in which the structure is to be located shall control, and if the structure is to be in both districts, the smaller requirement shall control.

3.3 ZONING DISTRICT PURPOSES AND SUPPLEMENTAL STANDARDS

The following section sets forth the stated purpose and supplemental standards for each zoning district.

A. **Village Center District**

Purpose: The Village Center district represents the historic center of Bakersfield. This district has a distinct historic character which features mixed residential, commercial and public uses in a historic village setting. Development in this district should protect and preserve existing historic resources, promote pedestrian access and maintain the village character, including its historic settlement pattern, scenic character and sense of community.

B. **High Density Residential District**

Purpose: This district is comprised of the area around the village center where additional high-density development could be accommodated. This district provides a transition between the compact development of the village center and the rural areas of Bakersfield. It is designed to allow a radial pattern of development around the village in an effort to discourage linear sprawl. Development in this district should complement and extend the character and traditional development pattern of the village core. Interconnected street networks and pedestrian access are encouraged in this district.

C. **Rural District**

Purpose: It is intended that this district remain rural, agricultural and silvicultural. The preservation of farmland and prime agricultural soils is a major objective. Rural residential development and compatible rural uses, at a density the land can support are permitted. Clustered development that protects large, contiguous tracts of farmland or open space is appropriate in this district. Within the rural district, additional restrictions are included to protect an important Heron Rookery in northwestern Bakersfield, consistent with the requests of the Vermont Department of Fish and Wildlife.

D. **Conservation District**

Purpose: This district is designated to protect the natural resources and scenic value of mainly forested lands that lack direct access to public roads, are important for wildlife and wildlife habitat, and which are poorly suited for development. Included are areas of high elevation, steep slopes and swamplands. Concern must be given to building on any slope greater than 15% because the soils in these areas tend to be thin and unstable, making them unsuitable for development. The Conservation District includes the watershed that provides Bakersfield's municipal water supply and land uses that might

reduce the water quality in this area are restricted. Only limited, low-density development is to be permitted in this district.

Supplemental Standards
In the Conservation District, all major subdivisions shall be developed as PUDs, and lots shall be clustered to minimize the impact of development.

E. **Aquifer Overlay District**

Purpose: The purpose of the Aquifer Overlay District is to protect the public health and safety by preserving and maintaining the community water source from incompatible development.

Supplemental Standards

1. Any use not permitted or conditional in the underlying zoning district shall be prohibited.

2. The following uses are specifically prohibited in the Aquifer Overlay District:

    a. Any use which involves the generation, storage, use, treatment, transportation or disposal of hazardous materials
    b. Waste handling and storage facilities (landfills)
    c. Salvage yards
    d. Excavation and earth resource extraction
    e. Motor vehicle & equipment, sales and service
    f. Gasoline station (including a car wash).
    g. Retail establishments that include the storage and sale of heating fuels, including, but not limited to oil, coal, and gas
    h. Business services that provide dry cleaning (including laundromats).
    i. Light industry (including manufacturing).
    j. Commercial water extraction
    k. Open storage of road salt or other de-icing materials
    l. Disposal of snow that has been brought in from outside the district

3. The following structures are specifically prohibited in the Aquifer Overlay District:

    a. New principal structures
    b. Underground fuel storage tanks

4. Existing principal structures within the Aquifer Overlay district shall be treated as conforming structures and shall not be subject to Section 5.8.

F. **Flood Hazard Overlay District**

Purpose: The purpose of the Flood Hazard Overlay District is to minimize and prevent the loss of life and property, the disruption of commerce, and the extraordinary costs that result from flooding and other flood-related hazards. Within this district, the design and construction of development should be accomplished in a manner that minimizes or eliminates the potential for flooding and loss or damage to life and property. Uses in the flood hazards areas shall be restricted to agriculture, conservation and outdoor recreation.

3.4 ZONING DISTRICT USES AND DIMENSIONAL STANDARDS

A. All uses and structures must meet the district dimensional requirements and all other applicable provisions of these regulations except as authorized by a variance, by approval of a planned unit development or as allowed by Section 5.8 – Nonconformities.

B. Table 3.1 lists uses and structures for each district. Procedures for review of each type of use are found in Article 4 – Permit Review Procedures and Standards. An explanation of each type of use may be found in Section 5.2 - Uses.

   Table 3.1 contains the following uses: permitted uses (P), permitted uses that require site plan approval (P/S), conditional uses (C), uses that require conditional use and site plan approval (C/S), and prohibited uses (X). <u>All uses require, at minimum, a zoning permit per Section 4.1 – Permitting Process.</u>

C. The supplemental standards imposed by the Aquifer Overlay District and Flood Hazard Overlay District are in addition to the requirements of the underlying district.

D. Uses not specifically listed in Table 3.1 shall be considered prohibited unless such use is approved by the Board of Adjustment as a Conditional Use in accordance with the following:

   1. The Board of Adjustment must find that the use is of the same general character as those permitted or allowed as conditional uses in the area in which the use is proposed. The burden of proof to show that the proposed use is of the same general character as allowed uses in the area shall be on the applicant.

   2. In reaching its decision, the Board of Adjustment must hold a public hearing after public notice, and send notice to the Planning Commission 15 days in advance of the hearing. The Planning Commission may submit written or oral recommendations to the Board of Adjustment relative to the acceptability of the proposed use. The Board of Adjustment will determine the minimum lot size, setbacks, lot frontage and other requirements for the use based on the area regulations and requirements for similar uses. In no case will the minimum lot size, setback or frontage be less than the minimum otherwise required in the zoning district.

Table 3.1. Dimensional Standards and Uses by Zoning District

Dimensional Standards					
	Village Center	**High Density Residential**	**Rural**	**Conservation**	
Minimum Lot Size (acres)	0.25	1	10	25	
Min. Frontage (feet)	60	125	275	400	

Max Setback from Road (feet measured from center line of road)	125	n/a	n/a	600	
Min Setback from Road (feet measured from center line of road)	35	50	50	50	
Min. Setback – Rear and Side Yard (feet measured from property line)	5	10	30	30	
Uses					
	Per Section 4.1: "No land development, as defined in Article 11 shall commence in the Town of Bakersfield without a zoning permit issued by the Zoning Administrator unless specifically exempted in Section 1.7." "P"-Permitted Use; "C"-Conditional Use; "S"-Site Plan Review; "X"-Prohibited				
	Village Center	**High Density Residential**	**Rural**	**Conservation**	**Please refer to:**
Residential Uses					
Accessory Use	P	P	P	P	Section 5.2
Accessory Dwellings	P	P	P	P	Section 6.2
Camps	X	X	P	P	for conversion of camps to year-round dwellings, see Section 6.3
Child Care Home	P	P	P	P	
Senior Housing	P/S	P/S	X	X	
Group Home or Residential Care Home	P	P	P	P	
Mobile Home Park	X	C/S	C/S	X	Section 6.10
Multi-Family Dwelling	C/S	C/S	X	X	
Single Family Dwelling	P	P	P	P	
Two-Family Dwelling	P	P	P	X	
	Village Center	**High Density Residential**	**Rural**	**Conservation**	**Please refer to:**
Non-Residential Uses					
Bed and Breakfast	P/S	P/S	P/S	C/S	
Business Services	P/S	P/S	C/S	X	

Campgrounds	X	C/S	C/S	X	Section 6.5
Child Care Facility	P/S	P/S	C/S	X	
Commercial Water Extraction	X	X	X	X	Section 6.8
Contractor's Yard	X	P/S	X	X	
Cottage Industry	C	C	C	C	Section 6.7
Excavation & Earth Resource Extraction	X	C/S	C/S	X	Section 6.8
Gas Station	P/S	P/S	X	X	Section 6.6
Home Occupation	P	P	P	P	Section 6.7
Hotels/Motels	P/S	P/S	X	X	
Indoor Recreation Facilities	P/S	P/S	X	X	
Light Industry	P/S	P/S	X	X	
Mixed Use	C/S	C/S	C/S	X	Section 6.9
Motor Vehicle Service and Repair	C/S	C/S	C/S	X	
Non-Profit Club	P/S	P/S	P/S	X	
Outdoor Recreation Facilities	C/S	C/S	C/S	C/S	
Public Facilities	P/S	P/S	P/S	P/S	Section 1.7
Restaurant	P/S	P/S	P/S	X	
Retail Establishments	P/S	P/S	X	X	
Rooming/Boarding House	P/S	P/S	P/S	X	
Salvage Yards	X	X	C/S	X	Section 6.11
Telecommunications Facilities	S	S	S	S	Section 6.12
Wind Energy Conversion Systems	S	S	S	S	Section 6.13

ARTICLE 4 PERMIT REVIEW PROCEDURES AND STANDARDS

4.1 PERMITTING PROCESS

A. No land development, as defined in Article 11- Definitions, shall commence in the Town of Bakersfield without a zoning permit issued by the Zoning Administrator unless specifically exempted in Section 1.7 – Limitations and Exemptions. Where conditional use approval, site plan approval, a variance or flood hazard area development approval is required, such approval is required prior to issuance of a zoning permit. For more information about zoning permits, please see Section 2.4 – Issuance of Zoning Permits and Decisions.

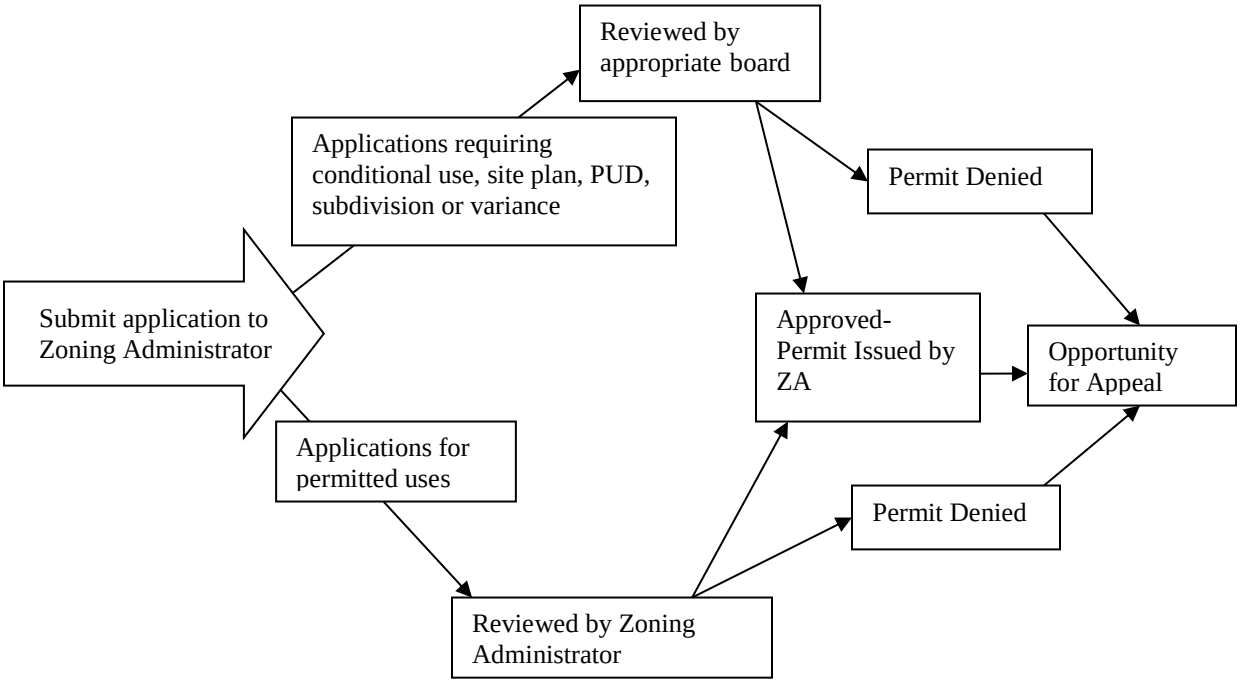


Figure 4.1 The development review process in Bakersfield.

4.2 APPLICATION REQUIREMENTS

A. An application for a zoning permit shall be complete and be submitted to the Zoning Administrator along with the permit fee and all other approvals required by these regulations. A complete application for a zoning permit or any type of development review approval must be on an application form provided by the Town of Bakersfield and must contain all applicable application requirements listed in Table 4.1.

TABLE 4.1 APPLICATION REQUIREMENTS
Requirements for *all* land development applications:
Name and address of the owner(s) of record.
A statement of the existing and intended use of land and structures
A list of names and most recent mailing addresses of all abutting property owners, without regard to public rights of way (ie, properties across the street are considered to be abutting).
The lot, block, and section number of the property from the most recent municipal tax record.
Information regarding any potential for odor, noise, smoke, dust, dirt, noxious gas, glare, fire, or explosion during the construction of the development or the proposed use of the land.
One (1) original and one (1) complete copy of a site plan, drawn to scale, with north arrow and date of preparation. *(If requested by the planning commission, site plans shall be prepared by a licensed engineer, surveyor, or architect, the name of which shall be noted on the map along with map scale, north arrow, and date of preparation)*
Each application shall show the following information in sufficient detail to determine whether the proposal is in conformance with these regulations:
General site location in relation to public roads and nearest intersection.
Boundaries and areas of all contiguous land of the land of record.
Dimensions of the lot and lot acreage, including legal property boundaries.
Zoning district boundaries.
Location, footprint, and height of existing and proposed structures, additions, and land use areas.
Location of existing and proposed easements, rights-of-way, sidewalks, and utilities.
Location of surface waters, wetlands, floodplains, rock outcroppings, and stands of trees.
Setbacks from property boundaries, rights-of-way, surface waters, and wetlands (including information about wetland classification).
Any other information that may be needed to determine compliance with these regulations.
Additional requirements for land development requiring approval from the Planning Commission or Board of Adjustment (excluding subdivision) :
The location of all major vegetation and natural features on the site.
Location and dimension of parking areas, loading and unloading facilities, points of ingress and egress of vehicles to and from the site to public streets, and pedestrian rights-of-way.
Location, height, and lumens of outdoor lighting.
Topography indicating contours at intervals of not more than 50 feet.

TABLE 4.1 APPLICATION REQUIREMENTS			
Soil types.			
Existing and proposed landscaping and screening.			
The location of all proposed site grading and excavation.			
A letter of intent from the Agency of Transportation confirming that the Agency has reviewed the proposed site plan and is prepared to issue an access permit under 19 V.S.A. § 1111 (if applicable).			
In addition, each application for site plan, conditional use, and variance approval shall include the following, as applicable:	**Site Plan Review**	**Conditional Use Review**	**Variance Requests**
Construction sequence and time schedule for completion of each phase of development	✓	✓	
Plans for onsite erosion control during construction	✓		
Detailed specifications of planting and landscaping materials to be used, and a plan for long term maintenance and replacement of plantings.	✓		
Cost estimates of all site improvements.	✓		
Statement of how the proposed development fits the purposes of the zoning district in which it is located.		✓	
Expected impact on existing and planned community facilities		✓	
Estimated daily and peak traffic generation		✓	
A statement describing the variance requested from one or more provisions of these Regulations and the alleged grounds why such relief is believed proper under the circumstances based on the five (5) statutory criteria listed in Section 4.5 and § 4449 of the Act.			✓
Any other information which the Planning Commission or Board of Adjustment requires to ensure that the provisions of these regulations are met.	✓	✓	✓

B. Waivers of Application Requirements. An applicant may request waivers from the application requirements for site plan, conditional use, and variance applications, in writing, when submitting an application. The Planning Commission or Board of Adjustment may waive one or more of the listed application requirements in the event they determine the items to be unnecessary for the comprehensive review of the application. Such waiver shall be issued in writing when the application is accepted and deemed complete by the Planning Commission or Board of Adjustment.

4.3 SITE PLAN REVIEW

A. The intent of Site Plan review is ensure that projects be of high quality, attractive and functional site design, and that overall building and site design be consistent with the purpose and character of the district within which it is located. Standards and conditions emphasize those considerations related to internal layout of the site, its physical design and appearance as viewed from off-site, and the functional integration of the site with surrounding properties and uses.

In any district, no permit shall be issued by the Zoning Administrator for uses requiring site

plan approval as listed in Table 3.1 until that approval is granted by the Planning Commission.

B. **Site Plan Review Standards**. When reviewing and deciding on a site plan, the Planning Commission may consider and impose appropriate safeguards, modifications, and conditions relative to Article 5 - General Regulations and Article 8 - Planning and Design Standards. The Planning Commission shall pay specific attention to the following standards:

1) Adequacy of parking and loading facilities (Section 5.10)
2) Traffic access and circulation (Section 5.4).
3) Pedestrian and bicycle access requirements (Section 8.3)
4) Adequacy of landscaping and screening (Section 8.6)
5) Outdoor lighting (Section 5.9)
6) Size, location and design of signs (Section 5.13)
7) Adequate stormwater management and erosion control measures (Section 8.5)
8) Performance Standards (Section 5.11)

C. **District and Specific Use Standards:** In addition to the site plan standards above, a proposal must meet the district dimensional standards identified in Article 3 – General Regulations and, as applicable, the specific use standards under Article 6 of these regulations.

D. **State Highway Access Permit.** Whenever a proposed site plan involves access to a State highway, the application for site plan approval shall include a letter of intent from the Agency of Transportation confirming that the Agency has reviewed the proposed site plan and is prepared to issue an access permit under 19 V.S.A. § 1111, and setting out any conditions that the Agency proposes to attach to the section 1111 permit.

4.4 CONDITIONAL USE REVIEW

A. The intent of conditional use review is to ensure compliance with standards addressing the impact of proposed land uses on adjacent properties, the neighborhood or district in which the project is located, and the community at large [24 VSA § 4414 (3)]. Standards and conditions emphasize those considerations in which off-site impacts of a proposed project can be identified, avoided and/or mitigated.

B. **Conditional Use Review Standards**. When determining the appropriateness of a proposed conditional use, the Board of Adjustment shall determine that the development or use will not have an undue adverse impact on any of the following general conditional use standards:

1. *The capacity of existing or planned community facilities*. The Board shall consider demand for community services and facilities that will result from the proposed development and determine whether that demand will exceed the capacity of existing facilities or services (such as school capacity, emergency services, recreation fields, etc.). Conditions may be imposed regarding the timing and phasing of development to minimize the impact on community facilities and services, including requiring the applicant to contribute funds and/or physical improvements toward the provision of new or expanded facilities to mitigate the impacts of the proposed development.

2. *The character of the area affected as defined by the purpose or purposes of the zoning district within which the project is located, and specifically stated policies and standards of the Town Plan*. The Board shall consider the design, location, scale, and intensity of the proposed development and/or use, relative to the surrounding area. For the purposes of conditional use review, "surrounding area" is defined as that area likely to be affected by the proposed use, including but not limited to properties within sight or sound of the proposed conditional use. 'Character of the area' refers to the distinctive traits, qualities, attributes, appearances, pattern of use, sense of community and factors that define its identity. The existence of one conditional use in a district will not necessarily be interpreted as justification for another similar conditional use to be located there. When considering the impact of a proposed conditional use on the character of the area affected, the Board shall consider the proposal's compatibility with the purpose and character of the affected zoning district as defined in Section 3 of these regulations, the Town Plan, and the testimony of the interested parties.

3. *Traffic on roads and highways in the vicinity*. The Board shall consider the projected impact of traffic resulting from the proposed development on the capacity, safety, efficiency, and use of affected public roads, bridges, and intersections. The Board will rely on accepted transportation standards, in evaluating traffic impacts, and shall not approve a project that would result in the creation of unsafe conditions for pedestrians or motorists, or unacceptable levels of service for local roads, highways, and intersections. The Board shall consider the projected impact of traffic resulting from the proposed development on the capacity, safety, efficiency, and use of affected public roads, bridges, and intersections.

4. *Bylaws or ordinances now in effect*. Proposed conditional uses must conform to all municipal bylaws and regulations in effect at the time of submission of the application, including conformance with the policies of the Bakersfield Town Plan and compliance with conditions of prior permits or approvals, including subdivision approval.

5. *Utilization of renewable energy resources*. The Board will consider whether the proposed development will interfere with the sustainable use of renewable energy resources by diminishing the future availability of such resources or by eliminating nearby property owners' access to such resources.

