



# LAND USE AND DEVELOPMENT BYLAW

Zoning, Subdivision, Sign and Flood Hazard Area Regulations

Adopted by Town of Sunderland Selectboard

August 3, 2020

*In accordance with the Vermont Municipal and Regional Planning and Development Act [24 V.S.A., Chapter 117], hereinafter referred to as the "Act," there are hereby established a Unified Development Bylaw for the Town of Sunderland, Vermont, including areas at risk of flood damage. These regulations shall be known and cited as the "Town of Sunderland Land Use and Development Bylaw", which shall supersede any previously adopted land use bylaws.*

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**INTRODUCTION**

The Town of Sunderland Land Use and Development Bylaw, hereinafter referred to as the “Bylaw”, is a regulatory tool used to implement the goals and objectives of the Sunderland Town Plan. In accordance with the Act, a municipality that has adopted a plan, through its bylaws may define and regulate land development in any manner that the municipality establishes, provided those bylaws are in conformance with the plan and are adopted for the purposes set forth in the Act.

The purpose of the Bylaw is to provide a unified and comprehensive regulation for land use, development and subdivision of land. The Bylaw:

- Integrates administrative and regulatory provisions in the Town's zoning, subdivision, flood hazard area and related land use regulations into a single set of bylaws.
- Preserves and enhances the present open and rural character of the Town, its scenic historic and cultural resources, surface and groundwater, forest and agricultural soils and other natural resources.
- Provides for orderly community growth and facilities, and the adequate and efficient provision of public facilities and services without creating demands or burdens for services beyond the Town's ability.
- Encourages the appropriate and efficient use of all lands in the Town of Sunderland in a manner which promotes public health, safety, and general welfare.
- Provides methods for the prevention, minimization and future elimination of land use issues as may presently exist or which may be foreseen.

The Bylaw is used by applicants, the Zoning Administrator (ZA), Planning Commission (PC) and Zoning Board of Adjustment (ZBA) to guide and regulate all Town of Sunderland applications for zoning, subdivision, flood hazard areas and sign permits. **All permit application forms are located at [www.sunderlandvt.org](http://www.sunderlandvt.org).**

The Town of Sunderland Land Use and Development Bylaw has jurisdiction over Town of Sunderland permits only. State-level permitting such as Act 250, Agency of Natural Resources and Section 248 are not regulated by this Bylaw; however, state permit conditions may be incorporated into Town of Sunderland permits through the development review process. In their application and interpretation, the provisions of this Bylaw shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, and general welfare.

### **Permit Quick Guide**

- 1: Determine if proposed project is considered development which requires a permit or is exempt from permitting (page 3 & 4).**
- 2: If not exempt, find the district on the zoning map where the proposed development is located (page 6). A full-size map is located at the Town Office.**
- 3: Identify type of use of the development (page 7). If development includes a subdivision of land, see page 42. If in Flood Hazard Area, see page 27. Sign permit regulations are located on Page 25.**
- 4: Use the tables (page 8) to identify the type of review and dimensional requirements necessary for the proposed use. For projects in Flood Hazard Areas, see page 27.**
- 5: Check if General, Use and Performance Standards apply to the development (page 16).**
- 6: If the proposed project does not conform to the regulations, and variance or waiver for relief is required, see page 14.**
- 7: Begin the application process by completing a Town of Sunderland Application Packet, located at [www.sunderlantvt.org](http://www.sunderlantvt.org), Application fees are required and located in the Packet.**
- 8: Contact the Zoning Administrator (ZA) or visit the Town Office to submit application, site development plan and fee. If you have questions or need assistance in completing the application, please contact the ZA.**

## DEVELOPMENT

Development includes, but is not limited to, the following:

- The construction, reconstruction, conversion, structural alteration, relocation or enlargement of any buildings or other structures.
- The replacement of a complete structure or mobile home.
- The subdivision of land or boundary line adjustment.
- Any land, building or structure that is devoted to a new or changed use.
- The construction, moving or demolition of any accessory building, or any other structure intended for accessory use over 150 square feet.
- The enlargement or realignment of any building or structure, including porches and decks.
- The change, extension or expansion of a nonconforming use.
- The reconstruction of a building or structure damaged or destroyed by fire, explosions, accident or by a public enemy.
- The removal of earth products.
- Site grading in preparation for development.
- The establishment of a home industry or occupation.
- WW and Potable water systems (permits issued by State of Vermont).
- Creation of driveways or private roads.
- Creation of new signage or alteration of existing signage.
- Construction of fences over 8 feet tall.

Activities not on the above list may be considered development by the ZA.

No development shall occur, except in conformity with this Bylaw. In accordance with the Act, failure to abide by any of the regulations of this Bylaw shall lead to either an Administrative Opinion, Notice of Violation; or referral to the Planning Commission for action by the ZA.

### Development Exempt from Permitting

In accordance with the Act, the following uses may be regulated only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping and screening requirements, and only to the extent that the bylaws do not have the effect of interfering with the intended functional use. **The applicant shall submit a site development plan with project description to the ZA before the commencement of site work.**

- State or community-owned and operated institutions and facilities.
- Public and private schools and other educational institutions certified by the Vermont Department of Education.
- Churches and other places of worship, convents, and parish houses.
- Public and private hospitals.
- Regional solid waste management facilities certified under 10 VSA chapter 159.
- Hazardous waste management facilities for which a *Notice of Intent to Construct* has been received under 10 VSA.
- Public utility power generating plants and transmission facilities which feed into the grid, regulated under the State of Vermont 30 VSA §248.

- 
- Required Agricultural Practices (RAPs), including the construction of farm structures, as those practices are defined by the Secretary of Agriculture, Food and Markets or accepted silvicultural practices, as defined by the Commissioner of Forests, Parks and Recreation. Agricultural uses not considered a RAP shall be regulated by this Bylaw. Forest and silvicultural uses not considered a forestry operation shall be regulated by this Bylaw.
  - **The applicant shall notify the ZA of the intent to build a farm structure and shall abide by the setbacks of the underlying zoning district.** If local setbacks cannot be met, the applicant must request an Alternative Setback from the Secretary of Agriculture. The Agency of Agriculture will refer requests to construct a farm structure in a Flood Hazard Area or a River Corridor to the Vermont Department of Environmental Conservation (DEC).
  - Installation, operation, and maintenance, on a flat roof of an otherwise complying structure, of a solar energy device that heats water or space or generates electricity. Flat Roof means having a slope less than or equal to 5 degrees.
  - Solar collectors regulated under 30 VSA §248, clotheslines, or other energy devices based on renewable resources.
  - Landscape improvements, the creation of vegetation features and routine maintenance. This does not include site work in preparation for development, which is considered development.
  - Accessory structures intended for accessory use which do not exceed 150 square feet may be constructed, moved or demolished without a permit, subject to compliance with all dimensional requirements of the zoning district.
  - An ancillary improvement or structure that does not exceed a footprint of 150 square feet and a height of 10 feet, unless in Flood Hazard Area, in which case the Flood Hazard Area standards of this Bylaw (page 27) would apply.
  - Ancillary improvements to communications infrastructure, as defined in 24 VSA 229(a) and 30 VSA §248, unless in Flood Hazard Areas, in which case the Flood Hazard Area standards of this Bylaw (page 27) would apply.
  - Placement of an antenna used to 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.
  - One or two-day tag, garage or estate sales.
  - Construction or alteration of fences under 8 feet tall.

Except for state-owned and operated institutions and facilities, the above land uses may be regulated for compliance with the National Flood Insurance Program (NFIP) and the Flood Hazard Areas of these bylaws.

## **ZONING DISTRICTS AND STANDARDS**

### **Zoning Districts**

For the purpose of this Bylaw, the Town is divided into the following zoning districts, to be designated by the abbreviations set forth below:

Rural Residential:	RR
Village Residential:	VR
Rural Commercial Residential	RCR
Commercial Industrial	CI
Forest	F

Flood Hazard Areas:	
Inundation Hazard Overlay Area	IHO
River Corridor Overlay Area	RCO

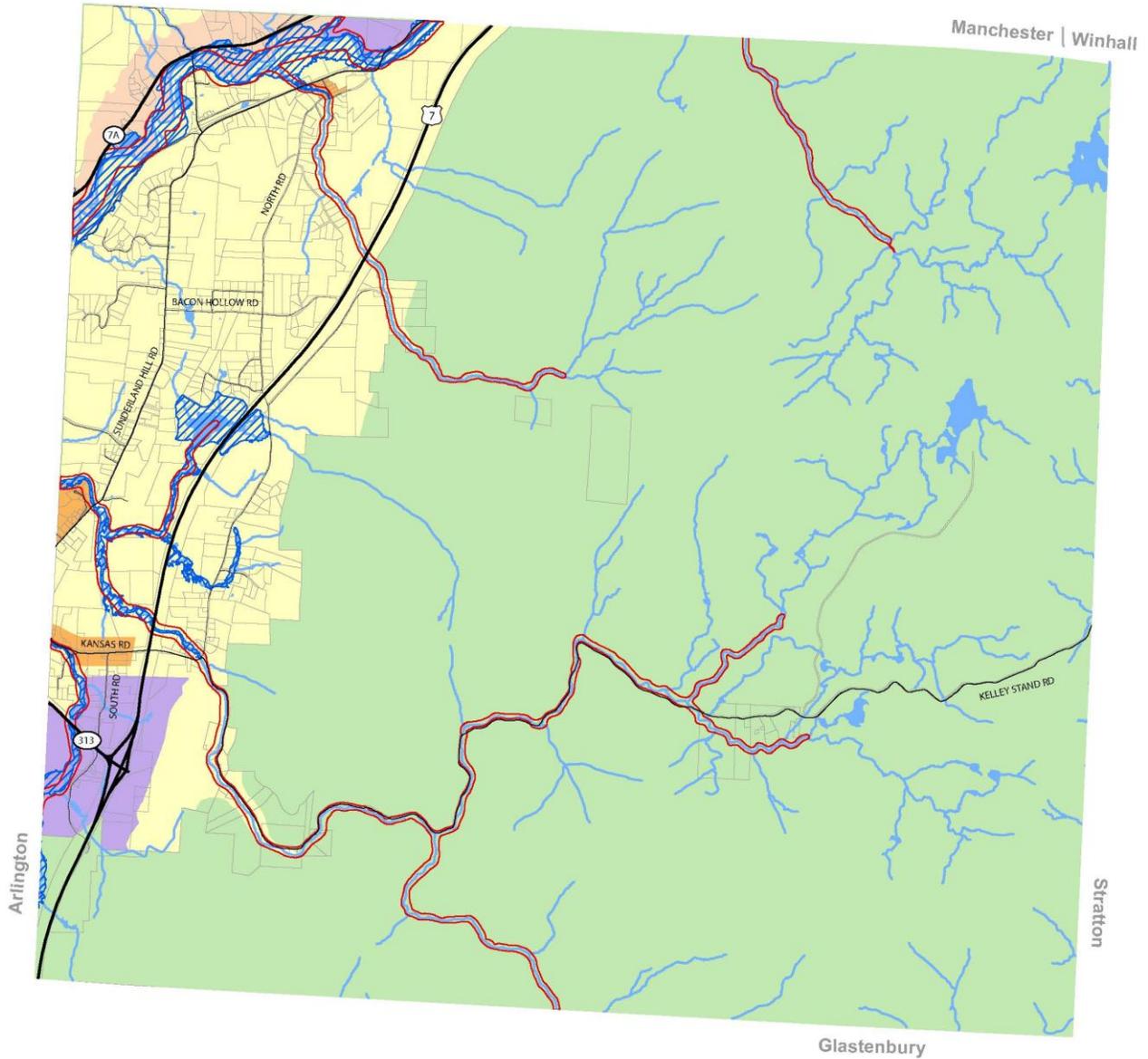
### **Zoning Map**

The boundaries of these districts are hereby established, as shown on the Zoning Map, and are hereby declared to be part of this Bylaw.

Any uncertainty as to the location of a district boundary line on the Zoning Map shall be resolved by the ZA with appeals of any such decisions made to the ZBA.

Zoning Districts shall include the beds of streets lying within them. Where opposite sides of a street lie in different districts, the boundary shall be deemed to be the center of the right-of-way. Zoning Districts shall include any land under rivers, streams, lakes or ponds lying within them. Where opposite sides of a river or stream lie in different districts, the boundary shall be the center of the river or stream. Where opposite sides of a pond, swamp or water body lie in different districts, the boundary shall be deemed to be the center of the waterbody.

# Town of Sunderland, VT Land Use and Development Bylaw Map



### Legend

— Rivers and Ponds

□ Parcels

### Flood Hazard Areas

▨ Inundation Hazard Overlay District

▭ River Corridor Overlay District

### Zoning Districts

■ VR

■ RR

■ RC

■ CI

■ F

0 0.25 0.5 Miles

Map produced May 21, 2019 by  
Bennington County Regional Commission  
111 South Street, Suite 203  
Bennington, Vermont 05201



## USES

Development associated with the uses below requires a Town of Sunderland permit. The ZA will make the final determination of the use category for the proposed development. The type of review required for each use is shown on the following page - **Table of Uses and Types of Review Per Zoning District**.

See the General, Use and Performance Standards on page 16 for specific regulations pertaining to certain development activities. Development located within Flood Hazard Areas is subject to standards of the underlying zoning district and Flood Hazard Area regulations beginning on page 27.

- **Low Impact Uses:** Non-exempt development including, but not limited to landscaping, porches, decks, driveways, sheds, accessory structures, fences, solar and wind generation infrastructure less than 15kw (that don't directly feed into the electrical grid), demolition of structures over 150 sq. ft., and continuous tag/yard/garage sales.
- **Residential Uses:** Non-exempt development including, but not limited to single and two-family dwelling units, residential care or group homes, family childcare facility, short-term rentals, travel trailer camp or tent site, accessory dwelling units, and home occupations.
- **Professional/Commercial Uses:** Uses that because of their size, activity level or the nature of the business or its operation are not likely to have a significant impact on the environment, town infrastructure or services, and nearby property owners and residences. Professional/Commercial Uses include, but are not limited to professional offices, light manufacturing, retail space under 3,000 sq. ft., and business change of use.
- **Large Commercial, Industrial and High Impact Uses:** Uses that because of their size activity level or the nature of the business or operation are likely to have a significant impact on environment, town infrastructure or services and nearby property owners and residences. Large Commercial, Industrial and High Impact Uses include, but are not limited to, manufacturing, commercial/retail space larger than 3,000 sq. ft., multi-family residential (more than two units), mobile home parks, commercial vehicle gas/charging stations, Recreational Vehicle (RV) Parks, Planned Residential Development (PRD), recreational, solid waste management facilities, indoor/outdoor shooting ranges, earth products removal, riding/boarding stables, commercial farming and forestry uses not exempt under the RAPs and not an accessory on-farm business, and business change of use.

Commercial energy generation facilities are regulated by the Public Utilities Commission (PUC) and subject to standards in the Town of Sunderland Municipal Plan, which has received a determination of energy compliance by the Bennington County Regional Commission.