C. **Conditions of Approval.** In permitting a conditional use, the Board of Adjustment may impose conditions deemed necessary to meet the five conditional use criteria outlined above, the district standards, or any other provision of this regulation. These conditions may include, but are not limited to, the following:

1. Limitations on the coverage or height of buildings because of obstructions to view, the reduction of light and air to adjacent property, or to prevent adverse impacts to water quality or other identified natural features
2. Limitations on the location and number of vehicular access points to the property
3. Increased or decreased street width requirements or other modifications to street design to ensure vehicular and pedestrian safety
4. Limitations on the hours of operation or levels of daily truck traffic permissible
5. Requiring measures to minimize the adverse effects of land alterations on soil erosion, water quality, and scenic beauty as may be recommended by the County Forester, Natural Resource Conservation Service, district highway engineer, or other experts

6. Requirements for suitable landscaping where necessary to reduce noise and glare and to maintain the property in keeping with the surrounding area
7. Specifying a time limit for construction of improvements to land or structures, including conditions to phase residential developments to minimize the impact on schools and other community facilities and services
8. Any additional conditions and safeguards that the Board of Adjustment deems necessary to implement the purposes of the Act, the Town Plan, or these zoning regulations.

Figure 4.2 - Determining Undue Adverse Effect

The following test shall be used by the Planning Commission and Zoning Board of Adjustment when the bylaw requires the Planning Commission and/or the Zoning Board of Adjustment to determine whether or not an undue adverse effect is being created.

1. First, the Planning Commission and/or the Zoning Board of Adjustment shall determine if a project is creating an adverse effect upon the resource, issue and/or facility in question. The Planning Commission and/or the Zoning Board of Adjustment shall determine such by responding to the following question:

    a) Does the project have an unfavorable impact upon the resource, issue and/or facility in question?

2. If it has been determined by the Planning Commission and/or the Zoning Board of Adjustment that an adverse effect is being created by a project, the Planning Commission and/or the Zoning Board of Adjustment shall then determine if the adverse effect is undue. To determine whether or not an adverse effect is undue, the Planning Commission and/or the Zoning Board of Adjustment shall respond to the following two questions:

    a) Does the project conflict with a clear, written standard in these Regulations or the Municipal Plan applicable to the resource, issue or facility in question?

    b) Can the unfavorable impact be avoided through site or design modifications, or mitigation, or other conditions of approval?

The Planning Commission and/or the Zoning Board of Adjustment shall conclude that adverse effect is "undue" if the answer to 2(a) is YES **OR** the answer to 2(b) is NO.

4.5 VARIANCE REVIEW

A. An applicant may apply for a variance from the provisions of these regulations from the Board of Adjustment for any structure.

B. **Standards.** In accordance with 24 VSA §4469, the Board of Adjustment may grant a variance only if all the five (5) facts listed below are found, and the findings are specified in its written decision.

1. There are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to these conditions, and not the circumstances or conditions generally created by the provisions of the bylaw in the neighborhood or district in which the property is located.

2. Because of these physical circumstances or conditions, there is no possibility that the property can be developed in strict conformance with the provisions of the bylaw, and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

3. Unnecessary hardship has not been created by the applicant.

4. The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare.

5. The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the bylaw and from the plan.

C. Variances for structures located in the Flood Hazard Overlay District shall only be granted in accordance with the criteria for granting variances found in 44 CFR, Section 60.6, of the National Flood Insurance Program regulations.

D. In making a decision in favor of the applicant for a variance, the Board of Adjustment may attach conditions that are necessary to implement the Act and/or the Town Plan. In no case shall the Board grant a variance for a use that is not permitted or conditionally permitted within the zoning district, or that results in an increase in allowable density.

E. **Renewable Energy Structures.** On an appeal for a variance from the provisions of these regulations that is requested for a structure that is primarily a renewable energy resource structure, the Board may grant such variance only if it finds that the relief requested meets all requirements listed in the Act [§4469(b)] and are specified in its decision.

ARTICLE 5 GENERAL REGULATIONS

5.1 APPLICABILITY

A. The following standards shall apply to all land development, as defined in Article 11 – Definitions, in all zoning districts. If there is conflict between a standard in this section and a standard in another part of these regulations, the more restrictive shall apply.

5.2 USES

A. **Preexisting Uses**. Any use lawfully existing as of the effective date of these regulations shall be authorized to continue solely on the basis of the provisions of these regulations.

B. **Preexisting Non-conforming Uses.** Pre-existing uses that do not conform to the requirements of these regulations shall be subject to the provisions of Section 5.8 - Nonconformities.

C. **Permitted Uses.** Permitted uses are marked in Table 3.1 by the letter 'P'. In districts where they are allowed, permitted uses require a zoning permit and may be approved by the Zoning Administrator subject to the development permit standards in Article 4.

D. **Conditional Uses.** Conditional uses are marked in Table 3.1 by the letter 'C'. Conditional uses require approval by the Zoning Board of Adjustment according to the conditional use provisions in Section 4.4 as a pre-requisite to the Zoning Administrator issuing a zoning.

E. **Exempt Uses.** Uses that are exempt from the requirements of these regulations are listed in Section 1.7.

F. **Prohibited Uses and Uses Not Specifically Listed**

1. Prohibited uses are in Table 3.1 by the letter "X" and are not allowed in the corresponding zoning district.

2. Uses not specifically listed in Table 3.1 shall be considered prohibited unless such use is approved by the Board of Adjustment as a conditional use subject to the criteria in Section 3.4(D).

G. **Principal Uses.** There shall be only one principal use on a lot. However, properties may have more than one principal use on a lot if the property has received approval for mixed use per Section 6.9 – Mixed Use.

H. **Accessory Uses.** Accessory uses may be permitted by the Zoning Administrator subject to the following requirements.

1. Relation to Principal Uses. Accessory uses are permitted only in connection with, incidental to, and on the same lot with, a principal use which is permitted in the particular zoning district. Accessory uses are subject to the requirements outlined in Table 3.1.

2. Accessory Dwelling Units. Accessory dwelling units as mandated by 24 VSA 4412 (1)(E) shall be regulated as set forth in Section 6.2 – Accessory Dwelling Units.

I. **Temporary Uses**. See Section 5.3 - Temporary Structures.

5.3 STRUCTURES

A. **Preexisting Structures.** Any pre-existing structure lawfully existing as of the effective date of these regulations shall be authorized to continue solely on the basis of the provisions of these regulations.

B. **Pre-existing Non-conforming Structures.** Pre-existing structures that do not conform to the requirements of these regulations shall be subject to the provisions of Section 5.8 – Nonconformities.

C. **Principal Structures.** A structure or a group of structures in or on which is conducted the principal use(s) of the lot. There may be more than one principal structure on a lot.

D. **Accessory Structures.**

1. **Relation to Principal Structure.** Accessory structures are permitted only in connection with, incidental to, and on the same lot with, a principal structure which is permitted in the particular zoning district. No accessory structure shall be occupied or utilized unless the principal structure to which it is accessory is occupied or utilized.

2. **Location.** Accessory structures shall not be erected in any right-of-way, easement or setback.

E. **Exempt Structures.** Structures that are exempt from the requirements of these regulations are listed in Section 1.7 – Limitations and Exemptions.

F. **Temporary Structures.** A zoning permit may be issued by the Zoning Administrator for conforming and non-conforming structures that are incidental to construction projects, providing the structures shall be discontinued and removed from the property within six months from the date of the permit. Such permits may be renewed for three additional periods not to exceed six months each, upon application to the Zoning Administrator.

G. **Abandoned Structures.** Any structure shall be deemed abandoned when it has not been maintained for at least one (1) year. Abandoned structures must be either maintained or demolished. There is no time limit on how long a structure may remain abandoned provided it is maintained in the judgment of the Zoning Administrator. A maintained dwelling unit is habitable with intact exterior walls, intact windows, and an intact roof.

H. **Destroyed or Damaged Structures.** Within one (1) year after any structure has been destroyed or damaged by fire, or other cause, or if active work on an uncompleted construction project has not occurred in such period and the Zoning Administrator determines that the structure constitutes a health or safety hazard, the owner of the structures shall either:

1. Remove all ruins and structural materials and restore the site to a smooth grade, or

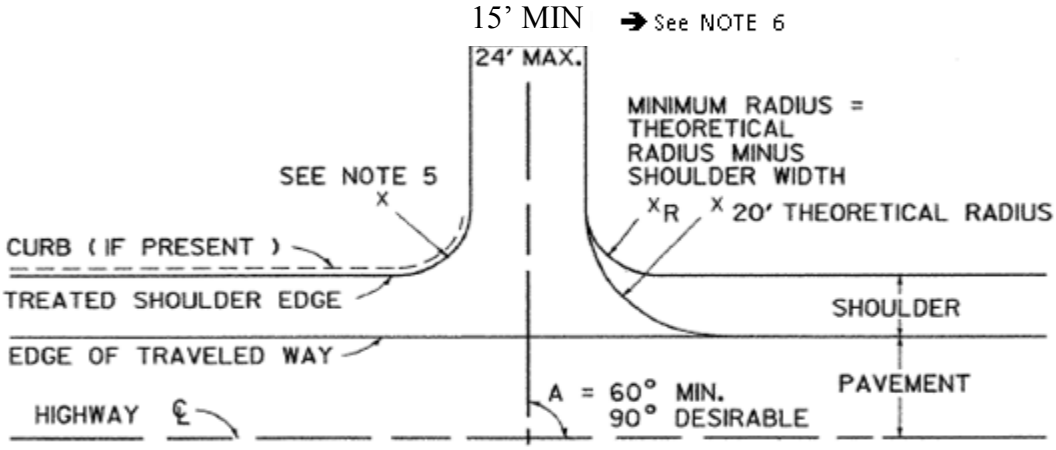
2. Reconstruct, repair or resume construction of the structure. Reconstruction of a destroyed structure shall require a zoning permit. Provided that the application for reconstruction is submitted within 1 year of the date of loss and that the new structure will be within the same footprint and of the same height as the previous structure, the Zoning Administrator shall approve the application. Otherwise, a full application and all applicable approvals will be required.

5.4 ACCESS AND DRIVEWAYS

A. **Access.** In accordance with the Act [§4412(3)], land development may be permitted on lots which do not have frontage on either a maintained State, Class I, II, III, Class IV town highway or public waters, only with the approval of the Planning Commission. Access to a pre-existing lot that lacks necessary frontage shall be approved by the Planning Commission subject to site plan review under Section 4.3 or subdivision review (Article 7) if subdivision of land is proposed. Access to such a lot shall be provided by a permanent easement or right-of-way at least 20 feet wide. The Planning Commission may consider the intended use of the property, safety, traffic, and road and site conditions in granting, conditioning or denying approval. The Planning Commission may require a wider right-of-way if the Planning Commission determines that a wider right-of-way is necessary for reasons of safety or future growth and development patterns.

B. **Driveways.** For the purposes of these regulations, driveways shall be defined as access drives or easements serving one or two lots and shall meet the following standards:

Figure 5.1 – B-71 Standards for Residential Drives (VTrans)



Note 5. *If Curb is present, see appropriate curb detail standard or match town/city standard curb treatment.*
Note 6. *The actual VTRANS B-71 minimum standard width for residential drives is 12 feet. The Town of Bakersfield requires an additional 3 feet.*

1. Driveways shall have a minimum traveled way of 15 feet and beyond this requirement, be constructed according to the Vermont Agency of Transportation's B-71 Standards for Commercial and Residential Driveways (See Figure 5.1 above) unless otherwise required under subdivision or site plan review.

2. Driveways exceeding 400 feet in length shall include space sufficient for emergency access vehicles, including fire trucks, to turn around. Submittal of a letter from the Town's Fire Chief confirming that this standard has been met shall be required.

3. Driveways exceeding 400 feet in length shall include, at minimum, one 12 foot x 50 foot pull-off area.

4. Maximum driveway grade shall not, in any 50-foot section, exceed an average of ten (10) percent. Proposed driveways with grades between ten (10) percent and fifteen (15) percent may be approved by the Zoning Board of Adjustment subject to conditional use approval and submittal of a letter from the Town's Fire Chief with the conditional use application indicating that the proposed driveway can accommodate fire and rescue access.

5. All driveways entering onto public roads shall be subject to Section 2.5 – Road Access Permit.

6. No driveway or exit shall be located within fifty (50) feet of a road intersection with the exception of driveways located in the Village Zoning District.

7. Where a site occupies a corner of two (2) intersecting roads, the driveway access shall be located on the less traveled road.

8. In reviewing for compliance with access requirements, particular consideration shall be given to visibility at intersections, to traffic flow and control, to pedestrian safety and convenience, and to access in case of emergency.

9. In appropriate instances, including the presence of compatible adjacent uses, areas characterized by congestion and frequent and/or unsafe turning movements, the Planning Commission or Board of Adjustment can require shared driveways between adjoining properties.

10. A driveway providing access to a camp shall not be required to meet the requirements of this section.

5.5 EXISTING SMALL LOTS

A. Any lot that is legally subdivided, is in individual and separate and non-affiliated ownership from surrounding properties, and is in existence on the date of enactment of these regulations, may be developed for the purposes permitted in the district in which it is located, even though the lot does not conform to minimum lot size requirements of these regulations, provided such lot is more than one-eighth acre or has a minimum width or depth dimension of at least 40 feet. If any lot not conforming to the minimum lot size requirements in the district in which it is located, is or subsequently comes under common ownership with one or more contiguous lots, the nonconforming lot(s) shall not be deemed merged and shall be considered separate lots.

5.7 HEIGHT LIMITATIONS

A. No structure shall exceed thirty-five (35) feet in height. The Board of Adjustment may permit structures in excess of thirty-five (35) feet as a conditional use provided that the structure meets the standards in Section 4.4 – Conditional Use, the structure does not constitute a hazard, or a nuisance, and that the portion of the structure above thirty-five (35) feet shall remain unoccupied except for normal maintenance.

5.8 NONCONFORMITIES

A. **Applicability.** This section shall apply to any structures and uses existing on the effective date of these regulations that do not conform to the requirements set forth in these regulations.

B. **Non-conforming uses**. Any non-conforming use of a structure or of land may be continued indefinitely except that a non-conforming use shall not be reestablished after being discontinued for a period of five years, or after being changed to, or replaced by, a conforming use for any length of time. Intent to resume a non-conforming use shall not confer the right to do so.

C. **Non-conforming structures.**

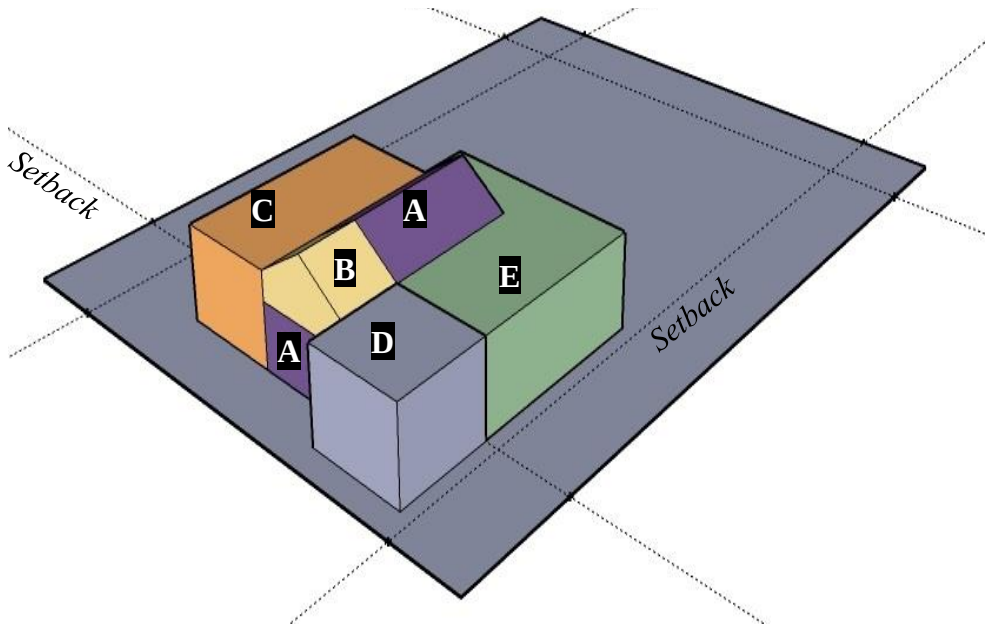
1. No provision of these regulations shall prevent the normal maintenance and repair of a non-conforming structure provided that such action does not increase the degree of non-compliance.

2. The Board of Adjustment may permit, as a conditional use per Section 4.4, the alteration or expansion of a non-conforming structure provided:

    a. Such action does not increase the degree of non-compliance and will not substantially impair the appropriate use or development of adjacent property; or if the sole purpose of such action is compliance with mandated environmental, safety, or energy codes, laws or regulations.

Figure 5.2 Increasing the Degree of Nonconformity

The building 'A' is the original nonconforming structure, which encroaches into the setback. Addition 'B' does not increase the degree of non-conformance because it is located within the footprint of the existing structure. Addition 'C' increases the degree of nonconformance because it adds building footprint, floor area or height within the setback. Addition 'D' also increases the degree of nonconformance because it encroaches further into the setback than Building 'A'. Addition 'E' does not increase the degree of nonconformance because it is not within the setback area.



3. In the event that a non-conforming structure is destroyed by a *force majeure*, the structure shall be rebuilt only in compliance with these regulations if it is physically possible to do so. The property owner may apply for a waiver from this provision if a hardship would be created by rebuilding in strict conformance with the requirements of these regulations. In considering a waiver from this provision the Board of Adjustment shall take into consideration the ability of the applicant to utilize remaining features of the property such as foundation, water supply, sewage disposal system, topography, underground utilities, etc. No fee shall be charged for a waiver application to the Board of Adjustment necessitated by replacement of a structure destroyed by a *force majeure*.

5.9 OUTDOOR LIGHTING

A. **Applicability.** The following standards shall apply to land development in the Town of Bakersfield to ensure that undesirable effects of outdoor lighting are minimized.

B. **Intent**. The residents of the Town of Bakersfield strongly value the town's rural character including the ability to clearly view and enjoy the night sky**.** It is also recognized that, while some outdoor lighting may be necessary for security and safe operation, inappropriate or poorly designed or installed lighting can create unsafe conditions and a nuisance for adjoining property owners, cause sky glow which obstructs night views of the sky, and result in the unnecessary use of electricity.

C. **General Standards**. The following general standards apply to all outdoor lighting in the Town of

Bakersfield, with the exception of temporary holiday lighting:

1. All outdoor lighting shall be kept to the minimum required for safety, security and intended use, consistent with the character of the neighborhood in which it is located.

2. Permanent outdoor lighting fixtures shall not direct light beyond the boundaries being illuminated or onto adjacent properties, or public waters, shall minimize glare, and not result in excessive lighting levels which are uncharacteristic of a rural area. Lighting fixtures shall be cast downward and/or designed to minimize glare. Such fixtures may include recessed, shielded or cutoff fixtures, and/or low luminance lamps (e.g., 150 watts or 2,000 lumens).

3. The use of timers, dimmers, and/or sensors wherever practicable is encouraged on outdoor lighting fixtures to reduce energy consumption and eliminate unneeded lighting.

5.10 PARKING

A. Off-street parking spaces shall be provided, as follows, in any district whenever any new use is established or when an existsing use is enlarged or changed. Parking requirements for uses not listed below will be determined by the Planning Commission or Board of Adjustment during conditional use and/or site plan review:

Table 5.1 Parking Space Requirements	
USE	**PARKING REQUIREMENTS**
Childcare Facilities	1 per four children plus 1 per employee
Churches & Schools	1 per 6 seats in assembly room
Clinics, Nursing & Group Homes	1 per 3 beds plus 1 per employee
Clubs (non-profit)/Societies	1 per 4 members
Industry	2 per 3 employees on largest shift
Lodging Establishments (including hotel/motel and bed and breakfasts)	1 per lodging (rental) unit
Professional & Business Services Establishments	1 per 200 sq. ft. of gross floor area
Public Facilities	1 per 250 sq. ft. of gross floor area
Residential	2 per dwelling unit
Restaurants (not including drive-in)	1 per 4 seats plus 1 per employee
Retail Establishments	1 per 250 sq. ft. of floor space
Unspecified Uses & Off-street Loading	as required by Board of Adjustment or Planning Commission

B. Off-street parking for uses located in the Village Center and High Density Residential Districts shall be located in the rear of principal structures or on the side of the principal structures. Parking shall be considered on the side of the structure if it is located behind the front façade line of the structure.

5.11 PERFORMANCE STANDARDS

A. The following performance standards shall be met by all uses in all districts. All land uses shall not:

1. Emit any intensity of odor that is considered both offensive and uncharacteristic of the area; normal agricultural odors shall not be deemed uncharacteristic of this Town.

2. Emit any level of noise that is considered both offensive and uncharacteristic of the area; normal agricultural and animal noises shall not be deemed uncharacteristic of this Town.

3. Emit any smoke, dust, dirt, or noxious gases that endanger the health, comfort, safety, or welfare of the public or adjoining property owners, or that causes damage to property, business, or vegetation.

4. Emit glare or reflection that impairs the vision of motor vehicle operators, constitutes a nuisance to other property owners, or that is detrimental to public health, safety, and welfare.

5. Present a risk of fire, explosion, or threat to safety that endangers the public or results in an increased burden upon municipal facilities.

6. Discharge sewage, septage, or other harmful wastes into any water course or into any sewage disposal system beyond its proper capacity.

5.12 PRIMARY CONSERVATION RESOURCES

A. **Applicability.** This section shall apply to all land development in Bakersfield that impacts primary conservation resources as defined in Article 11 – Definitions.

B. **Steep Slopes over 25 Percent Grade.** Steeply sloping lands (over 25 percent grade) are prone to severe erosion if disturbed. Erosion and the resulting overland flow of soil sediments into streams, ponds and public roads, are detrimental to water quality and aquatic life, and a potential hazard to public safety.

1. No site disturbance or land development shall be allowed on slopes exceeding 25 percent.

2. Slopes exceeding 25 percent that are created by an extraction or quarrying use approved per Section 6.8 – Excavation and Earth Resource Extraction shall be exempt from this section.

C. **Wetlands.** The intent of this regulation is to minimize the net loss of wetlands in the Town of Bakersfield. Wetlands classified by the State of Vermont as Class 1 and Class 2 wetlands are valuable resources. Wetlands' functions (e.g. water and air purification, flood attenuation, speciation, and nutrient cycling) are critical to the support of human, animal and plant populations.

1. Applicability. The Vermont Significant Wetlands Inventory (VSWI) maps published by the Vermont Agency of Natural Resources should be used by applicants as a tool to determine whether or not a wetland may exist on a property. However, such maps should not be relied upon to provide precise information regarding the location or configuration of wetlands. Where uncertainty exists as to the existence or location of a significant wetland, the Zoning Administrator, Planning Commission and/or Zoning Board of Adjustment shall require that the applicant submit written documentation of such based on consultation with a State Wetlands Ecologist or a private consultant with expertise in identifying wetlands before issuing a zoning permit or any type of development review approval.

2. Review Standards.

   a. No land development shall be permitted in a Class 1 or Class 2 wetland, except as exempted in (c) below.

   b. No land development shall be permitted within the 50 foot buffer surrounding a Class 1 or Class 2 wetland, except as exempted in (c) below.

   c. Driveways, public and private roads are exempt from this subsection if a State Wetlands Individual or General Permit has been issued to the applicant by the Vermont Agency of Natural Resources.

   d. In order to protect the Heron Rookery shown on the Official Zoning Map, land development is restricted within 650 feet from the boundary of the associated wetland. The boundary of this wetland may change over time. The Vermont Department of Fish and Wildlife shall be notified in writing by the applicant if any land development is proposed within the 650 feet buffer from the wetland associated with the Heron Rookery.

D. **Special Flood Hazard Area.** The Special Flood Hazard Area, or 100-year floodplain, is considered a primary conservation resource. Land development within the Special Flood Hazard Area is regulated via Article 10 – Flood Hazard and River Corridor Regulations.

5.13 SIGNS

A. A zoning permit shall be required prior to the erection, construction, or replacement of any outdoor sign except the following, which shall be exempt from permit requirements:
   1. Signs erected by the Town, or State, on public roads,
   2. Non-advertising signs placed for safety purposes, etc.,
   3. Temporary auction, lawn sale, candidate endorsement, real estate, or garage sale signs, which shall be promptly removed when they have fulfilled their functions.

B. The following shall be prohibited in all districts:

   1. Signs that impair highway, or street safety,
   2. Signs that are animated, flashing, or intermittently illuminated, and signs painted on rock outcrops, or similar natural features,
   3. Building mounted signs that extend above the roof line, and
   4. Signs that extend over public rights-of-way, or property lines.

C. On-premises signs shall be regulated as specified in Table 5.2.

Table 5.2 Regulations for Signs				
Standards for High Density Residential District, Rural District, and Conservation District				
TYPE OF USE	PERMITTED NUMBER OF SIGNS	MAXIMUM AREA (SQ. FT)		MAXIMUM HEIGHT OF FREE-STANDING SIGNS
		ONE SIGN	ALL	
Home Occupations	2	6	12	8
Business or Industry	2	30	50	10
Public Facility	1	24	24	10
Standards for Village District				
TYPE OF USE	PERMITTED NUMBER OF SIGNS	MAXIMUM AREA (SQ. FT)		MAXIMUM HEIGHT OF FREE-STANDING SIGNS
Home Occupations	1	12	12	8
Business or Industry	1	12	12	8
Public Facility	1	12	12	8

5.14 STORAGE OF JUNK MOTOR VEHICLES

In any district, junk motor vehicles shall be stored in an enclosed structure or in an area concealed from public roads. Vehicles used in farm operation are exempt from this provision.

5.15 WASTEWATER AND POTABLE WATER SUPPLY SYSTEMS

A. **Purpose**. The purpose of this section is to protect human health and the environment, including potable water supplies, surface water, and groundwater.

B. **Wastewater and Potable Water Supply Permit**. All structures and uses that generate wastewater may be required to obtain a Wastewater and Potable Water Supply Permit from the Vermont Department of Environmental Conservation (DEC) in accordance with 10 V.S.A. Chapter 64 and the Wastewater System and Potable Water Supply Rules (dated September 29, 2007 or as revised from time to time by the DEC). Applicants should contact the Agency of Natural Resources District Permit Specialist to determine if such a permit is required. If, according to the DEC, a Wastewater System and Potable Water Supply Permit is not required, the property owner/applicant shall provide written proof from the DEC of such to the Zoning Administrator. Where a Wastewater and Potable Water Supply Permit is required, initiation of construction under a zoning permit issued in accordance with these regulations shall be prohibited unless and until a Wastewater and Potable Waters Supply Permit is issued.

ARTICLE 6 SPECIFIC USE STANDARDS

6.1 APPLICABILITY

A. The following standards shall apply to the specified uses in all zoning districts in which such uses are allowed (see Table 3.1). Specified uses may be subject to site plan review or conditional use review. If there is conflict between a standard in this section and a standard in another part of these regulations, the more restrictive standard shall apply.

6.2 ACCESSORY DWELLINGS

A. **Accessory to single family residences**. One accessory dwelling to a single family dwelling may be allowed as a permitted use of property. The accessory dwelling unit shall satisfy the following requirements:

1. Floor space of the habitable living area shall not exceed forty (40) percent of the floor space of the habitable living area of the single family residence or 1000 square feet, whichever is greater; and

2. The property meets the requirements of Section 5.15 – Wastewater and Potable Water Supply Systems; and

3. All applicable setbacks, coverage and parking requirements for the district in which the residence is located are met; and

4. Either the primary or the accessory dwelling is occupied by the owner.

B. **Permit Requirement**. A zoning permit issued for an accessory dwelling shall clearly state that the dwelling is permitted only as an accessory to the principal residential use of the property and as such shall be retained in common ownership. Such a dwelling unit may be subdivided and/or converted for conveyance or use as a principle dwelling only if it is found to meet all current municipal regulations applying to a single (or two) family dwelling, including all density and dimensional requirements for the district in which it is located. All applicable municipal permits and approvals shall be required prior to the subdivision, conversion, or conveyance as a principal dwelling.

6.3 CAMP CONVERSIONS

A. A camp may be converted to a year-round single family dwelling if the Zoning Administrator, through the zoning permit process, determines that the conversion meets the following requirements:

1. The property meets the requirements of Section 5.15 – Wastewater and Potable Water Supply Systems

2. The property shall comply with the access and driveway standards (Section 5.4) and be accessible by emergency and service vehicles (a letter from the Fire Chief documenting the adequacy of the access is required).

3. Two off-street parking spaces per dwelling unit are provided on the lot.

6.4 CONTRACTOR'S YARD

A. Contractor's yards are subject to site plan review (Section 4.3) and conformance with the following standards:

1. Outdoor storage of materials, including building or construction materials, vehicles and heavy equipment, shall be limited to a designated area approved by the Planning Commission. Such area must be completely screened year-round from the road and from neighboring properties with a stockade fence not less than 6 feet high, installed so that all supports face inward toward the yard. Activities associated with the operation of the contractor's yard are not permitted outside of the designated area, with the exception of driveway and pedestrian access.

2. The area designated for the outdoor storage of materials shall be set back a minimum of 100 feet from road rights-of-way, surface waters, wetlands. All other setback and dimensional standards for the district in which the contractor's yard is located shall apply, although the Planning Commission may, as a condition of site plan approval, require greater setbacks as appropriate based on specific site conditions to protect water quality and neighboring properties.

3. The maintenance and repair of vehicles and equipment shall be limited to inside of an enclosed building. The storage of equipment shall be screened in accordance with Subsection (1). Dead iron (e.g., inoperable, unused, unregistered equipment) shall not be stored on the premises.

4. The operation of the contractor's yard shall meet all performance standards set forth in Section 5.11.

5. There shall be no storage of hazardous waste or materials on the premises; fuel storage shall be limited to that needed for heating, and the operation of equipment and vehicles associated with the business.

6. The Planning Commission may, as a condition of approval, place conditions on the hours of operation.

6.5 CAMPGROUNDS AND RECREATIONAL VEHICLES

A. Any vehicle used for living quarters and sited so as not to be readily movable shall be deemed a structure and a dwelling unit. These structures shall be subject to all zoning regulations applicable to other dwellings unit.

B. New campgrounds, and any addition or alteration to an existing campground, shall be subject conditional use review, site plan review and review under the following regulations:

1. Campgrounds shall provide individual recreational vehicle or tent spaces.

2. A strip of land at least thirty (30) feet wide shall be maintained as an undeveloped buffer area abutting all campground property lines. No recreational vehicle, tent, or service building shall be located in this buffer area. The Board of Adjustment may reduce or eliminate this buffer area provision upon request of the applicant if such a modification, or waiver, will make it possible to preserve a scenic view from the campground, providing that privacy for adjoining property owners can be maintained.

3. Collector roads within the campground shall meet the following minimum standards:

Table 6.1: Campground Road Standards		
	ONE-WAY ROAD	TWO-WAY ROAD
Right-of-way Width	18 feet	30 feet
Gravel Depth	12 inches	12 inches
Gravel Width	10 feet	20 feet

6.6 GAS STATIONS

A. Gas stations may be permitted in designated zoning districts subject to site plan review under Section 4.3 and the following additional standards:

1. A new gas station shall not be located within three hundred (300) feet of any lot occupied by a school.

2. The following density and dimensional requirements shall apply:

Table 6.2: Gasoline Station Dimensional Requirements	
Minimum Lot Size	2 acres
Minimum Lot Frontage	200 feet
Minimum Lot Depth	200 feet

3. All parking and pump areas shall be located to the side or in the rear of the principal structures on the lot. Garages, accessory structures, pumps, lubricating and other service equipment shall be set back at least fifty (50) feet from road rights-of-way, and front, side and rear lot lines. All fuel and oil shall be stored at least thirty-five (35) feet from all property lines.

4. All automobile parts and dismantled vehicles are to be stored within an enclosed building or otherwise screened from view.

5. There shall be no more than two (2) access driveways. No access or curb cut shall exceed forty (40) feet in width. All accesses shall be in compliance with Section 5.4.

6. Canopies, if deemed necessary, shall be limited to the minimum area required for adequate pump and apron coverage, and the minimum height required to meet applicable state and federal safety requirements.

7. Lighting levels on station aprons, under canopies and in associated parking areas shall be the minimum required for intended activities. The lighting of such areas shall not be

used for advertising or to attract attention to the business. Lights shall not be mounted on the top or sides of canopies; and the sides of canopies (fascias) shall not be illuminated. Light fixtures mounted on canopies shall either be recessed so that the lens cover is flush with the bottom surface (ceiling) of the canopy; or for indirect lighting, mounted and shielded so that direct illumination is focused exclusively on the underside of the canopy. Outdoor lighting shall also meet applicable lighting standards under Section 5.9.

8. Signs shall meet all requirements of Section 5.13. No signs may extend beyond the pumps.

9. Service station siting, design and layout should be compatible with the character of the neighborhood. A landscaped area shall be maintained at least five (5) feet in depth along all road frontage, excluding designated access areas. Additional curbing, landscaping and screening, and pedestrian walkways may be required as appropriate.

10. Gasoline stations which also include retail sales unrelated to motor vehicle service, maintenance or repair (e.g., food, convenience items) shall be reviewed as a mixed use (see Section 6.7) within designated zoning districts, and as such shall be required to meet all zoning provisions pertaining to such retail uses for the district in which they are located, including but not limited to acreage, frontage, and/or parking requirements in addition to this section.

6.7 HOME BASED BUSINESSES (Home Occupations and Cottage Industries)

A. **Home Occupations:** In accordance with the 24 V.S.A. 4412(4), no provision of these regulations shall infringe upon the right of any resident to use a minor portion of a dwelling for an occupation which does not have an undue adverse effect upon the character of the area. Home occupations, as distinguished from cottage industries under subsection (B), are allowed as an accessory use in all districts where residential uses are allowed, subject to the following provisions:

1. The home occupation shall be clearly incidental and secondary to the residential use of the property, and shall be conducted wholly within the principal dwelling or accessory structures;

2. The home occupation shall be carried out on-site only by members of the family residing in the dwelling unit.

3. No traffic which would be uncharacteristic of the neighborhood shall be generated.

4. Exterior displays of goods and wares, exterior storage of materials, and other exterior indications of the home occupation, which does not substantially alter the residential character of the principal or accessory structures, shall be permitted.

5. Adequate off street parking shall be provided to accommodate residents and non-resident employees, in accordance with Section 5.10.

6. The home occupation shall be subject to all performance standards under Section 5.11.

B. **Cottage Industries:** Cottage industries or home-based businesses, as distinguished from Home Occupations under subsection (A), may be permitted in designated zoning districts subject to conditional use review under Section 4.4 and the following additional provisions:

1. The business owner shall reside on the lot.

2. The business shall be carried on within the principal dwelling unit and/or accessory structure(s), and shall not occupy more than four thousand (4,000) square feet in gross floor area.

3. Residents of the dwelling unit and no more than four (4) non-resident, full-time equivalent employees may be employed on-site at any one time.

4. The business shall not exceed fifteen (15) vehicular round trips per day in the course of conducting its regular operations.

5. Adequate off-street parking shall be provided for all residents and employees in accordance with Section 5.10.

6. There shall be no on-site storage of hazardous waste or materials unless stored in an approved enclosure; fuel storage shall be limited to that needed for heating, and the operation of equipment and vehicles associated with the business.

7. The business shall be visually compatible with neighboring lots and uses; landscaping and screening may be required as appropriate. In addition, screening may be required for any outdoor storage of materials including building or construction materials, unregistered vehicles or heavy equipment.

8. On-site wholesale and/or retail sales shall be limited to products produced or assembled on the premises.

9. The business shall not create hazards to public safety and welfare or to neighboring properties, and shall be subject to outdoor lighting standards under Section 5.9 and performance standards included under Section 5.11. Conditions may be placed on the hours of operation as appropriate.

10. The permit for a cottage industry shall clearly state that the industry is a home-based business, which is accessory to the principal residential use and shall be retained in common ownership and management. A cottage industry may be subdivided and/or converted for sale or use apart from the residential use only if it meets all current municipal and state regulations and bylaws pertaining to such use (e.g. Retail, Light Industry, etc.), including all dimensional, and other requirements for the district in which it is located. Separate permits shall be required as appropriate prior to subdivision, sale and/or conversion of a cottage industry.

6.8 EXCAVATION AND EARTH RESOURCE EXTRACTION

A. **Earth Resource Extraction.** The removal of soil, sand, gravel, and other earth resources for sale, except when incidental to construction of a building on the same premises, is considered an earth resource extraction use. To receive approval for an earth resource

extraction use, the applicant shall present a plan to demonstrate that they comply with the General Regulations in Article 5, site plan standards in Section 4.3, conditional use standards in Section 4.4, and the following standards:

1. **Drainage.** All surface drainage affected by excavation operations shall be controlled by the owner to prevent erosion debris and other loose materials from filling any drainage course, street, or private property.

2. **Setbacks.** Adjoining properties shall be protected from undue adverse impacts resulting from dust, noise, or air pollution. No power-activated sorting or crushing machinery or equipment shall be located within three hundred feet of any street or other property line, and all such machinery shall be equipped with satisfactory dust control devices.

3. **Landscaping and Screening.** A landscaping and screening plan shall be submitted by the applicant. Within the required three hundred feet setback areas, natural vegetation shall be retained, and supplementary planting may be required in order to buffer impacts from the operation.Suitable fencing or other appropriate safety precautions may be required around extraction sites, sedimentation ponds, and spoil or equipment storage areas.

4. **Blasting.** A blasting plan shall be submitted by the applicant. Explosives may be used only per a plan approved by the Board of Adjustment and only after it has been demonstrated by the applicant that the use of such materials will not have an undue adverse impact on adjoining properties.

5. **Reclamation.** A reclamation plan shall be submitted by the applicant for approval. The extraction operation sites shall be graded smooth and left in a neat condition. Cut slopes and soil banks shall not be allowed to remain. The operation site shall be mulched and reseeded so as to establish a firm cover of grass or other vegetation sufficient to prevent erosion.

6. **Bonding.** Before zoning permit may be issued for any new, or expansion of, an earth resource extraction operation, a performance bond shall be secured from the applicant sufficient to ensure that, upon completion of the operation, the site will be restored and reclaimed for other development uses. The amount and form of such surety shall be subject to the approval of the Bakersfield Selectboard based upon the operator's estimate, bids or other information deemed necessary by the Board of Adjustment, but shall not exceed one hundred fifty (150) percent of the projected improvement and maintenance cost. Bonding shall be required, sufficient to cover the completion of the reclamation and maintenance of such improvements for a period of two (2) years after completion.

6.9 MIXED USE

A. Mixed use development involving more than one principal use within a principle structure or in multiple principal structures on a single lot shall be subject to site plan (Section 4.3) and conditional use review (Section 4.4) and the following provisions:

1. Each of the proposed uses is otherwise allowed as a permitted or conditional use in the district in which the mixed use is proposed.

2. The mixed use meets all other applicable regulations and use provisions contained in these regulations.

3. This section shall not apply to home based business accessory uses regulated under Section 6.5.

6.10 MOBILE HOME PARKS

A. Mobile home parks are subject to all state laws in addition to the requirements of these regulations including site plan (Section 4.3) and conditional use review (Section 4.4). Mobile home parks shall be considered planned unit developments and shall be reviewed in accordance with Article 9 – Planned Unit Developments.

6.11 SALVAGE YARDS

A. New or expanded commercial salvage yards may be permitted within designated zoning districts subject to conditional use review and site plan review under Article 4 and the following specific use standards:

1. **Lot Size.** A minimum of ten (10) contiguous acres shall be required. No more than 5 acres shall be used for the salvage yard use.

2. **Setbacks.** Salvage yards shall be set back at least one hundred (100) feet from all property lines, road rights-of-way, surface waters, and wetlands.

3. **Landscaping.** Salvage yards shall be screened year-round from public view; additional landscaping, fencing or other forms of screening may be required as appropriate. Salvage yards shall be secured as necessary to protect public health, safety, welfare, and neighboring properties.

4. **Lighting.** Exterior lighting shall be the minimum required for security and safe operation.

5. **Performance Standards.** All performance standards under Section 5.11 shall apply.

6. **Storage.** The on-site storage of materials shall not adversely affect surface, ground or drinking water supplies in the vicinity of the yard.

7. **Conditions.** Conditions and limitations may be imposed with regard to traffic generated, hours of operation, and the on-site storage of hazardous materials in order to protect neighboring properties, public infrastructure including roads, and the character of the area in which the yard is located.

8. **Restoration.** All materials shall be removed from the site within twelve (12) months of the cessation or abandonment of operations; and the site shall be restored to a safe, usable condition. Site restoration, including the clean up and disposal of hazardous materials, shall be subject to all applicable state and federal regulations. A site restoration plan shall be required.

9. **Certificate of Approved Location.** All salvage yards are subject to review and approval by the Bakersfield Select Board under separate State Statute (24 V.S.A., Chapter 61, Subchapter 10).

6.12 TELECOMMUNICATIONS FACILITIES

A. **Applicability**. New or expanded telecommunication facilities that **<u>are not</u>** subject to 30 V.S.A. Section 248a, including but not limited to towers and accessory structures, are subject to site plan review and the provisions of this section. In conformance with 24 V.S.A. § 4412(9), the Planning Commission may permit new or expanded telecommunications facilities if the Planning Commission find that the facility will impose not more than a *de minimus* impact on all applicable standards in these regulations.