- **Open Space Uses:** Low impact uses for private or public recreation. Structures are permitted, but only for seasonal or accessory uses to the primary open space use.
- **Subdivision of Land:** See page 42.
- **Any use in Flood Hazard Area Overlay Districts:** In addition to the standards on page 27, these uses are subject to the standards of the underlying zoning district.

**TABLE OF USES AND TYPE OF REVIEW PER ZONING DISTRICT**

A = Administrative Review by Zoning Administrator  
 S = Site Plan Review by Planning Commission  
 C = Conditional Use Review by Planning Commission  
 X = Prohibited

Type of Use (excluding Subdivision and PRD)	Rural Residential (RR)	Village Residential (VR)	Rural Commercial Residential (RCR)	Commercial Industrial (CI)	Forest (F)
			Performance Standards Apply (pg. 23)	Performance Standards Apply (pg. 23)	
Residential Uses	A	A	S	A	X
Low Impact Uses	A	A	A	A	C
Professional/Commercial Uses	X	C	S	A	X
Large Commercial/Industrial/High Impact Uses	X	X	C	C	X
Open Space Uses	C	C	S	S	C

**DIMESIONAL REQUIREMENTS PER DISTRICT**

	Rural Residential (RR)	Village Commercial (VC)	Rural Commercial Residential (RCR)	Commercial Industrial (CI)	Forest (F)
Minimum Lot Area	2 acres	1 acre	.5 acre	1.5 acre	N/A
Minimum Lot Area per Dwelling Unit	60,000 sq. ft.	25,000 sq. ft.	15,000 sq. ft.	15,000 sq. ft.	25 acres
Minimum Front Setback (from property line)	30 ft.	15 ft.	10 ft.	30 ft.	250 ft.
Minimum Side Setback (from property line)	30 ft.	15 ft.	10 ft.	20 ft.	250 ft.
Minimum Rear Setback (from property line)	30 ft.	15 ft.	10 ft.	20ft.	250 ft.
Maximum structure Height	30 ft.	30 ft.	50 ft.	40ft.	20 ft.
Maximum Lot Coverage	20 %	None	None	75%	10 %
Primary Residences per lot	1	2	No limit	No limit	None

## **PERMIT ADMINISTRATION AND DEVELOPMENT REVIEW**

The provisions of this Bylaw shall be administered and enforced by the ZA, nominated by the PC and approved by the Selectboard, as provided in the Act. The ZA shall literally enforce the provisions of these bylaws, inspect land developments, maintain records of their actions, and perform all other necessary and required tasks to carry out the provisions and statutory requirements. The ZA shall not have the power to permit any land development that is not in conformance with this Bylaw.

Before any development for any type of use or change of use, a Town of Sunderland Zoning, Subdivision or Flood Hazard Area permit must be applied for and issued.

Development review functions for uses requiring a permit are carried out by the ZA and the Appropriate Municipal Panel (AMP). The two AMPs in Sunderland are the Planning Commission (PC) and Zoning Board of Adjustment (ZBA), and shall have the duties and responsibilities as described in the Act.

Development review functions are performed by the ZA for development that requires an Administrative Permit (i.e. no AMP review necessary)

The following development review functions are performed by the PC:

- Site Plan Review
- Subdivision and PRD Review
- Conditional Use review
- Issuance of Waivers

The following development review functions are performed by the ZBA:

- Appeals from a decision of the ZA
- Variances

### **Issuance of Permit (Pre-development) and Site Development Plan**

The ZA shall not deem any application complete unless the application form, fee, site development plan, energy code certification, and any other materials required by this Bylaw has been submitted.

A site development plan is required for all applications. For applications requiring only Administrative Permit Review by the ZA, the site development plan shall be drawn to scale showing:

- Boundaries and area of the lot.
- All existing and proposed structures.
- Vehicular circulation and parking.
- Landscaping details.

Site development plans for applications requiring Conditional Use and Site Plan Review shall provide the following:

- Name and address of the record landowners and the duly appointed agents of the parties.
- Names and address of the record owners.
- Date, north arrow, legend and scale.
- A map of the property proposed to be developed, drawn to scale and with the area to be developed clearly indicated, including all existing and proposed structures and property lines.

- Contour lines showing elevation.
- A written description of the proposed development.
- Design plan for all structures, buildings, or facilities proposed for the site.
- Vehicular circulation, parking and access.
- Pedestrian and bicycle infrastructure.
- Landscaping and screening details.
- All land proposed for conservation, buffer and/or open space.
- Proposed park, playground or other recreation areas, or areas to be dedicated for public use.
- Proposed grading, drainage and stormwater management areas.
- Existing and proposed utilities.
- Existing and proposed easements.
- A general indication of land cover, including forested areas, tree lines, natural features, and historic features.
- Project signage.
- Construction sequence or phasing details.
- Waiver requests.

Within 30 days, the ZA will either issue the zoning permit administratively, deny the application or refer the application to the AMP.

**Referrals** – For development proposed in Flood Hazard Areas, upon receipt of a complete application for new construction or a substantial improvement, the ZA shall submit a copy of the application and supporting information to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources, in accordance with the Act. A permit may be issued only following receipt of comments from the Agency, or the expiration of 30 days from the date the application was mailed to the Agency, whichever is sooner. The ZA, PC and ZBA shall consider all comments from ANR.

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

**Public Notice** – Prior to the issuance of a permit, proposals needing site plan review, conditional use review, nonconforming structures use review, subdivision review or signage review, must have a warned public hearing in accordance with the Act. **The ZA will notify adjoining property owners of the hearing, in accordance with the Act.**

No defect in the form or substance of any required public notice under this section shall invalidate the action of the ZA 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 Environmental Division of the Superior Court or by the AMP itself, the action shall be remanded to the AMP to provide new posting and notice, hold a new hearing, and take a new action.

**Decisions** – A permit shall be issued by the ZA, in accordance with the Act and the following provisions:

- Within 30 days of receipt of a complete application, including all application materials and fees, the ZA shall act to either issue or deny a permit in writing, or to refer the application to the AMP. If the ZA fails to act with regard to a complete application for a permit within the 30-day period, a permit

shall be deemed issued on the 31st day, unless the permit is for new construction or substantial improvement in a Flood Hazard Area, in which case a permit shall not be issued until the ZA has complied with the Referrals section above.

- No permit shall be issued by the ZA for any use or structure which requires the approval of the ZBA or PC until such approval has been obtained. For permit applications that must be referred to a state agency for review, no permit shall be issued until a response has been received from the State, or the expiration of 30 days following the submission of the application to the State, whichever is sooner.
- A permit shall include a statement that any and all appeals shall be made within 15 days of permit issuance and shall require posting of a notice of permit on a form prescribed by the municipality within view from the public right-of-way most nearly adjacent to the subject property until the appeals period has passed. A permit shall also include a statement, that State permits may be required, and that the permittee should contact State agencies to determine what permits must be obtained before any construction may commence.
- The ZA, within three days of the date of issuance of a permit, shall deliver a copy of the permit to the listers of the municipality, and shall post a copy of the permit in the Town Offices for a period of 15 days from the date of issuance.
- No permit shall take effect until the time for appeal (15 days) has passed, or in the event that a notice appeal is properly filed, no such permit shall take effect until adjudication of that appeal by the AMP has passed. If an appeal is taken to the Vermont Superior Court, Environmental Division, the permit shall not take effect until the Environmental Division rules in accordance with 10 V.S.A. § 8504.
- Within 30 days after a permit has been issued or within 30 days of the issuance of any notice of violation, the appropriate municipal official shall:
  1. deliver the original or a legible copy of the permit or notice of violation or a notice of permit generally in the form set forth in 24 V.S.A. § 1154(c) to the town clerk for recording as provided in 24 V.S.A. § 1154(a); and
  2. file a copy of that permit in the offices of the municipality in a location where all municipal land use permits shall be kept.