1. Notwithstanding the requirements of Subsection (A), wireless telecommunications equipment subject to this section to be mounted on existing towers, utility poles, silos, steeples or other existing structures may be permitted by the Zoning Administrator without site plan approval provided that:

   a. No changes are made to the height or appearance of such structure except as required for mounting;

   b. The height of the antenna as mounted does not exceed maximum district height requirements under Article 3 – Zoning Districts and District Regulations;

   c. No panel antenna shall exceed 72 inches in height or 24 inches in width;

   d. No dish antenna shall exceed 3 feet in diameter; and

   e. Any accompanying equipment shall be screened from view.

2. A Certificate of Public Good from the Public Service Board under 30 V.S.A. Section 248a preempts these regulations and may be required for the construction or installation of telecommunications facilities that are to be interconnected with other telecommunications facilities proposed or already in existence. The Public Service Board determines jurisdiction.

B. **Exemptions**. The following are considered to be *de minimis* alterations and are specifically exempted from the provisions of this Section and no zoning permit shall be required:

1. Placement of an antenna used to transmit, receive, or transmit and receive communications signals on that property owner's premises if the area of the largest face of the antenna is not more than 15 square feet, and if the antenna and any mast support do not extend more than 12 feet above the roof of that portion of the building to which the mast is attached.

2. Antenna structures less than twenty (20) feet in height with a primary function to transmit or receive communication signals for commercial, industrial, municipal, county, or state purposes.

3. Telecommunication facilities that are used exclusively for municipal radio dispatch service or emergency radio dispatch service and which do not exceed 100 feet in height.

4. A single ground or building mounted radio or television antenna or satellite dish not exceeding 36 inches in diameter which is intended solely for residential use, and does not, as mounted, exceed 40 feet in height above the lowest grade at ground level.

5. All citizens band radio antennae or antennae operated by a federally licensed amateur radio

operator which do not exceed a height of 50 feet above the grade level, whether free standing or mounted, and which meet all setback requirements for the district in which they are located.

C. **Supplemental Application Requirements**. In addition to the application requirements set forth in Section 4.2, applications for **new** towers shall also include the following:

1. A report from a qualified and licensed professional engineer which describes tower height, construction design and capacity, including cross-sections, elevations, potential mounting locations, and fall zones.

2. Information regarding the availability of existing towers and buildings located within the service area of the proposed site, including written documentation from other facility owners within the area that no suitable sites for the proposed facility are available at existing facilities.

3. A letter of intent committing the tower owner and his/her successors to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use.

4. Written documentation that the proposed tower shall comply with all requirements of the Federal Communications Commission, and the Federal Aviation Administration.

5. Any additional information needed to determine compliance with the provisions of these regulations.

D. **Construction Standards**. Telecommunications facilities shall conform to the following construction standards:

1. The facility shall not be built on speculation. If the applicant is not a telecommunication service provider, the applicant shall provide a copy of a contract or letter of intent showing that a telecommunication service provider is legally obligated to locate a wireless telecommunication facility on lands owned or leased by the applicant.

2. All towers, including antennae, shall be less than 200 feet in height as measured from the lowest grade at ground level to the top of the highest structure or component.

3. All telecommunication facilities shall comply with the setback provisions of the zoning districts in which facilities are located. Notwithstanding the above, in order to ensure public safety, the minimum distance of any wireless telecommunication facility to any property line, dwelling, or occupied structure shall be no less than the height of the tower, including antennas or other vertical appurtenances. This setback shall be referred to as a fall zone. In the event that an existing structure such as a barn silo, church steeple, or utility pole is proposed as a mounting for a wireless telecommunication facility, a fall zone setback may not be required.

4. The facility will not be illuminated by artificial means and will not display any lights or signs except for such lights and signs as required by Federal Aviation Administration, federal or state law, or these Regulations.

5. The Planning Commission may require the applicant to provide a bond, or other form of financial guarantee acceptable to the Planning Commission, to cover the cost of removal of the facility, should the facility be abandoned or cease to operate.

6. The applicant demonstrates that the facility will be in compliance with all FCC standards and requirements regarding radio frequency radiation. The owner of a wireless telecommunication facility shall, on a yearly basis, file a certificate to the Zoning Administrator showing that it is in

compliance with all FCC standards and requirements regarding radio frequency radiation, and that adequate insurance has been obtained for the facility.

7. The facility will be properly identified with appropriate warnings indicating the presence of radio frequency radiation.

8. The proposed equipment is installed on an existing wireless telecommunication facility, unless it is demonstrated by the applicant that such co-location is not structurally or spatially possible.

9. The facility provides reasonable opportunity for the installation and operation of other telecommunications equipment (co-location).

10. Unless otherwise approved by the Planning Commission, an abandoned or unused wireless telecommunication facility shall be removed within 2 years of abandonment or cessation of use. The applicant may apply to the Planning Commission for an extension for removal. If the facility is not removed or an extension granted within 2 years of abandonment or cessation of use, the Planning Commission may cause the facility to be removed. The costs of removal shall be assessed against the facility owner.

11. Unused portions of a wireless telecommunication facility shall be removed within 1 year of the time that such portion is no longer used. Replacement of portions of a facility previously removed shall require a new permit.

E. **Additional Site Plan Criteria**. In addition to the site plan review standards in Section 4.3 and the construction standards in (F) above, the Planning Commission shall approve an application for a wireless telecommunications facility when it finds that the application does not impose more than a *de minimus* impact on the following criteria:

1. New towers shall be sited and designed to minimize their visibility. New or modified towers and antennae shall be designed to blend into the surrounding environment to the greatest extent feasible, through the use of existing vegetation, landscaping and screening, the use of compatible materials and colors, or other camouflaging techniques.

2. Access roads, and all accessory utility buildings and structures shall be designed to aesthetically blend in with the surrounding environment and meet all other minimum requirements for the district in which they are located. Ground-mounted equipment shall be screened from view. Setback, landscaping and screening requirements may be increased as appropriate based on site conditions, and to protect neighboring properties and uses. All utilities proposed to serve a telecommunications site shall be installed underground.

6.13 WIND ENERGY CONVERSION SYSTEMS (WECS)

A. **Applicability.** All wind driven conversion or power generating facilities, windmills, and wind turbines, consisting of wind turbine generators, transmission lines and accessory buildings and structures, that **will not** be connected to any public utility power grid shall require site plan approval in accordance with this Section 4.3 and this section. Wind energy conversion systems that **will** connect to a public utility power grid require a Certificate of Public Good from the Vermont Public Service Board under 30 V.S.A. 248; no zoning permit or approval under these regulations is required.

B. **Application Requirements**. The application shall include a site plan showing proposed location of all conversion system poles or towers, guy lines where required, and guy line

anchor bases and their distance from all property lines. The safety of the design shall be certified by a professional engineer or by an authorized factory representative.

C. **Standards.** In addition to the site plan standards in Section 4.3, wind energy conversion systems shall conform to the following specific standards:

1. **Setback**. No part of the system shall be located within or above any required front, side, or rear setback area of the district in which it is located. The WECS shall be located at a distance of at least 1.25 times the height of the facility (measured form the base to the highest reach of the blade) from any structure occupied by humans and from all property lines. The setback from the property lines shall be waived if the abutters of those affected properties so grant their permission in writing.

2. **Height.** The minimum height of the lowest position of the WECS blade shall be at least thirty (30) feet above the ground and forty (40) feet above the highest structure or tree within a two hundred and fifty (250) foot radius.

3. **Aesthetics**. The system shall be designed and placed in such a manner to minimize to the greatest extent feasible, all adverse visual impacts on neighboring areas. The colors and surface treatment of the structures shall to the greatest extent feasible, minimize disruption of the natural characteristics of the site.

4. **Access**. To ensure safety, all towers or poles must be unclimbable by design for the first twelve (12) feet or be enclosed by a six (6) foot fence and locked gate at the perimeter of the base.

5. **Noise**. The windmill shall not exceed 60 decibels (dBA), as measured at the lot line.

ARTICLE 7 SUBDIVISION REVIEW

7.1 APPLICABILITY

A. Any land development for agricultural, residential, commercial, recreational, or industrial purposes that would involve the subdivision of any tract into two or more lots for the purpose of development, transfer of ownership, or lease of a lot shall be subject to the subdivision regulations herein:

B. For the purposes of these regulations, subdivisions shall be classified as the following:

1. **Minor Subdivisions.** Minor Subdivisions shall include any subdivision resulting in two (2) lots, amendments to an approved subdivision plan, and boundary line adjustments.

2. **Major Subdivisions.** Major Subdivisions shall include any subdivision that divides an existing lot into three (3) or more lots and planned unit developments (PUDs) that include the subdivision of land.

C. **Boundary Line Adjustments.** Applications for boundary line adjustments, which do not create any additional lots, make conforming lots non-conforming, or increase the degree of nonconformance of any existing lot or use, may be exempted from sketch plan review and proceed immediately to final plan review provided that the applicant has submitted all final plan application materials to the Planning Commission and the application meets all of the subdivision standards in Section 7.3.

Figure 7.1 - Plan and Survey Plat Specifications

Sketch Plans. An informal sketch of the proposed subdivision, the purpose of which is to enable the Subdivider to save time and expense in reaching general agreement with the Planning Commission on the design of the subdivision and objectives and requirements of these regulations. Sketch plans shall include basic information as required in Table 7.1 and may be hand drawn.

Plot Plans. A plot plan is a detailed illustration of the proposed subdivision, which may be one sheet or many sheets as necessary to make the information clear and legible. Plot plans shall be drawn to scale and include detailed information as required in Table 7.1.

Survey Plat. A map surveyed to scale on Mylar by a licensed land surveyor for filing in the Town's land records. It shall clearly depict one or more parcels, tracts or subdivisions of land, showing, but not limited to, boundaries, corners, markers, monuments, easements and other rights. Survey Plats shall be prepared according to the requirements in Section 7.4 and 27 V.S.A .Chapter 17.

7.2 APPLICATION MATERIALS

A. **Applications.** For all subdivisions (including boundary adjustments), the applicant shall submit two (2) original, full sized copies and six (6) reduced (11 x 17) copies of all required plans and/or plats. The Planning Commission may request additional copies. All applications shall comply with the requirements in Table 7.1. A brief written narrative describing the proposed subdivision and its conformance with these regulations, and the goals and policies of the Bakersfield Town Plan, shall be submitted with all subdivision applications.

B. **Modifications.** The Planning Commission may waive or modify application submission requirements upon written request by the applicant if the Planning Commission judges that the application submission requirements are not requisite in the interest of the public health, safety, and general welfare, or are inappropriate both in the short and long term. The Planning Commission may modify the requirements for the provision of any or all improvements and requirements, if in its judgment they are not necessary for the protection of public health, safety, and general welfare or are inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the subdivision (24 V.S.A. § 4418(2)(A)). The Planning Commission may impose appropriate and reasonable conditions to address the objectives of the modified requirements. No such modification may be granted if it would have the effect of nullifying the intent and purpose of these regulations, or the Act.

Table 7.1: Application Requirements ✓ **– the item is required**	**Sketch Plan**	**Preliminary Plan**	**Final Plan**
Note: Information required in this Table may be prepared on 1 or more sheets, as necessary to make the information clear and legible.			
Application form (6 copies)		✓	✓
Application fee		✓	✓
Subdivision Plan Requirements			
Location Map	✓	✓	✓
Title Block – including the following information:	✓	✓	✓
Project Title	✓	✓	✓
Plan Title (Overall site plan, utility plan, stormwater plan, etc.)	✓	✓	✓
Location Description	✓	✓	✓
Site Address	✓	✓	✓
Name of Landowners	✓	✓	✓
Name of Developer/Client (if different than landowner)	✓	✓	✓
Scale (minimum 1 inch = 200 feet)	✓	✓	✓
Name, Title, License Number, and Stamp of Surveyor, VT Licensed Engineer, Architect, or Landscape Architect who prepared the plan (if applicable)		✓	✓
North Arrow	✓	✓	✓
Date of preparation and record of any revisions	✓	✓	✓
Relevant Planning and Zoning Information, including zoning district, density analysis (how many lots/units allowed according to zoning standards), setbacks, parking standards, etc.	✓	✓	✓
Area of land in square feet or acres for each tract, lot, structure, and large feature.	✓	✓	✓
Contour lines at intervals of 20 feet		✓	✓

Table 7.1: Application Requirements ✓ **– the item is required**	**Sketch Plan**	**Preliminary Plan**	**Final Plan**
Lot and Tract Identification – boundaries for entire tract, lot lines for each existing and proposed lot, and for any involved land (access road, easements, rights-of-way, and any open space or mitigation land). Existing and proposed lots should be differentiated. Each lot shall be given a number for reference.	✓	✓	✓
Property Boundary Survey Signed and Stamped by Licensed Land Surveyor – Property boundary surveys are required for all new subdivided lots. Property boundary surveys are required for the entire parent parcel (original lot from which lots are subdivided) when: -the "parent parcel" is 10 acres or less in size, and/or -greater than 50% of acreage of the "parent parcel" is subdivided into lots		✓	✓
Adjacent property and owners – all adjacent lands should be labeled with the name of the property owner(s) and their addresses.	✓	✓	✓
Existing features (i.e. non-portable features of the landscape) – Streams, ponds, floodplain, River Corridors and wetlands; prime and statewide agricultural soils, structures, foundations, and old cellar holes; wells, springs, and septic systems; stone walls and fence lines; historic or archeological resources; forest boundaries, fields, large trees, and rock outcroppings; transportation and utility infrastructure like roads, sidewalks, and power lines; and any other existing features.	✓	✓	✓
The proposed project – (i.e. all improvements planned for one or more related sites and which fall under the purview of these Regulations) – All proposed roads, driveways and parking areas, landscaping, utilities, signs, dumpsters, tanks, lights, water supplies, and septic systems.		✓	✓
Mitigation measures – Any stream or wetland buffers, or agricultural or wildlife habitat easements, or other areas required to be set aside for preservation/conservation.	✓	✓	✓
Off-site Improvements that may be required locally or by the State, such as improvements that mitigate traffic impacts like a turning lane, or construction, buffers, landscaping or other mitigation within an adjacent easement or leased area.	✓	✓	✓
Building envelopes, reserve areas, and open space (if any).	✓	✓	✓
Public rights-of-way and easements	✓	✓	✓

Table 7.1: Application Requirements ✓ **– the item is required**	**Sketch Plan**	**Preliminary Plan**	**Final Plan**
Specialized Plans/Plats			
Utility Plan – Location of water and sewer improvements and easements, including force-mains, pump stations, and underground electric and telephone lines.		✓	✓
Erosion and Sediment Control Plan – Locations where sediment must be trapped before entering a watercourse and the devises used to impede erosion (i.e. silt fencing, hay-bale or stone dams around catch basins and at intervals in swales and ditches).		✓	✓
Stormwater Management Plan – Detail on collection, retention, and treatment of stormwater. The plan shall show site grades, direction of drainage flow, and design of any detention basins.		✓	✓
Road and Bike/Pedestrian Plan – Current and proposed grades for the installation of roads, bridges, driveways, sidewalks, bike lanes, and other pedestrian amenities. The applicant shall show cross sections of proposed roads and sidewalks and detail information for all associated transportation infrastructure. Ownership and maintenance agreements for private roads and driveways shall be submitted.		✓	✓
Landscaping Plan – Locations for existing and proposed vegetation, as well as structures, features, and other topographical information. Scientific and common names for proposed species should be identified. Areas proposed for clearing and no-cut zones should be identified.		✓	✓
Lighting and Signage Plan – Locations and illumination of exterior lights. Location and dimensions of all exterior signs.		✓	✓
Garbage Collection Plan – Location for garbage collection and method for containing garbage put out for pick-up.		**As Required**	**As Required**
Architectural elevations for commercial and multi-family residential buildings – Renderings of the project's physical appearance as seen from the east, west, north, and south viewpoints.		**As Required**	**As Required**
Transportation Impact Study – A report analyzing anticipated roadway conditions with and without the proposed project. The report may include an analysis of mitigation measures and a calculation of fair share financial contributions.		**As Required**	**As Required**
Master Plan - an indication of proposed roads, driveways or streets, the future probable lot lines and building envelopes of the remaining portion of the tract, or adjacent properties, and a description of the probable uses (drawn in sketch plan format). This includes information about subdivision phasing.		✓	✓
Legal Documents – A draft of all newly created or revised deeds, covenants, or other legal documents associated with the proposed development.			✓
Modifications – A written request for modifications from application requirements.	✓	✓	
Engineer's Certificate – A certificate from a consulting engineer,			**As**

Table 7.1: Application Requirements ✓ **– the item is required**	**Sketch Plan**	**Preliminary Plan**	**Final Plan**
approved by the Selectboard, as to the satisfactory completion of all improvements required by the Planning Commission, or in lieu thereof, a performance bond or equivalent surety to secure completion of such improvements and their maintenance for a period of two years, with a certificate from the Selectboard that it is satisfied with either the bonding or surety company, or with security furnished by the applicant.			**Required**
Fiscal impact analysis (analysis of fiscal costs and benefits to the town)		**As Required**	**As Required**
Environmental impact assessment (analysis of potential environmental impacts, proposed mitigation measures)		**As Required**	**As Required**
State Wastewater Permit - Copy of state wastewater permit(s) or letter of exemption			**As Required**

7.3 SUBDIVISION REVIEW PROCEDURES

A. **Overview.** Detailed review process requirements for boundary adjustments, minor subdivisions, and major subdivisions are included in this Section. The subdivision review process differs by subdivision type.

B. **Minor Subdivisions.** The following procedure shall apply to all minor subdivisions:
   1. **Sketch Plan**. All minor subdivisions shall require Sketch Plan review by the Planning Commission.

a. **Initial Meeting/Sketch Plan.** When the Zoning Administrator has received all necessary application materials as described in Table 7.1 and determined that the sketch plan application is complete, the Zoning Administrator shall refer the application to the Planning Commission for sketch plan review. The applicant and/or an authorized representative shall attend the sketch plan meeting to discuss the subdivision application and proposed sketch plan. At this meeting, the Planning Commission may request any additional information as needed to act on the sketch plan. Figure 7.2 demonstrates the level of detail that is expected on a sketch plan. Applicants are encouraged to submit hand drawn sketches and are discouraged from making significant investments in engineered plans prior to sketch plan review.

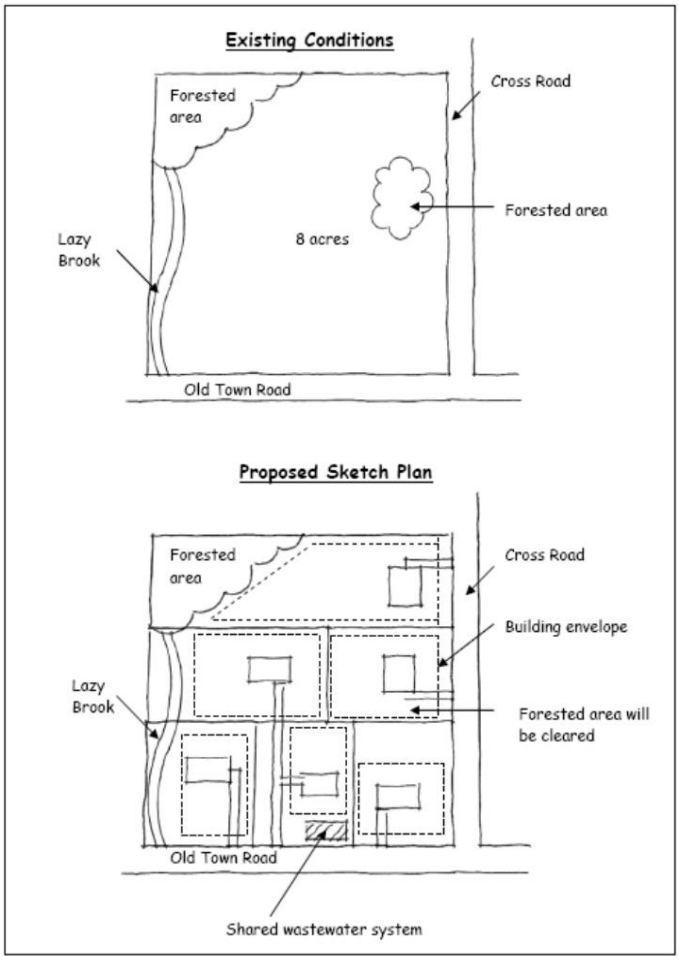


Figure 7.2. Sketch Plan. *The sketch plan review process provides an applicant with the opportunity to get early feedback on their plans for a site. This sample sketch plan shows the level of detail that is expected at this stage in the process. Applicants are encouraged to go through sketch plan review prior to making a significant investment in engineered plans.*

b. **Action on Sketch Plan.** The Planning Commission shall issue a written determination on the sketch plan within 45 days of the close of the sketch plan meeting, which may include requirements or recommendations for modifications to the sketch plan, additional studies, or supporting documentation that shall be required at final plan and plat review.

c. **Effect of Sketch Plan Determination.** Sketch plan determinations and associated recommendations or requirements shall remain in effect for six (6) months from the date of issuance, unless otherwise specifically approved or extended by the Planning Commission. Within six (6) months of the date of issuance of a sketch plan determination by the Planning Commission, the applicant may apply to the Commission for final plan and plat review (in the case of a minor subdivision). Sketch plan approval shall be invalid if a final plan and plat public hearing has not been warned prior to the expiration of six (6) months; the applicant shall be required to resubmit a new sketch plan application subject to all new zoning and subdivision

regulations. The Zoning Administrator may grant extensions, in writing, beyond this 6 month period when there are delays the applicant is unable to avoid.

2. **Final Plan and Plat Review.** All minor subdivisions shall require Final Plan and Plat review by the Planning Commission.

   a. **Public Hearing Requirements.** Within thirty (30) days of receiving a complete Final plat and fees, the Planning Commission shall hold a public hearing following the public notice and public hearing procedures of Section 2.3.

   b. **Action on Final Plan and Plat.** Within 45 days of the date the final public hearing is closed, the Planning Commission shall issue a written decision that approves, approves with conditions, or disapproves the final subdivision application (Section 2.4). If the Planning Commission fails to act within 45 days, the final subdivision plat shall be deemed approved.

   c. **Effect of Final Approval.** Final approval shall contain a time limit within which all improvements shall be completed, not to exceed three years, unless otherwise required or extended by the Planning Commission. If approved, the applicant shall file the survey plat in accordance with Section 7.3(D).

   d. **Conditions of Final Plan and Plat Approval.**

      i. Final Approval by the Planning Commission shall not be deemed evidence of any acceptance by the Town of any proposed street, easement, utility, open space, or other required public improvements shown on the final plat. Such acceptance may only be accomplished by a formal resolution of the Selectboard.

      ii. All streets, drainage, water, sewer, and other required improvements shall be provided and installed at the sole expense of the subdivider as a condition of plat approval by the Planning Commission. The Planning Commission may require a performance bond per Section 7.4(B)(9).

C. **Major Subdivisions.** The following procedure shall apply to all major subdivisions:

1. **Sketch Plan**

   a. **Initial Meeting**. When the Zoning Administrator has received all necessary application materials as described in Table 7.1 and determined that the sketch plan application is complete, the Zoning Administrator shall refer the application to the Planning Commission for sketch plan review. The applicant and/or an authorized representative shall attend the sketch plan meeting to discuss the subdivision application and proposed sketch plan. At this meeting, the Planning Commission may request any additional information as needed to act on the sketch plan. Figure 7.1 demonstrates the level of detail that is expected on a sketch plan. Applicants are encouraged to submit hand drawn sketches and are discouraged from making significant investments in engineered plans prior to sketch plan review.

b. **Action on Sketch Plan.** The Planning Commission shall issue a written determination on the sketch plan within 45 days of the close of the sketch plan meeting, which may include requirements or recommendations for modifications to the sketch plan, additional studies, or supporting documentation that shall be required at final plan and plat review.

c. **Effect of Sketch Plan Determination.** Sketch plan determinations and associated recommendations or requirements shall remain in effect for six (6) months from the date of issuance, unless otherwise specifically approved or extended by the Planning Commission. Within six (6) months of the date of issuance of a sketch plan determination by the Planning Commission, the applicant may apply to the Commission for final plan review (in the case of a minor subdivision). Sketch plan approval shall be invalid if a preliminary plan public hearing has not been warned prior to the expiration of six (6) months; the applicant shall be required to resubmit a new sketch plan application subject to all new zoning and subdivision regulations. The Zoning Administrator may grant extensions, in writing, beyond this 6 month period when there are delays the applicant is unable to avoid.

2. **Preliminary Plan Review**

a. **Public Hearing Requirements.** When the Zoning Administrator determines that the preliminary plan application is complete, the Zoning Administrator shall schedule a public hearing at the next available Planning Commission meeting, following the public notice and public hearing procedures of Section 2.3. A site visit may be conducted as part of the public hearing.

b. **Action on Preliminary Plan.** Within 45 days of the date the public hearing is closed, the Planning Commission shall issue a determination on the preliminary plan, which may include recommendations for modifications, additional studies, or supporting documentation to be submitted in final plan review.

c. **Effect of Preliminary Plan Approval**. Approval of a preliminary plan does not constitute approval of the subdivision plat. Prior to approval of the final subdivision plat, the Commission may require additional changes as a result of further study. The approval of a preliminary plan shall be effective for a period of six (6) months, and any plan not receiving final approval prior to the expiration of six (6) months shall be null and void and the subdivider shall be required to submit a new plat for preliminary approval subject to all new zoning and subdivision regulations. The Zoning Administrator may grant extensions, in writing, beyond this 6 month period when there are delays the applicant is unable to avoid, or when a phased subdivision is required as a condition of preliminary plan approval.

3. **Final Plan and Plat Review.**

a. **Public Hearing Requirements.** Within thirty (30) days of receiving a complete Final plat and fees, the Planning Commission shall hold a public hearing following the public notice and public hearing procedures of Section 2.3.

b. **Action on Final Plan and Plat.** Within 45 days of the date the final public hearing is closed, the Planning Commission shall issue a written decision that

approves, approves with conditions, or disapproves the final subdivision application. If the Planning Commission fails to act within 45 days, the final subdivision plat shall be deemed approved.

c. **Effect of Final Approval**. Final approval shall contain a time limit within which all improvements shall be completed, not to exceed three years, unless otherwise required or extended by the Planning Commission. If approved, the applicant shall file the survey plat in accordance with Section 7.3(D).

d. **Conditions of Final Plan and Plat Approval.**

i. Final approval by the Planning Commission shall not be deemed evidence of any acceptance by the Town of any proposed street, easement, utility, open space, or other required public improvements shown on the final plat. Such acceptance may only be accomplished by a formal resolution of the Selectboard.

ii. All streets, drainage, water, sewer, and other required improvements shall be provided and installed at the sole expense of the subdivider as a condition of plat approval by the Planning Commission. The Planning Commission may require a performance bond per Section 7.4(B)(8).

D. Plat Recording.

1. Upon final approval of all subdivisions by the Planning Commission, the applicant shall prepare a copy of the plat for recording in conformance with the requirements of 27 V.S.A. Chapter 17 and Section 2.4(D). Within 180 days of the date of receipt of final plan approval, the applicant shall file two (2) copies of the final subdivision plat, including one (1) mylar copy and (1) paper copy, for recording with the town. Approval of subdivision plats not filed and recorded within this 180-day period shall expire. However, the Zoning Administrator may grant one 90-day extension for plat filing. All recorded plats shall be signed by the Chair of the Planning Commission prior to recording. A digital copy of the plat shall be provided to the Zoning Administrator.

2. All approved building envelopes, if they exist within a subdivision or PUD, shall be shown on the final plat.

3. Every subdivision plat shall show all proposed roads and pedestrian rights-of-way, as required under these Regulations, regardless of whether a proposed right-of-way is intended to be accepted by the Town.

E. **Subdivision Amendments**

1. No changes, modifications, or other revisions that alter the plat or conditions attached to an approved subdivision plan shall be made unless the proposed revisions are first resubmitted to the Planning Commission for final subdivision review and the Planning Commission approves such revisions after public hearing. In the event that such changes are recorded without complying with this requirement, the revisions shall be considered in violation of subdivision approval.

7.4 GENERAL SUBDIVISION STANDARDS

A. **Evaluation and Application of Standards.** The Planning Commission shall evaluate any applicable subdivisions of land in accordance with the standards set forth in this section. The Planning Commission may require the applicant to submit data addressing impacts related to these following standards. In light of findings made on these standards, the Planning Commission may require modification and phasing of the proposed subdivision, or measures or conditions to avoid or mitigate any undue adverse impacts.

B. **Basic Standards.**

1. **Character of the Land**. The Planning Commission shall determine that any land proposed for subdivision is of a character appropriate for the intended purpose and density of use, as proposed in the subdivision application, without inflicting undue adverse impact on public health and safety, the environment, neighboring properties, or the character of the surrounding area and community. Subdivisions shall be designed and laid out to achieve the desired settlement pattern and purpose of the district in which they are located as defined in Section 3.3. New subdivisions shall:

   a. Maintain and extend desired settlement patterns, including lot area and configuration, road layout, and building locations for the neighborhood or district in which they are located; and

   b. Maintain contiguous tracts of open space and forests; and connect to, and extend where appropriate, existing road, path, utility and open space corridors.

2. **Planning and Design Standards.** All subdivisions shall meet the Planning and Design Standards in Article 8.

3. **Density and Lot Layout**. Density, lot size, and layout shall conform to zoning district dimensional standards in Section 3, unless modified or waived by the Planning Commission.

   a. No new lot created shall have an area or frontage less than the minimum required for the district in which it is located per Section 3.4. Any public right-of-way or private street shall create lot frontage (corner lots, therefore, have frontage on two roadways).

   b. Dogleg lots, “spaghetti” lots, and lots otherwise contorted in order to get around these regulations are not permitted. Lot lines should be designed to follow existing land characteristics such as land contours, fence lines, roads, and paths, as well as to protect significant natural resources or to avoid excessively steep slopes, water courses, and wetlands.

   c. No new lot shall be created unless it has an approved access in accordance with Section 5.4.

   d. Lower densities of development than those proposed may be required by the Planning Commission based on site limitations.

4. **Conformance with the Town Plan and Other Regulations**. Subdivision proposals shall conform to the goals and policies of the Bakersfield Town Plan, other provisions of these regulations, the capital budget and program, and all other bylaws, ordinances and regulations of the Town of Bakersfield currently in effect.

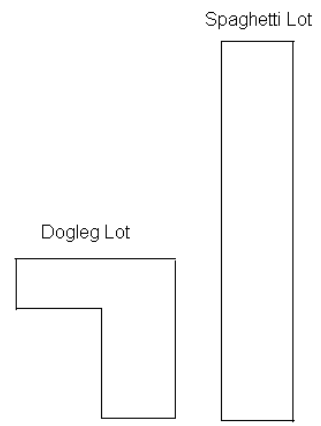


Figure 7.2 Irregular Lots. *Irregular lots, such as dogleg lots and "spaghetti" lots, do not create desirable development patterns. Lot lines should follow existing land characteristics.*

5. **Establishment of Building Envelopes**. The Planning Commission may require the identification of specific building footprints, if, in their judgment, such information is required to meet the standards set forth in these Regulations. Such building envelope shall be designed to identify and limit the location of principal and accessory structures, parking areas, and associated site development (excluding road and utility rights-of-way or easements) on one or more portions of a lot. The size and shape of the building envelope shall conform to district setback requirements. Building envelopes shall be shown on the final plat.

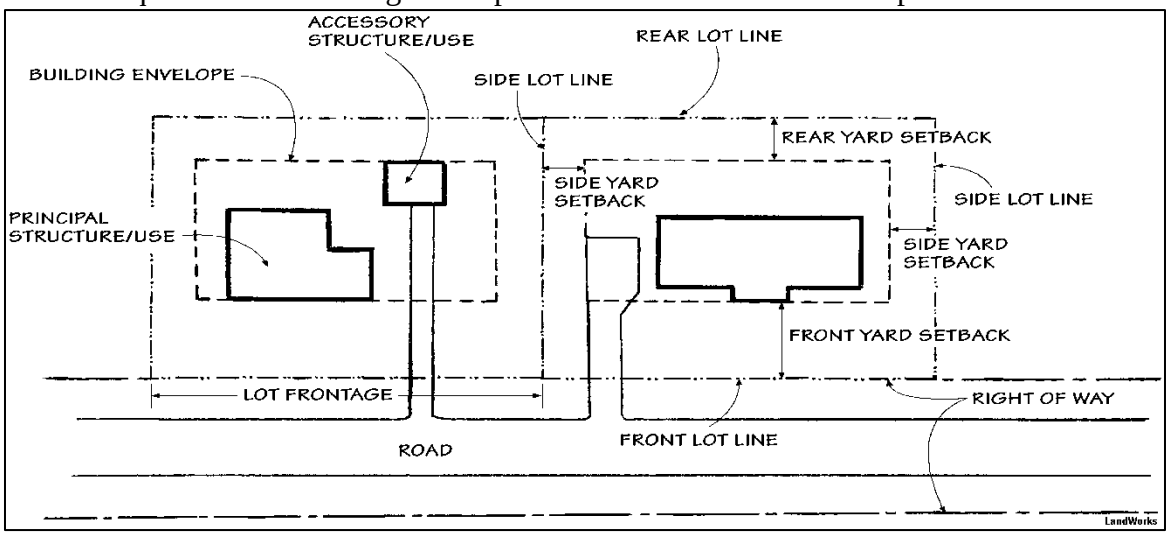


Figure 7.3 Building Envelopes*. The building envelope identifies the area in which development will take place and must be depicted on the subdivision plans.*

6. **Energy Conservation.** To conserve energy and to reduce environmental impact, all subdivisions shall use the least amount of area for roadways and the least length of sewer, water and utility lines within environmentally and economically sound limits. Clustered development (i.e. Planned Unit Developments) shall be considered rural and conservation zoning districts. The siting of buildings shall maximize solar access where feasible, and landscaping, where feasible, shall effectively be used to provide wind barriers and reduce heat loss or gain.

7. **Monuments & Lot Corner Markers**. Permanent monuments and corner markers shall be placed on all subdivided parcels in conformance with the current version of the Rules

of the Board of Land Surveyors, Part 5, Standards for the Practice of Land Surveying.

8. **Bonding**. The Planning Commission may require a performance bond or other form of security of up to the value of the cost of the improvement to ensure that the project is constructed and maintained for a period of two years in compliance with the final approval and these regulations. The amount and form of such surety shall be subject to the approval of the Bakersfield Selectboard. The bond shall be released only when the conditions have been satisfied in the judgment of the Bakersfield Selectboard in consultation with the Planning Commission. In the event any required improvements have not been installed or maintained in accordance with the terms of the bond, such bond shall be forfeited to the Town and the proceeds thereof used by the Town to install and maintain such improvements as are covered by the conditions of the bond.

C. **Community Services and Utilities.**

1. **Municipal Facilities and Services.** The proposed subdivision shall not create an undue burden on municipal facilities or create an unreasonable demand for public services (e.g. shall not result in an increase in student enrollment in excess of existing or planned school capacity). For subdivisions greater than 10 lots in size, the Planning Commission shall consult with the Selectboard and/or School District to make this determination. Considerations shall include the capacity of facilities and services directly affected, and the public cost of improvements relative to the anticipated tax return from the proposed development.

2. **Fire Protection Facilities and Emergency Access.** Subdivisions shall provide adequate water storage or distribution facilities for fire protection to the satisfaction of the Planning Commission after consultation with the Bakersfield Fire Department. The applicant shall submit documentation from the Bakersfield Fire Department as to the adequacy of emergency access and fire protection facilities. Where recommended by the Bakersfield Fire Department, the Planning Commission shall require the applicant to install fire hydrants, dry hydrants, or ponds.

D. **Utilities.**

1. **Locations.** All utilities, existing and proposed, throughout the subdivision shall be shown on the final plan.

   a. The Planning Commission may require that all utility lines, including but not limited to electric, fiber optic, gas, telephone, and cable television, be located underground throughout the subdivision, in order to reduce wind and ice damage to lines and protect the scenic character of the community.

   b. The subdivider shall coordinate subdivision design with utility companies to insure adequate and suitable areas for underground and above-ground installation, both for the proposed subdivision and areas adjacent to the subdivision.

   c. Utility corridors shall be shared with other utility and or transportation corridors where feasible, and located to minimize site disturbance, the fragmentation of agricultural, forest and conservation lands, and any adverse impacts to natural, cultural or scenic resources and to public health.

2. **Easements.** Easements of sufficient width shall be provided to the utility so as to serve both the proposed subdivision and existing and anticipated development outside the subdivision. Such easements shall be shown on the final plat.

E. **Traffic.** The proposed subdivision shall not cause unreasonable congestion or unsafe conditions on the affected public or private roads.

F. **Phasing.** At the time the Planning Commission grants preliminary approval, it may require the proposed subdivision to be divided into two or more phases to be developed at separate times and may impose such conditions upon the filing of application for final plan and plat approval as it deems necessary to assure the orderly development of the subdivision and coordination with the planned and orderly growth of the Town as set forth in the Town Plan.

G. **Legal Requirements.**

1. The applicant shall provide the Planning Commission with appropriate documentation for the adequate management and maintenance of all commonly owned entities, including community wastewater and water supply systems, community facilities, parking areas, private roads and rights-of-way, trail and utility rights-of-way, and open space. Ownership, management, and maintenance shall be clearly dictated in a covenant, easement, and/or other legal mechanism approved by the Planning Commission. In the case of a right-of-way that is not intended for acceptance by the Town, the mechanism by which the right-of-way is to be privately maintained, owned and/or conveyed shall clearly be documented. All legal documents applying to a particular parcel shall be included in the deed and recorded in the Bakersfield Land Records.

7.5 FIXED AREA ALLOCATION FOR PRESERVATION OF LAND WITHIN THE RURAL AND CONSERVATION DISTRICTS

A. Purpose. The purpose of the Rural and Conservation zoning districts is to preserve farmland and forests while permitting limited subdivision. In order to further the purpose of these zoning district, land may be subdivided within the Rural and Conservation zoning districts in a manner that helps protect agriculture, forests and primary conservation resources.

B. Standards. A lot of no more than 2 acres may be subdivided in the Rural zoning district or Conservation zoning district provided that the lot meets the following requirements:

1. The application shall meet all of the requirements for a minor subdivision in Section 7.2 and 7.3.

2. The application shall meet all subdivision standards in Section 7.4 and the Planning and Design Standards in Article 8.

3. The “parent lot” from which the new lot has been subdivided shall meet the minimum acreage requirement of the zoning district. The new lot and the parent lot shall both meet the minimum frontage requirements for the applicable zoning district (Section 3.4).

4. Additional lots lot cannot be created from a “new” lot: that has been subdivided within the last five years.

5. A deed restriction shall be recorded in the Town Clerk’s Office prohibiting further use of the fixed area allocation subdivision on the parent parcel for a period of at least twenty years. Conventional subdivision of the original parent parcel in conformance with these regulations is still allowed.

ARTICLE 8 PLANNING AND DESIGN STANDARDS

8.1 APPLICATION OF STANDARDS

A. The Planning Commission shall evaluate all subdivision, conditional use, site plan and planned unit development (PUD) applications in accordance standards in Article 8.

8.2 ROAD STANDARDS

A. **Applicability of Road Standards**. These standards shall apply to all proposed public and private roads. Acceptance of private roads by the municipality is subject to the approval of the Selectboard. Construction of roads to these standards in no way ensures acceptance of the road by the municipality.

B. **Design Standards**. All roads shall meet the following additional design standards:

1. Dead end roads shall be specifically discouraged. All dead end roads shall be constructed with a suitable turn around at the end; "T", "Y", and cul-de-sac configurations suitable to topography and adequate for emergency vehicles to turn around efficiently are permitted. Cul-de-sac are not allowed in the Village District.

2. Roads shall logically relate to topography to minimize site disturbance and to produce usable lots in relation to the proposed use of the land they will serve, including the amount of cut and fill required, reasonable grades, and safe intersections. Road grades should be consistent with local terrain. Maximum road grade shall not, in any 50-foot section, exceed an average of eight percent (8%).

3. Roads shall be designed and laid out to:

   a. Avoid impacts on historic, cultural and scenic resources, primary conservation resources, and to enhance the vitality of the village areas;

   b. Follow existing linear features, such as utility corridors, tree lines, hedgerows, and fence lines, and should avoid fragmentation of agricultural land, forests and open fields;

   c. Be consistent with existing road patterns in village and other settlement areas, including the selection of visually compatible materials, the preservation of existing features, and the management of vegetation within the road corridor; and

   d. Maximize connectivity within the subdivision and to adjoining parcels and road networks.

C. **Road Construction Standards**. Road construction, including specifications relating to crown, grade, sub-base, surfacing, and drainage shall conform to the Vermont Road and Bridge Standards, as most recently amended.

D. **Intersections**. A new or relocated road shall be located so that:

2. A safe sight stopping distance is provided as determined by probable traffic speed, terrain, alignments and climatic extremes. Generally, sight distance should be eleven (11) times the speed limit (e.g. a curb cut on a road with 40 mph speed limit would require a minimum sight distance of 440 feet which provides a gap of 7.5 seconds of travel time).