#### Expiration:

- A zoning permit shall remain valid for two (2) years from the date it is issued. If a zoning permit expires without substantial land development the permit shall become null and void.
- If a permit expires, any land development on the lot covered under that permit must cease. All subsequent land development must be approved after the submission of a new application for a permit, and all laws and ordinances then in effect will be applicable.
- Permits shall run with the land regardless of owner.

#### Appeals

Appeals from any decision or act of the ZA in connection with this bylaw shall be made as provided for in the Act. A written notice of appeal must be filed, with fees, within 15 days of the date of that act or decision. Additional provisions applicable to appeal a substantial improvement or substantial damage determination for projects in the FHA Overlay Districts made by the ZA can be found in the Flood Hazard Area standards on page 27. Appeals from any decision or act of the ZBA or PC shall be made to the Vermont Superior Court,

Environmental Division, within 30 days of the written decision being signed by the AMP and applicant. A written notice of appeal shall be filed by certified mail, with fees, to the Environmental Court, with copy delivered to the ZA.

Whenever the ZBA or PC does not grant a conditional use permit or a variance request on any basis other than the failure of the applicant to submit a complete application, such action may not be reconsidered by the respective ZBA or PC at a later time unless the applicant clearly demonstrates that:

- Circumstances affecting the property that is the subject of the application have substantially changed,
- New information is available that could not, with reasonable diligence, have been presented at a previous hearing. A request to be heard on this basis shall be filed with the ZA within the time period for an appeal. However, such a request does not extend the period within which an appeal shall be taken.

### **Certificate of Occupancy (Post-Development)**

In accordance with the Act, a certificate of occupancy (CO) issued by the ZA shall be required prior to the use or occupancy of any land or structure, or part thereof, for which a zoning permit has been issued.

- A CO shall not be issued until all municipal and state-level approvals, permits and sign-offs have been obtained for the project, and the ZA determines that the project has been fully completed in conformance with all such approvals and permits.
- In the case of a structure, the ZA shall inspect the premises to ensure that all work has been completed in conformance with the issued zoning permit and associated approvals, including all applicable permit conditions. For projects in the FHA, this signifies that all required as-built documentation has been submitted to the ZA, (e.g. updated FEMA Elevation Certificate, dry floodproofing certificate, as-built volumetric analysis, or as-built floodway encroachment analysis).
- In the case of a structure or use requiring a State of Vermont on-site waste disposal permit, a copy of the certification that the system was installed as designed shall be submitted to the ZA prior to issuance of the Certificate of Occupancy.
- The ZA will submit an energy compliance form for completion by the applicant.
- If the ZA fails to grant or deny the certificate of occupancy within 29 days of the submission of the application, the certificate shall be deemed issued on the 30<sup>th</sup> day. If a certificate of occupancy cannot be issued, notice will be sent to the owner.
- The ZA shall not issue a CO for any mobile home that is not installed by a licensed installer and inspected by a qualified inspector consisting with federal regulations (24 CFR 3285.312).

### **Certificate of Compliance**

In conjunction with the sale of property, mortgage documentation or legal title and legal research, the ZA may issue a Certificate of Compliance which shall indicate that there are no known violations to a use or building under this Bylaw. If a violation does exist, it shall be so indicated on the Certificate of Compliance. The ZA shall properly file and maintain a record of all permits, certificates of occupancy and other correspondences.

### **Violations and Enforcement (Post-Development)**

A violation of this bylaw shall constitute a civil offence enforced in accordance with the provisions of 24 §VSA 4451 or 24 VSA §1974(a). If a violation is alleged to exist, a formal notification shall be issued in the form of a written Notice of Violation by the ZA. No such action may be brought unless the alleged offender has had at least seven days' warning notice by certified mail. After that seven-day notice, each day that the violation continues shall be a separate violation of this bylaw and a fine of \$100 will be assessed per day. An action may be brought without the seven-day notice and the opportunity to correct if the alleged offender repeats the violation of this bylaw after the seven-day notice period and within the next succeeding 12 months. A decision by the ZA pertaining to an alleged violation may be appealed to the ZBA.

All notices of violation for properties in Flood Hazard Areas shall be provided to the State NFIP Coordinator.

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

### **CONDITIONAL USE REVIEW**

A conditional use may be approved by the PC only after a public hearing with 15 day-notice, provided that the proposed conditional use conforms with the regulations of this Bylaw and shall not result in an undue adverse effect on any of the following:

- The capacity of existing or planned community facilities.
- The character of the area affected, as defined by the purpose of the zoning district within which the project is located, and specifically stated policies and standards of the municipal plan.
- Traffic on roads and highways in the vicinity.
- Bylaws and ordinances then in effect.
- Utilization of renewable energy resources.
- Performance standards outlined on page 23.
- Site Plan review standards outlined on page 14.

Approval by the PC shall be based on a site development plan, prepared in conformance to the requirements on Page 9 and adherence to applicable General Regulation standards on page 16. The PC may impose conditions to safeguard the interest of abutting properties or the Town of Sunderland, as a whole. Such conditions may include, but are not limited to, the following:

- Increasing or decreasing the required setback requirements.
- Limiting the lot coverage or height of buildings.
- Controlling the number, size, and location of vehicular access points.
- Modifying the number of parking and loading spaces.
- Requiring the use of certain building materials.
- Controlling the size, location and lighting of signage.
- Requiring suitable landscaping, screening and erosion control.
- Limiting days and hours of operation.
- Controlling building and site lighting.

## SITE PLAN REVIEW

Site Plan review may be approved by the PC only after a public hearing with 7 day-notice, provided that the proposed use conforms with the regulations of this bylaw.

Approval of the Board shall be based on a site development plan, prepared in conformance to the requirements on Page 9. In reviewing site plans, the Planning Commission may impose appropriate conditions and safeguards with respect to: size, location and design of buildings; parking, traffic and access; circulation of pedestrians and vehicles; landscaping and screening; the protection of the utilization of renewable energy resources; exterior lighting; and the size, location, and design of signage.

## VARINANCE AND WAIVERS

A **variance** shall be required for issuance of a permit that does not meet the use (e.g. commercial, residential, etc.) regulations of this Bylaw.

A **waiver** shall be required for issuance of a permit that does not meet dimensional (e.g. setbacks, height, etc.) standards of this bylaw. Variances are reviewed by the ZBA. Waivers are reviewed by the PC.

### Variance

The ZBA shall grant a variance and render a decision in favor of the applicant, after a complete zoning application and fee is submitted to the ZA, and after a warned public hearing; if all the following facts are found, and the finding is specified in its decision:

1. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the zoning regulation in the neighborhood or District in which the property is located.
2. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulation, and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
3. That such unnecessary hardship has not been created by the appellant.
4. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor reduce access to renewable energy resources, nor be detrimental to the public welfare.
5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from this Bylaw and of the Town Plan.

If the proposed development is located within any Flood Hazard Area Overlay District, the proposal shall comply with 44 C.F.R. §60.6. Any variance issued in the Flood Hazard Area shall not increase flood heights and shall inform the applicant in writing over the signature of a community official that the issuance of a variance to construct a structure below the Base Flood Elevation (BFE) increases risk to life and property and will result in increased flood insurance premiums up to amounts as high as \$25 for \$100 of coverage. Such notification shall be maintained with a record of all variance actions.

**Variance from Renewable Energy Resource Structure**

The ZBA may grant a variance and render a decision in favor of the applicant, if all the following facts are found, and the finding is specified in its decision:

1. It is unusually difficult or unduly expensive for the appellant to build a suitable renewable energy resource structure in conformance with this Bylaw.
2. The hardship was not created by the appellant.
3. 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.
4. The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from this Bylaw and the Town Plan.