3. It is directly opposite an existing road or driveway to form a four-way intersection wherever feasible. The Planning Commission shall not permit intersections that create centerline offsets of less than 125 feet.

4. It intersects the existing roadway at an angle between 70 and 90 degrees.

5. Its slope within 100 feet of an intersection shall not exceed three (3) percent.

6. No structure or planting is situated to impair corner visibility.

E. **Connectivity and coordination with adjoining properties**.

1. In the Village District and High Density Residential District, and where appropriate in other zoning districts, the arrangement of roads in a subdivision shall provide for connectivity with roads in adjoining neighborhoods and/or allow for future connection to adjoining properties not yet subdivided. Road connectivity from neighborhood to neighborhood increases accessibility for fire protection and emergency services, allows for movement of traffic and pedestrians to and from community facilities, and increases the feasibility of constructing or extending needed utilities and public services. Where it is not feasible or appropriate to connect a proposed road with adjacent neighborhood(s), the Planning Commission may require the set aside of rights-of-way for future access to development on the lot or adjacent properties, require connectivity via pedestrian rights of way in conformance or otherwise modify this requirement.

2. Shared driveways and/or internal development roads providing access to multiple lots are encouraged and may be required to limit the number of access points onto public highways in accordance with Section 5.4.

F. **Upgrade to Existing Roads**. Where an existing public or private road is inadequate or unsafe, the Planning Commission, in consultation with the Selectboard, may require the subdivider to upgrade the road to conform to these standards. In situations where a development may require an increase in capacity of an existing road, such as realignment or widening, or where the Town Plan indicates that such improvements may be required in the future, the subdivider may be required to reserve land for such improvements. Any existing road that provides either frontage to new lots or access to new roads also shall meet these requirements. Where a subdivision requires expenditure by the municipality to improve existing roads to conform to these standards, the Planning Commission may disapprove such subdivision until the Selectboard certifies that funds for the improvements have been ensured; or the subdivider may be required to contribute to any or all of the expenses involved with road improvements necessitated by the project.

G. **Road Names & Signs**. Roads shall be named in accordance with any municipal road naming ordinance or policy currently in effect.

8.3 SIDEWALKS AND PEDESTRIAN ACCESS

A. All development in Bakersfield shall contain provisions for pedestrian traffic that is adequate in terms of safety, convenience, access to points of destination, attractiveness, and connections with pedestrian ways on adjoining properties.

B. Within all major subdivisions, the Planning Commission shall require pedestrian rights-of-way in the form of perpetual unobstructed easements to facilitate pedestrian and bicycle circulation and to ensure access to adjoining properties, uses, or public facilities.

C. Sidewalks shall be required in major subdivisions in the Village Center District and may be required for minor subdivisions. Sidewalks shall be required to connect to sidewalks on abutting properties if they exist.

8.4 PROTECTION OF FARMLAND AND FORESTS

A. Subdivision boundaries, lot layout, and building envelopes shall be located and configured to avoid adverse impacts on prime and statewide agricultural soils, productive farmland, silvicultural areas, and contiguous forest blocks.

B. Methods for avoiding undue adverse impacts include but are not limited to the following:

1. Building envelopes shall be located at field and forest edges and on the least fertile soil in order to minimize the loss of productive agricultural and silvicultural land, impacts on existing farm operations, fragmentation of forests and wildlife habitat, and disruption to the scenic qualities of the site.

2. In the Rural District and Conservation District:

   a. Vegetated buffer areas shall be required between agricultural and other uses to minimize land use conflicts.

   b. The space used for access roads, driveways, and utility corridors shall be minimized (for example, by sharing). Where sites include linear features such as existing roads, tree lines stonewalls and/or fence lines, new infrastructure shall follow these to minimize the fragmentation of productive agricultural land and minimize visual impacts.

8.5 STORMWATER MANAGEMENT AND EROSION CONTROL

A. **Stormwater**

1. **Applicability.** All project applications shall indicate how stormwater will be managed. A stormwater management plan shall be provided, unless waived by the Planning Commission or Zoning Board of Adjustment if it is clear that stormwater management is not an issue on site. The plan shall show all natural and constructed drainage ways and detention areas, both existing and proposed, in addition to how drainage from the site might impact properties downstream.

2. **General Standards**.

a. Stormwater runoff shall be directed to existing separate drainage facilities where they exist on site.

b. New swales, ponds, or other effective management techniques shall be incorporated into the site design to prevent any runoff from reaching adjacent properties or causing unsafe conditions on the project site. Natural watercourses and drainage ways shall be incorporated into the design of drainage systems to the fullest extent possible.

c. The best available technology shall be used to minimize stormwater runoff, increase on-site infiltration, encourage natural filtration functions, simulate natural drainage systems, and minimize discharge of pollutants to ground and surface water. Best available technology may include measures such as:

   i. Detention basins or ponds;

   ii. Recharge trenches or swales;

   iii. Bio-retention areas or rain gardens that collect runoff and allow for short-term ponding and slow infiltration;

   iv. Minimizing the use of impervious surfaces;

   v. Vegetative and landscaping controls that intercept the path of surface runoff;

   vi. Dry wells consisting of gravel or stone-filled pits to catch water from roof downspouts or paved areas;

   vii. Permeable pavement or pavers that allow stormwater to seep through into the ground;

   viii. Rain barrels and cisterns of various sizes that store runoff conveyed through building downspouts; and/or

d. Stormwater drainage shall not flow onto adjacent properties. Failure to maintain natural and/or engineered on-site systems as part of an approved development will be considered a violation.

B. **Erosion Control**. Land shall be developed so as to retain, insofar as possible, the natural contours and to conserve the natural cover and soil. All areas exposed during construction shall be protected in accordance with the standards of the Natural Resources Conservation Service, the Vermont Agency of Natural Resources, or other appropriate regulatory body. Permanent vegetation and structures shall be established according to a schedule as required by the Planning Commission or Zoning Board of Adjustment. The Planning Commission or Zoning Board of Adjustment may require the preparation and implementation of a sedimentation and erosion control plan to ensure the site improvements, excluding excavation, road and driveway construction and site clearing and grading shall not unduly impact neighboring properties or surface waters. Such a plan, if required, shall be prepared by a Professional Engineer licensed by the State of Vermont.

8.6 LANDSCAPING AND SITE PRESERVATION

A. **Site Preservation of Existing features**. Site amenities such as trees and tree lines, water courses or drainageways, scenic roads, historic sites, unique geologic features, fences,

stonewalls, or any other features that the Planning Commission or Zoning Board of Adjustment feels are an asset to the site and/or community shall be preserved insofar as possible through harmonious design and appropriate construction methods in accordance with policies and goals set forth in the Town Plan.

B. **Landscape improvements.** The Planning Commission or Board of Adjustment may require landscape improvements for the purpose of reducing the visibility of unsightly or incompatible areas from the road and adjoining properties, which must meet seasonal conditions, soil conditions, and light conditions on the site, in accordance with the following standards:

1. Landscaping shall take the form of native shade trees, deciduous shrubs, evergreens, well kept grasses, ground cover and site modifications such as berms.

2. In determining the amount and type of plantings to be required, the Planning Commission shall take into account the following:

   a. Existing trees, shrubs, evergreens and other vegetation to be preserved on the site to the greatest extent possible;

   b. The visibility of incompatible or unsightly areas from public roads and/or adjacent properties;

   c. The landform and overall landscaping plan for the development; and

   d. Other factors which affect the safety and appearance of the development.

3. Native street trees shall be required along state and town highways in the Village Center District.

4. Off-street parking areas for uses other than single and two-family dwellings shall be required to be landscaped or screened from adjacent uses.

5. Landscaping shall be installed in a time frame established by the Planning Commission or Board of Adjustment.

ARTICLE 9 PLANNED UNIT DEVELOPMENT

9.1 PURPOSE AND APPLICABILITY

A. Planned Unit Developments (PUDs) are allowed in the High Density, Rural, and Conservation Districts in Bakersfield. PUDs are not allowed in the Village Center District. The purposes of PUDs are:

- to encourage flexibility in design and unified treatment of the development site
- to reduce adverse impacts to, or the fragmentation of, significant natural resources and open space
- to preserve agricultural and forestry resources and maintain rural character
- to promote concentrated, compact, mixed use, pedestrian-scale development
- to facilitate the efficient and economical provision of streets, utilities, and municipal services.

To achieve the purposes set forth above and in accordance with § 4417 of the Act, the Planning Commission may modify the area and dimensional requirements of these regulations upon the request of the applicant. These modifications shall be subject to the standards described in this section and all other applicable provisions of these regulations.

9.2 REVIEW PROCESS AND APPLICATION MATERIALS

A. An application for PUD approval shall also require review as a major subdivision if the project involves the subdivision of land. If a PUD does not involve the subdivision of land, the project shall require site plan review, in accordance with Section 4.3.

B. Approval of a PUD that involves the development of one (1) or more conditional uses shall require conditional use review in accordance with Section 4.4.

C. In addition to the application requirements for subdivision review or site plan review, as applicable, applications for PUDs must include the following:

1. A brief summary of the project and how it meets the standards in this section;

2. A statement describing all proposed modifications of these regulations, including the proposed size and layout of lots and open space, and the design, size, and spacing of buildings; and

3. Plans for the permanent protection, maintenance and/or management of open space areas included within the development.

9.3 GENERAL PUD STANDARDS

A. In addition to the subdivision standards in Article 7, Planning and Design Standards in Article 8, and other applicable provisions of these regulations, PUDs shall meet the standards of this section. The Planning Commission may impose conditions to ensure that these standards are met:

1. The project shall be consistent with the Bakersfield Town Plan.

2. PUDs may include a mix of compatible uses. These uses shall be arranged and buffered to ensure visual and acoustical privacy to residential uses and around the PUD.

3. PUDs shall be an effective and unified treatment of the project site and shall be designed to minimize undue adverse impact on stream banks, slopes greater than 15%, wetlands, soils unsuitable for development, primary agricultural soils, forested areas, historic sites, rare threatened and endangered species, floodplains, river corridors, and scenic resources.

4. The PUD may be required to be phased in order that adequate municipal facilities and services may be provided.

5. A PUD should contain varied types of dwellings and varied, yet complementary, types of architectural style, lot sizes, building materials, and exterior colors.

6. A PUD may involve the creation of separate building lots, or may include a development in which multiple buildings and uses are constructed on a single parcel in common ownership.

7. A PUD shall contain open space for purposes appropriate to the district. The Planning Commission, as a condition of its approval, may establish such conditions on the ownership, use and maintenance of such lands as it deems necessary to assure the preservation of such lands for their intended purposes.

9.4 DENSITY OF DEVELOPMENT

A. Except as provided in Subsection D (Density Bonus) below, the number of units allowed in a PUD shall not exceed the number that could be permitted if the land were subdivided based on the dimensional requirements of the zoning district.

B. Where a zoning district boundary line divides a parcel, the development of a single PUD is allowed with a total number of allowable units based on the following formula:

(area in district 1)x(allowable density of district 1) + (area in district 2)x(allowable density of district2)

Any fractional numbers resulting from this formula shall be rounded down to the nearest whole number.

Development may be located on any portion of the parcel, regardless of zoning district, in accordance with the standards set forth in these regulations.

C. **PUDs Involving Two or More Parcels.** Two or more contiguous parcels may be combined in a single

Figure 9.1 - Determining Density When a Single Parcel is Located in Two Zoning Districts

Where a district boundary divides a parcel, the development of a single PUD is allowed with a total density based on the combined allowable density of each district. For example, a 15-acre parcel in which 10 acres is located in the Rural District and 5 acres is located in the High Density District has a maximum allowable density of 6 units, based the formula of:
10 acres x 1 unit/10 acres in Rural= 1 unit
5 acres x 1 unit/acre in High Density= 5 units

application for review as a PUD. The number of allowed units may be aggregated onto a single parcel to allow for greater concentrations of development and corresponding preservation of open space.

D. **Density Bonus in the High Density District.** The Planning Commission is authorized to grant a density bonus to proposed PUDs located entirely in the High Density District, allowing the number of units to be increased by up to a maximum of 25 percent for projects. The Planning Commission may decide the amount of the density bonus based upon the features of the specific site, and will provide their rationale in the findings of fact for the approval of the site plan. A density bonus may be granted if:

1. At least 25 percent of the total project area is legally protected as open space for agricultural or recreational use, *or*

2. At least 25 percent of the housing units in the project are designated as perpetual affordable housing through a legally binding agreement or covenant, *or*

3. At least 50 percent of the housing units in the project are designated as perpetual senior housing through a legally binding agreement or covenant.

9.5 OPEN SPACE

A. Planned Unit Developments shall be designed to incorporate open space, which may include land intended for outdoor recreation or lands with important natural, cultural, scenic or agricultural resource value. Open space shall be approved by the Planning Commission, in accordance with the following:

1. Sewage disposal areas, stormwater treatment areas, utility and road rights-of-way or easements, access and parking areas shall not be counted as open space, except where the applicant can prove to the satisfaction of the Planning Commission that they will in no way disrupt or detract from the values for which the open space is to be protected.

2. The open space shall provide for the protection of resources on the site to the extent possible, including surface waters, wetlands, slopes greater than 15%, prime agricultural soils and forests, critical wildlife habitat, significant geologic features, and scenic resources identified in the municipal plan.

3. The location, shape, size and character of the open space shall be suitable for its context and intended use. Areas preserved for agriculture and forestry should be of a size that retains their eligibility for available tax abatement programs. When possible, open space shall be located adjacent to areas sharing similar uses, characteristics or natural features.

4. In the Rural and Conservation Districts the amount of protected open space shall not be less than 50% of the total project area.

5. Open land shall be protected in perpetuity for its intended use by one of the following means as approved by the Planning Commission:

    a. A conservation easement is granted to a third party, such as a land trust;
    b. The open space may be held in common by a homeowners' association and

protected by covenant from further development;

c. The open space may be held by a single owner with a deed restriction prohibiting future development;
d. The open space may be conveyed in fee simple to one of the following as approved by the Planning Commission:

   i. The Town of Bakersfield, if it agrees;
   ii. A non-profit organization whose mission includes the protection of natural resources, historic preservation and/or public recreation.

6. Permit conditions shall establish ownership and a plan for maintenance and long term stewardship. All costs associated with administering and maintaining open space shall be the responsibility of the applicant and subsequent landowners.

ARTICLE 10 FLOOD HAZARD AND RIVER CORRIDOR REGULATIONS

10.1 STATUTORY AUTHORIZATION AND EFFECT

A. In accordance with 10 V.S.A. Chapter 32, and 24 V.S.A. Chapter 117 §4424, §4411 §4414, and 24 VSA Chapter 59, there is hereby established a bylaw for areas at risk of flood damage in the Town of Bakersfield, Vermont.

10.2 STATEMENT OF PURPOSE

A. It is the purpose of this article to:

1. Avoid and minimize the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public services that result from flooding related inundation and erosion;

2. Ensure that the selection, design, creation, and use of development in hazard areas is reasonably safe and accomplished in a manner that is consistent with public wellbeing, does not impair stream equilibrium, flood plain services, or the stream corridor,

3. Manage all flood hazard areas designated pursuant to 10 V.S.A. Chapter 32 § 753, the municipal hazard mitigation plan; and make the Town of Bakersfield, its citizens, and businesses eligible for federal flood insurance, federal disaster recovery funds, and hazard mitigation funds as may be available.

10.3 LANDS TO WHICH THESE STANDARDS APPLY

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

1. The River Corridors as published by the Vermont Agency of Natural Resources including the Statewide River Corridors and refinements to that data based on field-based assessments which are hereby adopted by reference. Where River Corridors are not mapped, the standards in Section 10.5 shall apply to the area measured as fifty (50) feet from the top of the stream bank or slope from all rivers and streams included in the Vermont Hydrography Dataset (VHD).

2. The Special Flood Hazard Area in and on the most current flood insurance studies and maps published by the Department of Homeland Security, Federal Emergency Management Agency, National Flood Insurance Program, as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. Chapter 32 § 753, which are hereby adopted by reference and declared to be part of these regulations.

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

1. Where available, base flood elevations and floodway limits provided by the National Flood Insurance Program and in the Flood Insurance Study and accompanying maps shall be used to administer and enforce these regulations.

2. In Special Flood Hazard Areas where base flood elevations and floodway limits have not been provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps, it shall be the responsibility of the applicant to develop the base flood elevation at the site using data provided by FEMA or available from State or Federal agencies.

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

1. If uncertainty exists with respect to the boundaries of the Special Flood Hazard Area or the floodway, the location of the boundary shall be determined by the Zoning Administrator (ZA). If the applicant disagrees with the determination made by the ZA, a Letter of Map Amendment from FEMA shall constitute proof.

2. If uncertainty exists with respect to the boundaries of the River Corridor, the location of the boundary shall be determined by the ZA. If the applicant disagrees with the determination made by the ZA, a letter of determination from the Vermont Agency of Natural Resources shall constitute proof.

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

10.4 DEVELOPMENT REVIEW IN HAZARD AREAS

A. **Zoning Permit.** A zoning permit is required from the Zoning Administrator for all development in all areas defined in Section 10.11. Development that requires conditional use approval, non-conforming use approval, or a variance from the Zoning Board of Adjustment (ZBA) under this article must have such approvals prior to the issuance of a zoning permit by the Zoning Administrator. Any development subject to municipal jurisdiction in the Special Flood Hazard Area or River Corridor shall meet the criteria in Section 10.4, 10.5 and 10.8. Any zoning permit issued will require that all other necessary permits from State or Federal Agencies have been received before work may begin.

B. **Permitted Development**. The following development is permitted and requires only a zoning permit from the Zoning Administrator provided that the development standards in Section 10.5 are met:

1. Special Flood Hazard Area (excluding Floodway):

    a. Non-substantial improvements to existing structures;
    b. Accessory structures;
    c. Development related to on-site septic or water supply systems;

d. Building utilities;
e. At-grade parking for existing structures;
f. Recreational vehicles.

2. Floodway and River Corridor

a. Recreational vehicles.

C. **Conditional Use Review.** Conditional use approval by the Zoning Board of Adjustment, is required prior to the issuance of a zoning permit by the Zoning Administrator for the following proposed development:

1. Special Flood Hazard Area (excluding Floodway):

a. Substantial improvement, elevation, relocation, or flood proofing of existing structures;
b. New or replacement fuel storage tanks for existing structures;
c. Grading, excavation; or the creation of a pond;
d. Improvements to existing roads;
e. Bridges, culverts, channel management activities, or public projects which are functionally dependent on stream access or stream crossing;
f. Public utilities;

2. Floodway

a. All improvements to existing structures in the floodway;

3. River Corridor

a. Improvements to existing primary structures in the River Corridors that do not expand the footprint of the existing structure more than 500 square feet;
b. Accessory structures in the River Corridors, of 500 square feet or less, that represent a minimal investment;
c. Building utilities;
d. At-grade parking for existing buildings in the River Corridors.

D. **Prohibited Development.**

1. Special Flood Hazard Area:

a. New residential or non-residential structures (including the placement of manufactured homes);
b. Storage or junk yards;
c. New fill except as necessary to elevate structures above the base flood elevation;
d. Critical facilities; and,
e. All development not exempted, permitted, or conditionally permitted.

2. Floodway:

a. New residential or non-residential structures (including the placement of manufactured homes);
b. Storage or junk yards;
c. New fill except as necessary to elevate structures above the base flood elevation;
d. Accessory structures;
e. Critical facilities;
f. All development not exempted, permitted, or conditionally permitted.

3. River Corridor

a. New residential or non-residential structures (including the placement of manufactured homes);
b. Storage or junk yards;
c. New fill except as necessary to elevate structures above the base flood elevation;
d. Critical facilities;
e. All development not exempted, permitted, or conditionally permitted.

E. **Exempted Development**. The following development is exempt from regulation under this article:

1. The removal of a building or other structure in whole or in part;
2. Maintenance of existing roads and storm water drainage;
3. Silvicultural (forestry) activities conducted in accordance with the Vermont Department of Forests and Parks Acceptable Management Practices;
4. Agricultural activities conducted in accordance with the Vermont Department of Agriculture's Required Agricultural Practices (RAP). Prior to the construction of farm structures the farmer shall follow the procedures outline in Section 1.7.