**Waivers**

The PC may grant a waiver for dimensional standard relief after a warned public hearing for site plan review if:

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 the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the zoning regulation in the neighborhood or District in which the property is located.
2. The waiver, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor reduce access to renewable energy resources, nor be detrimental to the public welfare.
3. The waiver, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from this Bylaw and of the Town Plan.

## **GENERAL, USE AND PERFORMANCE STANDARDS**

The following standards apply to all development. The Performance Standards beginning on page 23 apply to any development in the RCR and CI Districts.

### **Site Work Prior to Development Approvals**

Any work performed on a site such as earth removal, grading, tree removal, or other land modifications in preparation for future development requiring a permit under this Bylaw shall be a violation. Site work such as landscape improvements, the creation of vegetation features, or routine maintenance do not require a permit (see exempted activities on page 3).

### **Physical Site Feature Standards**

- No development shall occur on lands where slopes exceed 20%.
- Parking areas along public rights of way serving more than two vehicles in the RCR district shall be screened by landscaping or fencing.
- Architectural features such as pilasters, columns, belt courses, sills, cornices, or other similar features may project up to 2 feet into the required setback of the district.
- Fencing and Landscaping may take place on any portion of the lot.
- Exterior lighting shall not create a nuisance to other property owners or tenants, or create a hazard to drivers of motor vehicles and bicycles.
- One primary residence (excluding Accessory Dwelling Units) is permitted per lot, unless the development is a Planned Residential Development.
- More than two vehicles for sale on one parcel is considered a commercial use, and requires a permit.
- In the case of lots lying in more than one district, the provisions of any district may be applied for a distance of not over 30 feet into any other adjacent district.

### **Existing Small Lots**

Any lot that is legally subdivided, is in individual and separate and nonaffiliated ownership from surrounding properties, and is in existence on the date of this bylaw, 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 the district in which the lot is located, provided such lot is not less than 1/8<sup>th</sup> acre in size or has a minimum width or depth dimension of at least 40 feet; and all required state permits for such development have been obtained. Development on existing small lots shall meet all district standards, unless a variance or waiver is requested.

### **Family Child Care Home**

A family child care home serving six or fewer children shall be considered to constitute a permitted single family residential use of property. A family child care home serving no more than six full-time children and four part-time children, as defined by the Act, shall be considered to constitute a permitted use of property and requires Site Plan approval by the PC. A family child care facility serving more than six full-time and four part-time children is subject to Conditional Use Review by the PC.

## **Residential Care Home or Group Home**

A residential care home or group home, to be operated under state licensing registration, serving not more than eight persons who have a handicap or disability as defined in the Act, shall be considered to constitute a permitted single-family residential use of property. A residential care home or group home, to be operated under state licensing registration, serving nine or more who have a handicap or disability as defined in the Act, shall be reviewed as a multi-family dwelling and shall be subject to Conditional Use and Site Plan review.

## **Home Occupations**

No provision of this bylaw shall infringe upon the right of any resident to use a minor portion of a dwelling that is customary in residential areas, which does not have an undue adverse effect upon the character of the residential area in which the dwelling is located. Home occupations are permitted as an accessory use in all districts where residential uses are permitted subject to the following provisions:

- A maximum of two home occupations are allowed per property.
- The home occupation shall be clearly incidental and secondary to the residential use of the property, and all business activities or transactions associated with the home occupation shall be carried on entirely within the dwelling unit; no outside storage shall be permitted.
- The home occupation shall be carried on by members of the family residing in the dwelling unit.
- One additional employed who is not a family member is permitted.
- No increased traffic shall be generated from the operation which would be uncharacteristic of the neighborhood.
- New parking required for the home occupation shall be provided off-street.
- No objectionable vibration, odor, smoke, dust, electrical disturbance, noise, heat, glare, adjoining potable or wastewater system disturbance, and stormwater runoff shall be produced by the home occupation.
- All signage shall comply with the sign standards of this Bylaw on Page 25

## **Accessory Dwelling Units**

One accessory dwelling unit per lot shall be a permitted use in all districts, provided that:

- The property has sufficient wastewater capacity.
- The unit does not exceed 50% of the total habitable floor area of the single-family dwelling.
- The property owner occupies either the single-family dwelling or accessory dwelling unit.
- All applicable dimensional requirements specified in this Bylaw are met.

## **Accessory Structures and Uses**

Accessory structures are allowed in all zoning districts and shall meet the dimensional requirements per district. If the principal use on the lot is an allowed use, the accessory use shall also be an allowed use. If the principal use on the lot is a conditional use, any accessory use shall be a conditional use and therefore require conditional use review.

Accessory structure and uses shall be incidental and subordinate to the principal use or principal structure on a lot. Accessory uses shall not significantly alter:

- The character of the area affected.
- Traffic on roads and highways in the vicinity
- The principal use of the property.

An accessory use may be allowed on a lot adjoining, or across the street from the principal use provided the accessory use received conditional use approval.

### **Accessory On-Farm Businesses**

*Accessory on-farm businesses* shall be a permitted use in all districts, provided that:

- The property is devoted primarily to farming.
- The farm meets the threshold criteria for the Required Agricultural Practices (RAP).
- The business is accessory to the farm use.
- The business is operated by the farm owner, a person residing on the farm, or someone leasing a portion of the farm.

### **Nonconforming Structure**

Any legal structure or part thereof, which is not in compliance with the provisions of this Bylaw concerning setbacks, height, size, or other structural requirements (including parking, lighting, buffers, and lowest floor elevation in flood hazard areas) shall be deemed a nonconforming structure. Any nonconforming structure may be allowed to exist indefinitely, but shall be subject to the following provisions:

- Subject to Conditional Use approval by the PC, a nonconforming structure may be restored or reconstructed after unintentional loss provided that a permit is applied for by the applicant, the reconstruction is commenced within two years, and the construction does not increase the degree of non-compliance that existed prior to the damage.
- A nonconforming structure which has been demolished shall not be reconstructed except in conformance with this Bylaw. The PC may grant a waiver from this provision if a hardship would be created by rebuilding in strict conformance with the requirements of this Bylaw. In considering a waiver from these provisions, the PC shall take into consideration the ability of the applicant to use remaining features of the property such as foundation, water supply, sewage disposal system, underground utilities, etc.
- A nonconforming structure shall not be moved, altered, extended, or enlarged in a manner which will increase the existing degree of non-compliance. The phrase 'will not increase the degree of non-compliance' shall be interpreted to mean that the portion of the structure which is nonconforming shall not increase in size (or decrease in the event of failing to meet minimum standards). This phrase is not intended to prevent existing unfinished space from being finished or other similar scenarios.
- Nothing in this section shall be deemed to prevent normal maintenance and repair of a nonconforming structure provided that such action does not increase the degree of nonconformity.
- The PC may permit the alteration or expansion of a nonconforming structure for the sole purpose of compliance with mandated environmental, safety, health, or energy codes.

## **Nonconforming Uses**

Any use, which does not conform to uses allowed in the district in which it is located or is otherwise not in compliance with the provisions of this Bylaw, shall be deemed a nonconforming use. Any nonconforming use may be continued indefinitely, but shall be subject to the following provisions:

- The nonconforming use shall not be changed to another nonconforming use without a permit application and approval by the PC finding that the use is of the same or of a more conforming nature.
- The nonconforming use shall not be re-established if such use has been discontinued for a period of at least 12 months or has been changed to, or replaced by, a conforming use.
- The nonconforming use shall not be expanded or extended unless the PC finds that such expansion or extension does not increase the degree of nonconformance.
- The PC may permit the alteration or expansion of a nonconforming use for the sole purpose of compliance with mandated environmental, safety, health, or energy codes.
- If a mobile home park is a nonconformity pursuant to this bylaw, the entire mobile home park shall be treated as a nonconformity, and the individual lots shall not be considered a nonconformity.
- No pre-existing nonconforming mobile home park may be resumed if such use has been abandoned for a period of 6 months or more. Mobile home parks shall be considered abandoned when the whole park is vacant for a period of 6 months or more.

## **Frontage and Access**

No land development may be permitted which does not have adequate and permanent means of access, whether frontage on a public or private road or public waters. Access easements or rights-of-way shall not be less than 20 feet in width. If serving more than two lots, the Planning Commission may require a larger right-of-way in width to ensure public safety and orderly development.

Whenever a proposed application involves access to a State of Vermont Highway, the application shall include a letter of intent from the Vermont Agency of Transportation (VTrans) confirming that the Agency has reviewed the application and is prepared to issue an access permit under governing statute, and setting out any conditions the Agency proposes.

It shall be unlawful to develop, construct, regrade, or resurface any driveway, entrance, or approach, or build a fence or building, or deposit material of any kind within, or to in any way affect the grade of a highway right-of-way, or obstruct a ditch, culvert, or drainage course that drains a highway, or fill or grade the land adjacent to a highway so as to divert the flow of water onto the highway right-of-way, without a written permit from VTrans, in the case of State highways; or the legislative body, or designee of a municipality, in the case of town highways. As a condition of any such permit, compliance with all local ordinances and regulations relating to highways and land use shall be required.

## **Planned Residential Development**

The purpose of the Planned Residential Development (PRD) is to enable and encourage flexibility and development of land in such a manner as to promote the most efficient and appropriate use of the site while preserving the rural character of the town and avoiding fragmentation of important resources such as farmland, wildlife habitat, wetlands and other natural features. This is accomplished by allowing creative site design, building placement, street layout, architecture, and provision of streets and utilities, which otherwise may not conform to the Bylaw.

Dimensional requirements may be modified to achieve the plan and design objectives of the PRD. All zoning requirements for the district shall be met except that the following may be modified or waived: lot area, lot width/depth minimum, and setbacks. Where the development may affect the character of the adjacent properties, the PC may require special buffer setbacks and treatments which must be kept free of buildings. Landscaping, screening, or protection by natural features may be used to minimize adverse effects on surrounding areas.

A PRD may only be permitted on a parcel of not less than eight nor more than sixteen acres in the Rural Commercial Residential (RCR) District and after review as a Subdivision by the PC. All submission requirements by the applicant and public hearing process necessary for a Subdivision apply to a PRD (See Subdivision Review, page 42).

The overall density of dwellings shall not exceed the density for the district in which it is located. All open space shall be protected from any additional residential development and shall be preserved for its intended purpose. There shall be a homeowner's association, co-operative, or other entity governed by an agreement with conditions, covenants, and regulations. This agreement shall provide the legal means to assure continuation and maintenance of all open space.

Allowed uses include single family, two family and not more than one multiple family dwelling. Other accessory uses are permitted whether used in common by residents of the PRD, or individually or by other means as set forth in the governing agreement. This may include shared garages, community buildings, natural or man-made water features, tennis courts, golf, or other similar facilities. Permitted recreation uses may be made available for public use. The PC shall first review and approve any such public use to ensure conformance with the PRDs purpose and regulations.

### **Temporary Uses & Structures**

Special events (festivals, fairs, concerts, reunions, receptions, cultural events, trade and antique shows) may be allowed as a temporary accessory use, provided that such use occurs for not more than 7 total days within any 12-month period, adequate off-street parking and circulation is provided, sanitary and trash collection facilities are provided and the use is allowed in the underlying zoning district. Permits shall be issued by the ZA for a specified period of time and shall expire at the conclusions of the event.

Temporary signage is only to be used when the event is occurring and may be conditioned by the permit.

Temporary structures used in conjunction with a temporary event shall be dismantled and/or removed upon expiration of the permit and are not allowed in a public right-of-way or on other public lands.

### **Damaged or Destroyed Structures**

Within 3 months of a structure being damaged or destroyed by any cause, a landowner shall stabilize and secure the structure as necessary to protect public health and safety; or demolish the structure, remove all structural materials and debris from the site, restore the site to a natural condition and re-establish groundcover.

The ZA may grant one or more extensions to the 3-month deadline for a total of not more than 18 months from the date the structure was damaged or destroyed upon the landowner demonstrating that the structure does not pose a threat to public health or safety and the landowner has been unable to meet the deadline due to factors beyond their control.

A zoning permit shall be obtained to reconstruct a damaged or destroyed structure. If the structure was nonconforming, see page 18.

### **Mobile Home as a Dwelling**

A mobile home may be used as a one-family dwelling, provided that it is located on a lot meeting all of the requirements of this Bylaw applicable to a single-family dwelling in the district in which it is located, is suitably anchored to a permanent masonry foundation, and for which a zoning permit and certificate of occupancy has been issued.

As of May 1, 2016, anyone installing a mobile home is required to be licensed by HUD, and have the installation inspected by a qualified inspector to ensure that the installation and foundation complies with HUD regulations.

### **Travel Trailer Occupancy**

A trailer, trailer coach, mobile home or travel trailer may be used temporarily as a field office, accessory to a construction operation being executed on the premises, for a period not to extend beyond the time of construction. A travel trailer or Recreational Vehicle (RV) may be temporarily parked on and used as a dwelling by the owner of a lot during and until completion of construction thereon of a permanent dwelling which shall be in conformance with this Bylaw. Said period shall not exceed one year.

A travel trailer or RV may be occupied on any lot by a guest of the primary resident(s) of such lot for a period not exceeding thirty days in any twelve-month period. The permanent resident of the principal dwelling unit may store an unoccupied travel trailer, camp or boat trailer, or boat, anywhere on the property except in the required front and side yard setback areas.

Nothing herein shall prevent the use of a mobile home or travel trailer at a campground operated by the State of Vermont on State land, or at a private campground.

### **Recreational Vehicles (RV) Parks**

RV camping areas may be permitted as a conditional use in the RCR, and CI Districts and must be located on parcels greater than 10 acres in size.

### **Earth Products Removal Operations**

There shall be no new earth products removal operations permitted in any district, except in association with a permitted construction, landscape or agricultural operation being executed on the premises.

Existing sand and gravel operations are permitted to continue as pre-existing non-conforming uses and must conform to the Performance Standards on Page 20. The PC, after Conditional Use Review, may grant a permit for the expansion of existing earth products removal areas under the following conditions:

1. The applicant shall submit a site plan showing existing grades in the area from which the material is to be removed, together with finished grades at the conclusion of the operation.
2. The operator shall provide for proper drainage of the area of the operation during and after completion.
3. No removal shall take place within twenty feet of a property line.
4. At the conclusion of the operation, or of any substantial portion thereof, the whole area where removal takes place shall be covered with topsoil, and seeded with a suitable cover crop, except where ledge rock is exposed.
5. Operations must conform to all applicable state and federal regulations.

## **Water Supply and Wastewater Permitting**

The State of Vermont Department of Environmental Conservation has universal jurisdiction over water supply and wastewater disposal permits and enforcement in the State of Vermont. Any construction, development, use, or change in use requiring or affecting a water supply or wastewater disposal system shall not proceed if a permit is required and until approved by the state. A copy of the State of Vermont application for a Potable Water and Wastewater permit shall be filed with the Town prior to the issuance of a Town of Sunderland zoning permit. A Town of Sunderland Certificate of Occupancy will not be issued until the State of Vermont Potable Water and Wastewater permit has been issued.