10.5 FLOOD HAZARD AREA DEVELOPMENT STANDARDS

A. Special Flood Hazard Area:

1. All Development shall be:

a. Reasonably safe from flooding and:
b. Designed, operated, maintained, and adequately anchored to prevent flotation, collapse, or lateral movement of the structure;
c. Constructed with materials resistant to flood damage;
d. Constructed by methods and practices that minimize flood damage;
e. Constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
f. Adequately drained to reduce exposure to flood hazards;
g. Located so as to minimize conflict with changes in channel location over time and the need to intervene with such changes; and,
h. Required to locate any fuel storage tanks (as needed to serve an existing building in the Special Flood Hazard Zone) a minimum of one foot above the base flood elevation and be securely anchored to prevent flotation; or storage tanks may be placed underground, if securely anchored as certified by a qualified professional.

2. In Zones AE, AH, and A1 – A30 where base flood elevations and/or floodway limits have not been determined, development shall not be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated encroachment, will not increase the base flood elevation more than 1.00 foot at any point within the community. The demonstration must be supported by technical data that conforms to standard hydraulic engineering principles and certified by a licensed professional engineer.

3. Structures to be substantially improved in Zones A, A1-30, AE, and AH shall be located such that the lowest floor is at least one foot above base flood elevation, this must be documented, in as-built condition, with a FEMA Elevation Certificate;

4. Non-residential structures to be substantially improved shall:

    a. Shall meet the standards in Section 10.5(A)(3); or,
    b. Have the lowest floor, including basement, together with attendant utility and sanitary facilities be designed so that that two feet above base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A permit for a building proposed to be floodproofed shall not be issued until a registered professional engineer or architect has reviewed the structural design, specifications and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.

5. Fully enclosed areas below grade on all sides (including below grade crawlspaces and basements) are prohibited.

6. Fully enclosed areas that are above grade, below the lowest floor, below base flood elevation, shall:

    a. Be solely used for parking of vehicles, building access, or storage, and such condition shall clearly be stated on any permits; and,
    b. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Such designs shall be certified by a licensed professional engineer or architect, or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

7. Recreational vehicles shall be fully licensed and ready for highway use.

8. A small accessory structure of 500 square feet or less, that represents a minimal investment, need not be elevated to the base flood elevation provided the structure is placed on the building site so as to offer the minimum resistance to the flow of floodwaters and shall meet the criteria in Section 10.5(A)(6).

9. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.

10. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

11. On-site wastewater disposal systems shall be located to avoid impairment to them or contamination from them during floodiang.

12. The flood carrying capacity within any altered or relocated portion of a watercourse shall be maintained and any alteration or relocation shall not result in any decrease of stream stability.

13. Bridges and culverts, which by their nature must be placed in or over the stream, must have a stream alteration permit from the Agency of Natural Resources where applicable.

14. Subdivisions and Planned Unit Developments shall be accessible by dry land access outside the special flood hazard area.

15. Existing buildings, including manufactured homes, to be substantially improved in Zone AO shall have the lowest floor, including basement, elevated above the highest adjacent grade, at least as high as the depth number specified on the community's FIRM, or at least two feet if no depth number is specified.

B. Floodway Areas:

1. Encroachments or development above grade and less than one foot above the base flood elevation, are prohibited unless hydrologic and hydraulic analyses are performed in accordance with standard engineering practice, by a licensed professional engineer, certifying that the proposed development will:

   a. Not result in any increase in flood levels (0.00 feet) during the occurrence of the base flood;
   b. Not increase any risk to surrounding properties, facilities, or structures from erosion or flooding.
   c. Meet all standards in Section 10.5(A).

2. Public utilities may be placed underground, and the analyses may be waived, where a licensed professional engineer certifies that there will be no change in grade and the utilities will be adequately protected from scour.

C. River Corridors:

1. Improvements to existing structures, and any associated fill as needed to comply with elevation requirements in Section 10.5(A), shall not decrease the distance between the existing primary building and the top of bank;

2. Accessory structures may be located within 50 feet of the existing primary building provided that the location does not decrease the distance between the existing primary structure and the top of bank.

3. Development shall not increase the susceptibility of the development, or other properties, to potential fluvial erosion damage.

4. Development shall not increase the potential of materials being swept onto other properties, or into the stream or river, and shall not increase the potential of causing damage to other properties from fluvial erosion;

5. Development shall not cause an undue burden on public services and facilities including roads, bridges, culverts, and emergency service providers during and after fluvial erosion events.

6. Bridge and culvert projects shall have a Stream Alteration Permit; and

7. Channel management activities must be authorized by the Agency of Natural Resources.

10.6 STANDARDS FOR REVIEW OF NONCONFORMING STRUCTURES AND USES

A. The Zoning Board of Adjustment may approve the repair, relocation, replacement, or enlargement of a nonconforming structure within a hazard area, subject to compliance with applicable federal and state laws and regulations, compliance with Section 5.8, and provided that the following criteria are met:

1. The proposed development is in compliance with all the Development Standards in Section 10.5 of these regulations;

2. A nonconforming structure that is substantially damaged or destroyed may be reconstructed only in circumstances when the structure cannot be relocated to a less hazardous location on the parcel. The lowest floor of the reconstructed structure shall be rebuilt to one foot or more above the base flood elevation, and the structure shall otherwise comply with all requirements of the National Flood Insurance Program;

3. Nonconforming structures and non-conforming uses shall be considered abandoned where such structures or uses are discontinued for more than 12 months; and

4. An individual manufactured home lot in an existing manufactured home park that is vacated shall not be considered a discontinuance or abandonment of nonconformity. Replacement manufactured homes shall be placed so as to meet the development standards in these regulations.

10.7 VARIANCES TO THE DEVELOPMENT STANDARDS

A. Variances may be granted by the Zoning Board of Adjustment only in accordance with all criteria in 44 CFR Section 60.6 of the National Flood Insurance Program regulations and Section 4.7.

B. A variance for development within the River Corridors may be allowed if, based on a review by VT ANR, it is determined that the proposed development will not obstruct the establishment and maintenance of fluvial geomorphic equilibrium for the watercourse.

C. Any variance issued in the Special Flood Hazard Area (including Floodway) shall not increase flood heights, increase susceptibility to flooding or erosion, create additional threats to public safety or infrastructure (including emergency services during flood events), or result in extraordinary public expense. All decisions granting a variance shall be accompanied by a letter from the Zoning Administrator informing the applicant in writing that the issuance of a variance to construct a structure below the base flood elevation increases risk to life and property and will result in increased flood insurance premiums up to amounts as high as $25 for $100 of coverage. Such notification shall be maintained with a record of all variance actions.

10.8 ADMINISTRATION

A. **Application Submission Requirements**. Applications for development shall include:

1. Where applicable, a site plan that depicts the proposed development, all water bodies, Special Flood Hazard Areas, floodways, River Corridors, the shortest horizontal distance from the proposed development to the top of bank of any stream, any existing and proposed drainage, any proposed fill, and pre and post development grades, a the elevation of the proposed lowest floor (as referenced to the same vertical datum as the elevation on the current Flood Insurance Rate Maps), and any other information required by the Board of Adjustment to ensure compliance with Section 10.5 and any other applicable sections of these regulations.

2. A Vermont Agency of Natural Resources Project Review Sheet for the proposal. The Project Review Sheet shall identify all State and Federal agencies from which permit approval is required for the proposal, and shall be filed as a required attachment to the municipal zoning permit application. The identified permits, or letters indicating that such permits are not required, shall be submitted to the Zoning Administrator and shall be attached to the zoning permit before work can begin.

B. **Referrals**

1. Upon receipt of a complete application for a substantial improvement or new construction, the Zoning Administrator shall submit a copy of the application to the Vermont Agency of Natural Resources, State National Flood Insurance (NFIP) Coordinator, in accordance with 24 V.S.A. §4424(D). A zoning permit application shall not be considered complete, and may only be issued by the Zoning Administrator, following receipt of comments from the Agency, or the expiration of 30 days from the date the application was mailed to the Agency, whichever is sooner.

2. If the applicant is seeking a permit for the alteration or relocation of a watercourse, copies of the application shall also be submitted to the adjacent communities, the Stream Alteration Engineer at the Vermont Agency of Natural Resources, and the Army Corps of Engineers. Copies of such notice shall be provided to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation. A permit may be issued only following receipt of comments from the Vermont Agency of Natural Resources, or the expiration of 30 days from the date the application was mailed to the Vermont Agency of Natural Resources, whichever is sooner. The Zoning Board of Adjustment should consider comments from the NFIP Coordinator at ANR.

C. **Decisions**

1. Decisions of the Zoning Board of Adjustment and Zoning Administrator shall be issued in compliance with Section 2.4.

D. **Records**

1. The Zoning Administrator shall properly file and maintain a record of all development located within hazard areas:

   a. All permits issued in areas covered by this article;
   b. An Elevation Certificate with the as-built elevation (consistent with the datum of the elevation on the current Flood Insurance Rate Maps for the community) of the lowest floor, including basement, of all new, substantially improved, or flood proofed buildings (not including accessory buildings) in the Special Flood Hazard Area;
   c. All flood proofing and other certifications required under this regulation; and,
   d. All decisions of the Zoning Board of Adjustment (including variances and violations) and all supporting findings of fact, conclusions and conditions.

E. **Precedence.** The provisions of this article shall not in any way impair or remove the necessity of compliance with any other local, state, or federal laws or regulations. Where this flood hazard regulation imposes a greater restriction the provisions in this article shall take precedence.

10.9 CERTIFICATE OF COMPLIANCE

A. All development subject to review under Article 10 shall also be subject to the requirements in Section 2.6.

10.10 VIOLATION OF FLOOD HAZARD AREA REGULATIONS

A. This article shall be enforced under the requirements of Section 2.4. A copy of the notice of violation shall be mailed the State NFIP Coordinator.

B. If all appeals have been resolved, but a violation remains, the Zoning Administrator shall submit a declaration to the Administrator of the NFIP requesting a denial of flood insurance to the property pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

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

10.11: FLOOD HAZARD DEFINITIONS

A. Definitions in this section apply only to the Flood Hazard Regulations in this article. Additional definitions are found in Section 11.

ACCESSORY STRUCTURE: Means 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.

AREA OF SPECIAL FLOOD HAZARD: See special flood hazard area.

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

BASE FLOOD ELEVATION (BFE): is the elevation of the water surface elevation resulting from a flood that has a 1 percent chance of equaling or exceeding that level in any given year. On the Flood Insurance Rate Map 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.

BUFFER: Means an undisturbed area consisting of trees, shrubs, ground cover plants, duff layer, and generally uneven ground surface that extends a specified distance horizontally across the surface of the land from the mean water level of an adjacent lake or from the top of the bank of an adjacent river or stream.

CHANNEL: Means an area that contains continuously or periodic flowing water that is confined by banks and a streambed.

CHANNEL WIDTH (or bankfull width): is 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.

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

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

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

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

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

FLOOD INSURANCE RATE MAP (FIRM): An official map of a community, on which the Federal Insurance Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community. In some communities the hazard boundaries are available in paper, pdf, or Geographic Information System formats as a Digital Flood Insurance Rate Map (DFIRM).

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

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

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

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

FLOODWAY, REGULATORY IN TOWN OF BAKERSFIELD: Means 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.

FLUVIAL EROSION: Erosion caused by streams and rivers. Fluvial erosion can be catastrophic when a flood event causes a rapid adjustment of the stream channel size and/or location.

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

HAZARD AREAS: The FEMA delineated 100-year flood plain (also referred to as the special flood hazard area) including the floodway, and the Vermont Agency of Natural Resources delineated River Corridor.

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

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

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

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

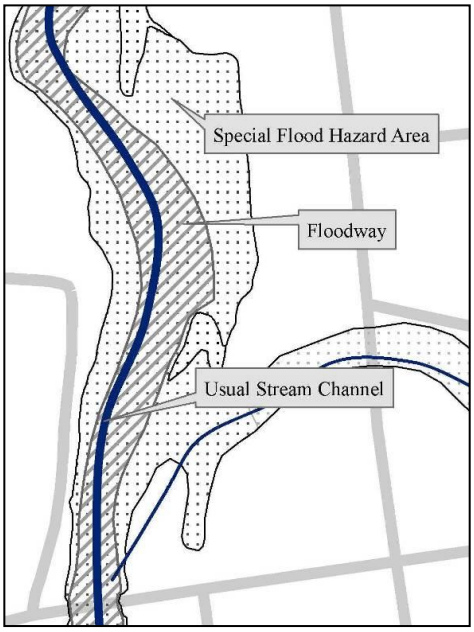
MANUFACTURED HOME PARK OR SUBDIVISION: For development in the Flood Hazard Area Overlay District, a **manufactured home park or subdivision** shall mean a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale and a **new manufactured home park or subdivision** shall mean a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by a community.

NEW CONSTRUCTION: For regulation under these regulations, means structures for which the start of construction commenced on or after the effective date of the floodplain management

regulation adopted by the community 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 flood hazard regulations at the time of their creation, and remain so, remain violations and are not nonconforming structures.

Figure 10.1: Special Flood Hazard Area



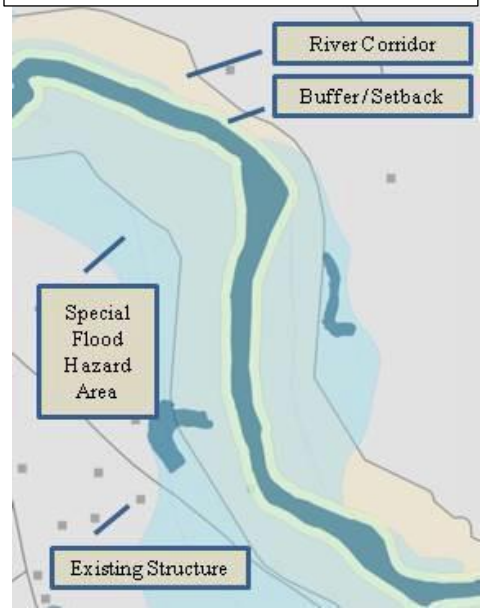
NONCONFORMING USE: means use of land that does not conform to the present bylaws but did conform to all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a use improperly authorized as a result of error by the administrative officer.

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.

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

Figure 10.2: Special Flood Hazard Area and River Corridor



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

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, as that term is defined in 10 V.S.A. §1422, and for

minimization of fluvial erosion hazards, as delineated by the Agency in accordance with the ANR River Corridor Protection Guide.

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

START OF CONSTRUCTION: Includes substantial improvement, and means the date the zoning permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, regardless whether that alteration affects the external dimensions of the building.

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

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

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

TOP OF BANK: Means that vertical point along a stream bank where an abrupt change in slope is evident. For streams in wider valleys it is the point where the stream is generally able to overflow the banks and enter the floodplain. For steep and narrow valleys, it will generally be the same as the top of slope.

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

Relatively Flat Channel ***Steep Channel***

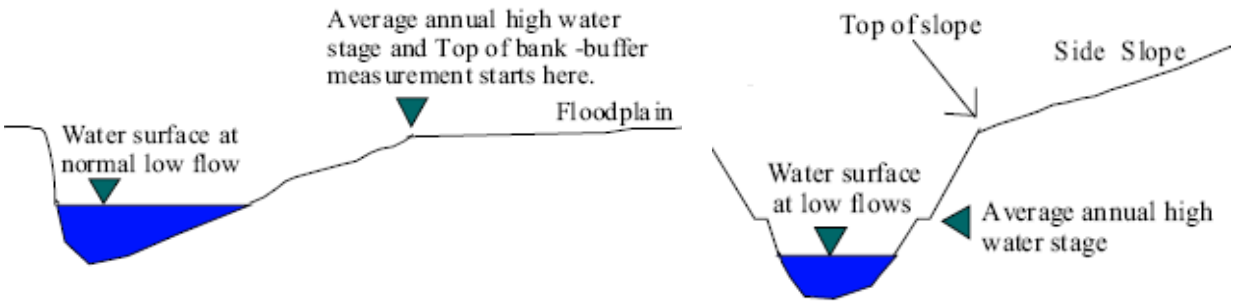


Figure 10.3: Top of Bank and Top of Slope

ARTICLE 11 DEFINITIONS

A. Definitions contained in Title 24, Chapter 117, Vermont Statutes Annotated, shall be applicable throughout these regulations. When not inconsistent with the context, words used in the present tense include the future, and words in plural number include the singular number, and words in the singular number include the plural number. The word "shall" is mandatory and not merely directory. The word "person" includes a firm, association, corporation, partnership, company or other organization, as well as an individual. The word "lot" includes the words parcel or plot. The words "used" or "occupied" include the words intended, designed, or arranged to be used or occupied.

ACCESSORY DWELLING: A separate, complete dwelling unit composed of an efficiency or one-bedroom apartment that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, and which the title is inseparable from the primary single-family dwelling. This definition shall include accessory units as defined under the Act [Section 4412.E].

ACCESSORY STRUCTURE: A structure, the use of which is incidental and subordinate to the principal use or structure and is located on the same lot. Examples of accessory structures include patios, permanent swimming pools, unattached garages, tool sheds, workshops, unattached decks and gazebos, boathouses, and docks. See also Accessory Dwelling, Accessory Use.

ACCESSORY USE: A use, which is incidental and subordinate to a principal use located on the same lot.

ACRE: An area of land equal to 43,560 square feet.

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

AFFORDABLE HOUSING (Statutory Definition, 24 V.S.A. § 4303(1))**:** Either of the following:

1. Housing that is owned by its inhabitants, whose gross annual household income does not exceed 80 percent of the county median income, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including principal, interest, taxes and insurance, is not more than 30 percent of the household's gross annual income, or

2. Housing that is rented by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including rent, utilities, and condominium association fees, is not more than 30 percent of the household's gross annual income.

Affordable housing units shall be considered perpetual if they are owned or controlled by a non-profit organization organized for the purpose of providing affordable housing.

AGRICULTURAL USE: Use that includes cultivating the soil and producing crops or raising livestock for the purpose of economic gain, including the sale of farm crops, horticultural products, or livestock products raised on the property, and any use that meets the Required Agriculture Practices (RAPs) definition of a farm. Agricultural use does not include silvicultural use.

ALTERATIONS: As applying to a building or structure, a change or rearrangement in the structural parts or in the exit facilities, or an enlargement whether by extending on a side or by increasing the height.

BED AND BREAKFAST: Overnight accommodations and a morning meal provided in a dwelling unit for compensation. A Bed and Breakfast in which the owner lives on the premises and accommodates guests in three or fewer bedrooms shall be regulated as a home occupation. A facility providing five or more bedrooms shall be regulated as a hotel/motel.

BUILDING: A structure used for the shelter or accommodation of persons, animals, goods, or equipment, which has a roof supported by columns or walls.

BUILDING BULK: The visual and physical mass of a building or structure; including the size, height, shape, location and relationship of a building or structure to adjoining structures, open areas, and building, street, and lot lines.

BUILDING ENVELOPE: A specific area delineated on a lot within which all structures shall be located, and outside of which no structures shall be located.

BUSINESS SERVICES: Includes bank, consulting firm, insurance or real estate agency, barbershop, beauty parlor, laundry, photographic studio, and similar establishments providing services (not goods of manufacture) to individuals, institutions, farms, industries or other business, where such professional offices or personal service establishments do not qualify as home occupation.

CAMP: A permanent structure with no foundation, taxable by the Town, containing no plumbing, intended for part-time occupancy, for the purposes of vacationing, hunting, or recreation.

CAMPGROUND: A place or business providing tenting or recreational vehicle accommodations for commercial purposes, including travel parks and the like.

CERTIFICATE OF COMPLIANCE: A certificate issued by the Zoning Administrator allowing the occupancy or use of a building and certifying that the structure or use has been constructed and will be used in compliance with all applicable municipal bylaws.

CHILD CARE HOME (Statutory Definition, 33 V.S.A. § 4902(3)(A))**:** A state registered or licensed child care business serving 6 or fewer children on a full time basis and up to 4 additional children on a part time basis, conducted within a single family dwelling by a resident of that dwelling.

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

CLEARING: The removal of vegetation as part of site preparation, including the installation of driveways, septic systems, building sites and construction or yard areas.

CLUB: A building, or use, catering exclusively to members and their guests for recreational, educational, civic, religious, fraternal, or other nonprofit purposes.

COMMERCIAL: Of, or pertaining to, an activity involving the provision of facilities, goods or services (other than for municipal, State or Federal Governments) to others in exchange for payment of a purchase price, fee, contribution, other object, or consideration having value.

COMMERCIAL REPAIR OF VEHICLES: Repair of motorized vehicles for other persons for any consideration and the purchase, rehabilitation, and sale of motorized vehicles for the purpose of producing income.

COMMERCIAL WATER EXTRACTION: The extraction, collection, storage, and transport of groundwater from one or more wells or springs by means of pipelines, channels, trucking or other similar mechanisms, for the bulk wholesale or retail sale of potable drinking water. Exempted from this definition will be public water supply systems and systems designed to provide primary water supply to residential developments.