## **Groundwater Withdrawal**

The State of Vermont regulates groundwater withdrawal pursuant to Title 10 V.S.A. Chapter 48. Commercial withdrawal of groundwater for redistribution and/or resale, not including public water supply systems for local use is prohibited. Groundwater withdrawal is appropriate for: domestic residential use, public emergencies, farming and related processing, public water systems, and closed looped geothermal heat pump systems. Groundwater withdrawal is also appropriate to support non-residential uses as provided for in commercial or industrial zoning districts.

## **Legal**

It is not intended by this Bylaw to repeal, abrogate, annul, or in any way to impair or interfere with existing provisions of the law or ordinance, or any rules, regulations, or permits previously adopted or issued, or which shall be adopted or issued pursuant to law, relating to the use of buildings or premises; nor is it intended by this Bylaw to interfere with or abrogate or annul any easements, covenants, or other agreement between parties, provided, however, that where this Bylaw imposes a greater restriction upon the use of buildings or premises, than are imposed or required by existing provisions of law or ordinance, or by such rules, regulations or permits, or by such easements, covenants or agreements, the provisions of this Bylaw shall control.

If any section or provision of this Bylaw is judged to be unconstitutional or otherwise invalid, such decision shall not affect the validity of this Bylaw as a whole, or of any part thereof other than the part so adjudicated. This bylaw does not imply that land outside of the areas covered by this bylaw will be free from flood or erosion damages. This bylaw shall not create liability on the part of the Town of Sunderland. Or any municipal official or employee thereof, for any flood or erosion damages that result from reliance on this bylaw, or any administrative decision lawfully made hereunder. Any person who violates the provisions of this Bylaw shall be subject to the penalties prescribed in the Act.

## **PERFORMANCE STANDARDS IN THE RCR AND CI DISTRICTS**

The following performance standards are applicable to all development in the RCR and CI districts and will be reviewed by the PC during site plan or conditional use review.

### **Lighting**

All exterior lighting shall be installed in such a manner as to direct light downward and away from adjacent lots and public traveled ways. Exterior lighting shall not create a nuisance to other property owners or tenants, or create a hazard to drivers of motor vehicles and bicycles.

### **Parking and Access**

Vehicular parking and site access shall be designed in a way to ensure safety and accommodate all modes of transportation, including pedestrian and bicycle. The PC may require pedestrian, bicycle and public transit infrastructure be provided by the applicant. Whenever a proposed application involves access to a State of Vermont Highway, the application shall include a letter of intent from Vtrans confirming that the Agency has reviewed the application and is prepared to issue an access permit under governing statute.

### **Noise**

Noise from the proposed development shall not create a nuisance for surrounding property owners and shall conform to any adopted local noise ordinance.

### **Vibration**

No vibration shall be produced which is transmitted through the ground and is discernible without the aid of instruments at, or at any point beyond the lot line.

### **Dust, Fumes, Vapors, Gases, and Odors**

Emission of dust, dirt, fly ash, fumes, vapors, or gases which could be injurious to human health, animals, or vegetation; detrimental to the enjoyment of adjoining or nearby properties; or which could soil or stain property, at any point beyond the lot line of the development creating that emission shall be prohibited. In addition, no land use or establishment shall produce harmful, offensive, or noxious odors beyond their lot. The location and vertical height of all exhaust fans, vents, chimneys, or any other sources discharging or emitting smoke, fumes, gases, vapors, or odors shall be shown on the site plan. Any atmospheric emissions of gaseous or particulate matter shall conform to all current provisions of the Air Pollution Control Regulations of the Vermont Agency of Natural Resources.

### **Screening and Landscaping**

Landscaped buffers shall be established along public travel ways and property lines. At street and driveway intersections, trees and shrubs shall be set back a sufficient distance from such intersections so that they do not present a traffic visibility hazard. Large parking areas shall include landscaping within the parking area, not just along the periphery.

Open storage areas, exposed machinery, dumpsters, garbage totes, and loading areas shall be visually screened from roads and surrounding properties.

## **Erosion Control**

Stripping of vegetation, soil removal, and regrading or other development shall be accomplished in such a way as to minimize erosion. Exposed or disturbed areas shall be permanently stabilized within one month of occupancy of a structure. The following measures shall be taken:

- During construction, temporary vegetation and/or mulching shall be used to protect exposed areas from erosion. Until a disturbed area is stabilized, sediment in run-off water shall be trapped by the use of debris basins, sediment basins, silt traps, or other acceptable methods as determined by the PC.
- Permanent erosion control and vegetative plantings shall be utilized with the in accordance with the State of Vermont Low Risk Erosion and Sedimentation Handbook.
- All slopes exceeding 15% resulting from site grading shall be either covered with topsoil and planted with a vegetative cover sufficient to prevent erosion.
- Dust control shall be employed during all grading operations.
- No development shall occur on slopes greater than 20%.

## **Stormwater Run-Off**

Stormwater runoff is to be managed on-site. There shall be no increase in runoff to adjacent properties or public and private rights-of-way as a result of development. If it is not possible to detain water on-site, downstream improvements may be required of the developer to prevent flooding caused by the project on adjacent properties. Large parking areas shall incorporate on-site water storage infrastructure, such as bio-retention swales within the parking area. The PC may require demonstration of conformance with State of Vermont stormwater permitting requirements prior to issuance of a zoning permit or Certificate of Occupancy.

## **Contaminants**

Materials, which because of their chemical or suspended nature or temperature may contaminate soil, surface or groundwater, shall not be discharged into a surface watercourse or water body, or the ground. Storage facilities for fuel, toxic chemicals, industrial wastes, and potentially harmful raw materials shall be located on an impervious surface and enclosed in a manner that will prevent any spillage or overflow from leaving the containment area.

## **Refuse Disposal**

No refuse shall be dumped upon any part of the lot outside the buildings constructed thereon. Refuse stored outside buildings shall be placed in completely enclosed containers and suitably screened.

## **Explosive and Flammable Materials**

Storage and use of explosive and flammable materials shall comply with all applicable state and federal regulations. Adequate fire prevention and suppression plans and equipment shall be provided for all uses that employ or store flammable or explosive materials. No highly flammable or explosive materials shall be stored in bulk above ground, unless they are located in anchored tanks at least seventy-five (75) feet from any lot line and public or private street. Storage facilities for fuel, toxic chemicals, industrial wastes, and potentially harmful raw materials shall be located on an impervious surface and enclosed in a manner that will prevent any spillage or overflow from leaving the containment area. All necessary measures shall be taken to ensure that materials, which because of their chemical or suspended nature or temperature may contaminate surface or ground waters, are not discharged into a surface watercourse or waterbody, or the ground.

## SIGNAGE

### Administration

No sign shall be erected, placed, altered or changed without an Administrative Permit issued by the ZA unless listed as exempt below.

The applicant shall complete a Town of Sunderland Application and pay the associated fee for a sign application to be considered complete. After the application is deemed complete, the ZA will begin the application process and either issue the permit administratively or refer the application to the PC, if a separate zoning application has been filed which requires PC review. The PC may review signage during site plan or conditional use review and may incorporate applicable conditions to the permit.

### Signs Exempt from Permitting

- Temporary signs not exceeding 6 square feet advertising the sale, rental, construction company or improvement of the premises on which it is located. The sign shall be removed immediately after the activity is complete.
- Political Signs less than 6 square feet in area.
- One directional sign, less than 2 square feet in area, per property.

### General Sign Regulations applicable to all Districts

- No sign shall be flashing or internally illuminated.
- Signs and support structures shall be constructed of natural materials such as wood, stone, metal, cloth or brick.
- Off-premise signs are prohibited.
- Any sign advertising a use that has not been in service for 180 days shall be removed at the expense of the property owner.
- Neon signs meeting all dimensional requirements are allowed.
- Temporary signs may be removed by the Town of Sunderland Highway Department if in the public right-of-way.
- Signs advertising an event shall be removed immediately at the conclusion of event.