CONSERVATION EASEMENT: A legal interest in real property imposing limitations on future use and development for the purpose of protecting natural, scenic or open space values of said property, and/or maintaining its availability for agricultural, silvicultural, recreational or open space uses.

CONTRACTOR'S YARD: A business, which operates out of a yard with indoor and/or outdoor storage of materials, equipment and vehicles, with the majority of the business activity, taking place off-site. Customary accessory structures and/or uses may include a small office, storage and maintenance areas for equipment and vehicles.

CONSTRUCTION: Exterior substantial additions to existing structures or new assembly or placement of a structure on a site, including related site preparations, excavation and grading.

DEVELOPMENT: See Land Development.

DWELLING: A building designed or used as the seasonal or permanent living quarters for one or more families (includes camps). For purposes of this definition a family shall mean one or more persons living as a household (dwelling) unit, but not including individuals or groups occupying rooming or boarding houses, camps, clubs, motels, or hotels.

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

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

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

DWELLING UNIT: One or more rooms designed, occupied, or intended for occupancy as separate living quarters, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a single family or individual maintaining a household.

EARTH RESOURCE EXTRACTION Any land alteration or excavation which involves the moving or extraction of sand, gravel, topsoil, loam, sod, landfill, or similar substance for commercial purposes, except when incidental to or in connection with the construction of a building. Mining is considered earth resource extraction. Common agricultural tillage, ground care, gardening, and excavation in cemeteries are not included in this definition and shall be exempt from these regulations.

EXCAVATION: Any breaking of ground and extraction or movement of earth or rock, or any alteration of existing drainage patterns that substantially affects adjacent properties. Common agricultural tillage, ground care, gardening, and excavation in cemeteries are not included in this definition and shall be exempt from these regulations.

FENCE: A constructed barrier of any material or combination of materials erected to enclose, screen, or separate areas.

FORCE MAJEURE: An event or effect that cannot be reasonably anticipated or controlled, such as an accident or natural disaster including, but not limited to, a fire or flood.

FRONTAGE: The boundary of a lot on an improved street, road, right-of-way, or other legally approved access. For purposes of these regulations, required frontage shall be the access to the property, lot, or parcel.

GAS STATION: Any building, land area or other premises or portion thereof used or intended to be used for the retail dispensing or sales of vehicular fuels; and including as an accessory use the sale or installation of lubricants, tires, batteries, and similar accessories (see Section 6.6).

GROUP HOME OR RESIDENTIAL CARE HOME: A residential facility operated under state licensing or registration, serving not more than eight persons who have a handicap or disability as defined in 9 V.S.A. § 4501. Group homes shall be considered by right to constitute a permitted single-family residential use of property in accordance with 24 VSA 4412(1)(G).

HAZARDOUS MATERIALS: Any material or combination of materials that may be explosive, flammable, toxic, acidic, corrosive, etiologic agent, caustic, pathogenic, or radioactive in either liquid, solid, or gaseous form, or when acted upon by heat or radioactivity may become hazardous. any material when present in sufficient quantity or combination which may be reasonably assumed to constitute a peril for health and safety of employees, nearby residents, emergency personnel, and others who may be exposed to them.

HEIGHT: As applied to a structure, the vertical distance measured from the finished grade to the peak of the roof. Where a structure is located on sloping terrain, the height may be measured from the average natural grade along the wall of the structure.

Figure 11.1 – Measuring Height

HOME OCCUPATION: An occupation carried on in a principal, or accessory, residential structure, which is customarily incidental and secondary to the use of the premises for dwelling purposes, and that does not substantially alter the character of the dwelling or the neighborhood.

HOTEL/MOTEL: A building, or buildings, containing five or more units that are rented (for commercial purposes) as sleeping units for transients, each unit consisting of at least a bedroom and a bathroom. Included are hotels, motels, tourist courts, cabins, motor lodges, and the like.

INDOOR RECREATION FACILITY: A building or structure designed, equipped and used for sports, leisure time, and other recreational activities and that operates as a commercial use. Such use may include, but is not limited to bowling alleys, theaters, indoor skating rinks, gymnasiums, indoor swimming pools, and indoor tennis courts.

INTERESTED PERSON: Under the Act [§ 4465(b)], an interested person includes any of the following:

1. The Town of Bakersfield or an adjoining municipality.

2. A person owning or occupying property in the immediate neighborhood of a property which is the subject of a decision or act taken under these regulations, who can demonstrate a physical or environmental impact on the person's interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes or terms of the plan or regulations of the municipality.

3. Any ten (10) voters or property owners within the municipality who, by signed petition to the appropriate town board, allege that any relief requested by a person under this section, if granted, will not be in compliance with the policies, purposes or terms of the plan or regulations of the municipality.

4. Any department or administrative subdivision of the state owning property or any interest therein within the municipality or adjoining municipality, and the Vermont Agency of Commerce and Community Development.

JUNK: Old or scrap copper, brass, iron, steel, and other old or scrap or nonferrous material, including rope, rags, batteries, glass, rubber debris, waste, trash, or any discarded, dismantled, wrecked, scrapped, or ruined motor vehicles or parts thereof.

JUNK MOTOR VEHICLE: A discarded, dismantled, wrecked, scrapped, or ruined motor vehicle or parts thereof, or a motor vehicle, other than an on-premise utility vehicle, which is allowed to remain unregistered or uninspected for a period of 90 days from the date of discovery.

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

LIGHT INDUSTRY: The processing, warehousing, or fabrication of certain materials and products where no process involved produces noise, vibration, odor, air pollution, fire hazard or noxious emission that disturbs or endanger neighboring properties. Included are manufacture of apparel, printed materials, electrical components, or home appliances and similar industries.

LOT: A parcel of land under single or joint ownership, the boundaries of which are: 1) legally established by a deed or deeds recorded in the land records of the Town of Bakersfield; or 2) shown on a plat approved by the Bakersfield Planning Commission. A public or private right-of-way that divides a lot shall not create a subdivision.

MAJOR SUBDIVISION: The subdivision of a single lot into three (3) or more lots or a planned unit development (PUD).

MINERAL OR GAS EXPLORATION: For the purposes of these regulations, mineral or gas exploration shall mean any land alteration undertaken by a person or firm in search of oil, gas, or minerals. Alterations include drilling pad installation, site clearing, access road improvements or construction, etc. Exploration efforts that do not significantly alter the land and that do not pose potential nuisances to adjoining properties are excluded. Included in this category are boundary survey work, and the like.

MINIMUM LOT SIZE: The smallest lot area on which any land may be subdivided in conformance with all other provisions of these regulations.

MINOR SUBDIVISION: The subdivision of a single lot into 2 lots or boundary line adjustments.

MIXED USE: A building or parcel containing two or more uses, which are otherwise allowed as permitted or conditional uses within the district in which the building or parcel is located.

MOBILE HOME (Statutory Definition, 10 V.S.A. § 6201(1))**:** A structure or type of manufactured home that is built on a permanent chassis and is designed to be used as a dwelling

with or without a permanent foundation, includes plumbing, heating, cooling, and electrical systems, and is:

1. transportable in one or more sections; and
2. at least eight feet wide or 40 feet long or when erected has at least 320 square feet or if the structure was constructed prior to June 15, 1976, at least eight feet wide or 32 feet long; or
3. any structure that meets all the requirements of this subdivision except for size and for which the manufacturer voluntarily files a certification required by the U.S. Department of Housing and Urban Development and complies with the standards established under Title 42 of the U.S. Code.

Pursuant to 24 V.S.A. § 4412 (1)(B), no bylaw shall have the effect of excluding mobile homes, except under the same terms and conditions as conventional housing is excluded.

MOBILE HOME PARK: Any parcel of land under a single or common ownership or control, which is used to accommodate three or more mobile homes, but not including a premises used solely for the display or sales of mobile homes.

MOTOR VEHICLE SERVICE AND REPAIR: An establishment providing servicing or repair of automobiles, trucks, farm and construction equipment, or other motorized vehicles, including body shops, vehicle repair shops, and mobile home and camping vehicle service establishments.

NONCONFORMING LOTS OR PARCELS (Statutory Definition, 24 V.S.A. § 4303(13))**:** Lots or parcels that do not conform to the present Bylaw covering dimensional requirements but were in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present Bylaw, including a lot or parcel improperly authorized as a result of error by the Zoning Administrator.

NONCONFORMING STRUCTURE (Statutory Definition,24 V.S.A. § 4303(14))**:** A structure or part of a structure that does not conform to the present Bylaw but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present Bylaw, including a structure improperly authorized as a result of error by the Zoning Administrator.

NONCONFORMING USE (Statutory Definition, 24 V.S.A. § 4303(15))**:** Use of land that does not conform to the present Bylaw but did conform to all applicable laws, ordinances, and regulations prior to the enactment of the present Bylaw, including a use improperly authorized as a result of error by the Zoning Administrator.

OPEN SPACE: Land not occupied by structures, buildings, wastewater system, roads, rights-of-way, recreational facilities, and parking lots. Open space may or may not be held in common.

OUTDOOR RECREATION: The organized, or unorganized, use of fields, trails, bodies of water, or other land for recreational purposes. Permitted structures and facilities used for outdoor recreation may include outdoor swimming pools, outdoor tennis courts, outdoor skating rinks, playground equipment, storage and accessory buildings, and similar structures.

OUTDOOR RECREATION FACILITY: A structure of facility used for outdoor recreation, as defined above.

OVERLAY DISTRICT: A zoning district that encompasses one or more underlying zonings and that imposes additional requirements that required by the underlying zone.

PARCEL: Any contiguous land owned or controlled by single ownership. Tracts or lots of land owned that have in common one or more points on any boundary or that are divided only by easement or interests consisting of less than fee simple ownership shall be deemed to be contiguous land for purposes of these regulations, except that:

1. Tracts or lots of land that are divided by State or municipal highway rights-of-way or surface waters with a drainage area greater than 10 square miles shall not be deemed contiguous;

2. Tracts or lots of land that were acquired by their owners with the same boundaries with which they are to be conveyed shall not be deemed contiguous to any other parcel owned by that person, so long as they conform to the requirements for the district in which they are located; and

3. A subdivision that is created by State or municipal condemnation for highway or utility construction shall not require a permit.

PARKING SPACE: An off-street area of not less than one hundred and fifty (150) square feet exclusive of loading, access, and maneuvering areas, landscaped areas, etc. to be used exclusively as a temporary storage space for one motor vehicle at a time.

PLACE OF WORSHIP: A building where persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory structures and uses customarily associated with such primary purpose. Includes synagogue, temple, mosque, or other such place for worship and religious activities as well as convents and parish houses.

PLANNED UNIT DEVELOPMENT: (Statutory Definition, 24 V.S.A. § 4303(19))**:** One or more lots, tracts, or parcels of land to be developed as a single entity, the plan for which may propose any authorized combination of density or intensity transfers or increases, as well as the mixing of land uses. This plan, as authorized, may deviate from bylaw requirements that are otherwise applicable to the area in which it is located with respect to lot size, bulk, or type of dwelling or building, use, density, intensity, lot coverage, parking, required common open space, or other standards.

PLAT: A survey map including all the information required and prepared for filing with the Town Clerk that meets the requirements of Section 7.4 and Title 27 V.S.A .Chapter 17.

PRE-EXISTING SMALL LOT: Any lot in existence on the effective date of these regulations that is not conforming to the applicable district requirements with respect to minimum lot size and frontage.

PRIMARY CONSERVATION RESOURCE: Steep slopes greater than 25% grade, wetlands, and special flood hazard area.

PRINCIPAL STRUCTURE: A structure, or a group of structures, in or on which is conducted the principal use(s) of the lot.

PRINCIPAL USE: A use directly involved with the primary purpose of ownership of a particular lot.

PUBLIC FACILITIES: Those facilities provided for and/or available to the residents of the Town including facilities in use by any municipal, State or Federal Government, public utility, or other quasi-public institution, such as buildings, correctional institutions, power generation facilities, electric, gas, oil and similar transmission facilities, water supply and sewage treatment facilities, fire protection and police protection, and including public and private schools or other educational institutions (see 24 V.S.A. 4413).

RESTAURANT: An establishment whose principle business is the sale of food, or beverages prepared on the premises, either for consumption within the restaurant buildings, or for taking out. Included are fast food establishments, delicatessens, diners, snack bars, and the like.

RETAIL ESTABLISHMENT: Includes shops and stores for the sale of retail goods, such as grocery, hardware and general stores; and small repair shops, agricultural supply stores, farm co-operatives, nurseries, and so forth. "Retail Establishment" shall also include the sale of motor fuels, lubricants and minor related motor vehicle products, but is distinguished from major vehicle sales & service.

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

ROOMING HOUSE/ BOARDING HOUSE A building, residential in character, where more than two persons are supplied with and charged for sleeping accommodations or meals, or both, for a fixed period of time, and not to exceed five (5) rental units (rooms). More than five rental units will be considered a hotel or motel.

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.

SENIOR HOUSING: A development of one or more dwelling units in detached or multi-unit structures on the same lot under common ownership that is dedicated as a housing for persons 55 years of age or older, and/or disabled persons, and includes legal covenants or restrictions designed to ensure the occupancy of such structures by persons 55 years of age or older and disabled persons.

SETBACK: The perpendicular distance from a road, lot line, boundary or other delineated feature (e.g., a stream bank or channel, shoreline, or wetland area), to the nearest part of a building, structure, or parking area on the premises. In the case of a public or private highway, the distance shall be measured from the center line of the highway right-of-way.

SIGN: Any display or representation used, or placed, as an announcement, direction, or advertisement. The word "placed" for purposes of this definition shall include erected, constructed, or otherwise fastened, fixed, or made visible in any manner whatsoever.

STRUCTURE: Anything constructed, erected, or placed and which requires a fixed location on the ground in order to be used. Included, in addition to buildings, are signs, silos, garages, carports, porches, walls, swimming pools, gas or liquid storage tanks, and other outbuildings or building features. Not included in this definition are sidewalks and temporary docks or floats.

SUBDIVISION: The division of any parcel of land into two or more parcels for the purposes of sale, conveyance, lease, or development. The term "subdivision" includes resubdivision involving the adjustment of boundaries between two or more existing parcels.

SURVEY: A drawing illustrating locations, distances and angles to fully describe lots, parcels, etc. for recording by a Town Clerk in accordance with all applicable statutes and regulations of the State of Vermont (Title 27 V.S.A .Chapter 17).

TELECOMMUNICATIONS FACILITY: A support structure which is primarily for communication or broadcast purposes and which will extend vertically 20 feet, or more, in order to transmit or receive communication signals for commercial, industrial, municipal, county, state or other governmental purposes, and associated ancillary facilities that provide access and/or house equipment.

USE: The specific purpose for which land or a building is arranged, designed, intended or occupied.

VIOLATION: The failure of any land development or subdivision to be fully compliant with these regulations, including the standards for the Flood Hazard Overlay District in Section 3.3(F).

WASTE HANDLING AND STORAGE FACILITY: Any parcel, subdivision, lot, or development used for the purpose of collection, transfer, or storage (for any period of time) of refuse, garbage, or wastes of any type, regardless of how contained. Refer to Section 1.7 for limitations on local zoning in regard to regional solid waste and hazardous management facilities.

YARD: An open space abutting all year-round streams and property lines of a lot, unoccupied by a structure except as otherwise provided in these regulations. The required dimensions of yards shall be determined in the same manner as the setback (see "Setback" definition); distance between the "building surface" and lot lines, or year-round streams.

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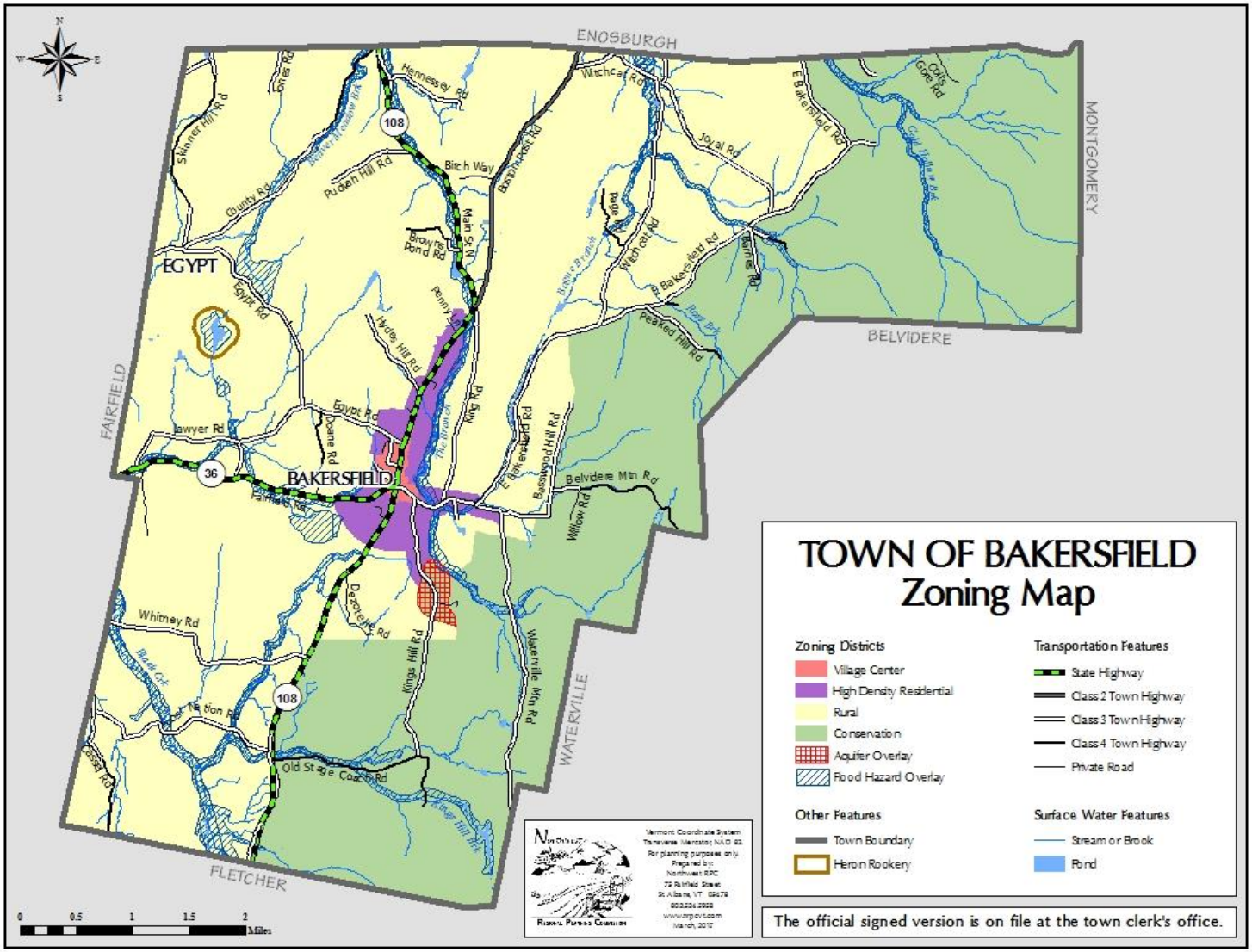
ZONING MAP


TOWN OF BAKERSFIELD
Zoning Map
Zoning Districts
Village Center
High Density Residential
Rural
Conservation
Aquifer Overlay
Flood Hazard Overlay
Transportation Features
State Highway
Class 2 Town Highway
Class 3 Town Highway
Class 4 Town Highway
Private Road
Other Features
Town Boundary
Heron Rookery
Surface Water Features
Stream or Brook
Pond
The official signed version is on file at the town clerk's office.
ENOSBURGH
MONTGOMERY
BELVIDERE
WATERVILLE
FLETCHER
FAIRFIELD
EGYPT
BAKERSFIELD
108
36
Hennessey Rd
Watchcat Rd
E Bakersfield Rd
Joyal Rd
Birch Way
Bashaquasit Rd
Puden Hill Rd
Main St N
Broyle Pond Rd
Penny St
Hyde Hill Rd
Egypt Rd
Lawyer Rd
Doane Rd
Fairfield Rd
Bassett Hill Rd
Belvidere Mtn Rd
Willow Rd
Peaked Hill Rd
Whitney Rd
Decorville Rd
Kings Hill Rd
Waterville Mtn Rd
Station Rd
Old Stage Coach Rd
Cassa Rd
Skinner Hill Rd
County Rd
Collar Gore Rd
Gulf Hollow Brk
Rugg Brook
Rock Crk
Vermont Coordinate System
Transverse Mercator NAD 83
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March, 2017
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