### Permitted Signs per District

#### RESIDENTIAL DISTRICTS – RURAL RESIDENTIAL (RR) AND VILLAGE RESIDENTIAL (VR)

- One sign; not exceeding 4 square feet in area is permitted per property.
- Signs may advertise home occupations and accessory uses.

#### COMMERCIAL DISTRICTS – RURAL COMMERCIAL RESIDENTIAL (RCR) AND COMMERCIAL/INDUSTRIAL (CI)

- Only signs pertaining to a business on the same property are allowed.
- The maximum surface area of any *free-standing* or *flush-mounted* sign is 32 square feet.
- The maximum surface area of any *projecting* or *flag* sign is 12 square feet.

- There shall be no more than two signs total per property, not counting signs exempt from permitting.
- There shall be no more than one free-standing sign per property.
- In addition to one free-standing sign, there may be one flush mounted sign, projecting or flag sign; not to exceed 12 square feet on the building where the advertised activities are conducted.
- The maximum height above ground level for any part of the sign is 30 feet.
- In the case of two or more businesses sharing the same premises, they may share a single sign, not exceeding 32 square feet for free-standing or flush-mounted signs; and 12 square feet for projecting or flag signs.

FOREST DISTRICT (F)

- One sign; not exceeding 2 square feet in area is permitted per property.

## FLOOD HAZARD AREA REVIEW AND STANDARDS

The Town of Sunderland Flood Hazard Area consists of the Inundation Hazard Overlay District and the River Corridor Overlay District, as shown on the maps referenced throughout this section. For permitting, these areas are treated as overlay districts (IHO & RCO) to the underlying zoning district.

It is the purpose of the Flood Hazard Area standards of this Bylaw to:

- Implement the goals, policies, and recommendations in the Town of Sunderland municipal plan;
- Minimize and prevent the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public services that result from flooding-related inundation and erosion hazards.
- Ensure that the selection, design, creation, and use of development in flood hazard areas and river corridors is reasonably safe, accomplished in a manner that minimizes or eliminates the potential for loss and damage to life and property due to flooding-related inundation and erosion hazards, and does not impair stream equilibrium, floodplain services, or the river corridor.
- Manage all flood hazard areas designated pursuant to 10 V.S.A. §§ 751 and 753.
- Make the Town of Sunderland, its citizens, and businesses eligible for federal flood insurance, federal disaster recovery funds, and hazard mitigation funds, as may be available.

### Application Administration Requirements

**Application Submission Requirements** - All Applications for development shall include:

1. **Site Development Plan.** Showing the proposed development, all water bodies, all Flood Hazard Overlay District boundaries, the shortest horizontal distance from the proposed development to the top of bank of any river, any existing and proposed drainage, any proposed fill, pre- and post-development grades, and the elevation of the proposed lowest floor as referenced to the same vertical datum as the elevation on the current Flood Insurance Rate Maps.
2. **Project Review Sheet.** A Vermont Agency of Natural Resources Project Review Sheet.

Some applications may require additional information based on the location and type of the development.

3. **Base Flood Elevation (BFE).** BFE information is required for:
  - i. Replacement, substantially improved, or substantially damaged structures located within any Flood Hazard Overlay District, including Zone A, where no BFEs have been provided;
  - ii. Projects requiring elevation or dry-floodproofing above BFE;
  - iii. Additions to existing historic structures; and
  - iv. Any accessory structure proposed to be built in accordance with page 27 of this Bylaw and having building utility systems that will need to be protected from flood waters through elevation above the BFE.
4. **Floodway Data.** All floodway data shall be certified by a registered professional engineer. All submitted proposals shall include electronic input/output files and mapping showing cross-section locations. The following information is required for development located in the floodway:
  - i. Hydraulic calculations demonstrating no rise in BFE or velocity for proposed new or expanded encroachments within the Floodway District.

- ii. In accordance with 44 C.F.R. § 60.3(c)(10), where BFE data has been provided by FEMA, but no floodway areas have been designated, the applicant shall provide a floodway delineation that demonstrates that the proposed development, when combined with all existing and anticipated future development, will not increase the water surface elevation of the base flood by more than one foot at any point within the community.
5. **Compensatory Flood Storage.** The following information is required for applications that require compensatory flood storage pursuant to the Inundation Hazard Overlay (IHO) District standards.
  - i. Designs shall provide equivalent storage volumes during peak flows up to and including the base flood discharge. This No Adverse Impact (NAI) volumetric analysis and supporting data shall be certified by a registered professional engineer.
  - ii. If it appears that the design may create an undue adverse impact to adjacent landowners or structures, a hydraulic analysis may be required to verify that a proposed development will not increase flood elevations or velocities of floodwaters. Hydraulic analyses and supporting data shall be provided by the applicant and certified by a registered professional engineer.
6. **River Corridor Assessment.** The following information is required for applications proposing development within the River Corridor Overlay (RCO) District standards:
  - i. Information clearly demonstrating how the proposed development meets the infill or shadowing requirements; or
  - ii. A narrative and supporting technical information from a qualified consultant that demonstrates how the proposal meets the River Corridor Performance Standards; or
  - iii. Evidence of an approved major or minor map update issued by ANR in accordance with the process outlined in the DEC Flood Hazard Area & River Corridor Protection Procedure, finding the proposed development is not located within the river corridor. Please note that ANR may require the applicant to provide technical data from a qualified consultant to justify a map update.
7. **Application Relief.** Upon written request from the applicant, the PC may waive specific application requirements when the data or information is not needed to comply with this Bylaw. A determination to waive the compensatory storage requirement shall include written concurrence from the ANR regional floodplain manager, that project will have only a minimal effect on floodwater storage.

### **Administrative Responsibilities, Records**

The ZA shall file and maintain a record of:

- All permits issued for development under the jurisdiction of this bylaw.
- A FEMA Elevation Certificate with the as-built elevation (consistent with the datum of the elevation on the current Flood Insurance Rate Maps for the community) of the lowest floor, including basement, of all new, replacement, substantially improved, substantially damaged or flood-proofed buildings (not including accessory buildings) in the Flood Hazard Area.
- All floodproofing and other certifications required under this regulation.
- All decisions of the ZA and PC (including those for substantial improvement, substantial damage, variances, and violations) and all supporting findings of fact, conclusions, and conditions.

- Substantial Improvement and Substantial Damage Determinations. When a proposal for the renovation, rehabilitation, restoration, or repair of a structure located within any Flood Hazard Overlay District is reviewed, the ZA shall make a substantial improvement determination.
- In the event of damage to a structure located within any Flood Hazard Overlay District from flooding or other causes (such as, but not limited to, fire, wind or snow), the ZA shall make a substantial damage determination based on the damage sustained by the structure regardless of intended repair at that time.
- Substantial improvement or substantial damage determinations shall be made in accordance with current FEMA guidelines or procedure established by the PC in accordance with 24 V.S.A. § 1972 and 24 V.S.A. § 4461 and shall be used to determine the appropriate development standards for repair and rebuilding.
- A substantial improvement or substantial damage determination can be appealed by an applicant or property owner to the PC in accordance with this Bylaw. In the consideration of an appeal of the ZA's determination, the ZBA shall consider additional documentation provided by the applicant which may include:
  - a. A recent building appraisal (within the past calendar year, or as determined to still be applicable) completed by a licensed and qualified real estate appraiser that documents the structure's market value (excluding land value) prior to the damage or improvement; or
  - b. A project/repair cost estimate provided by a qualified contractor, professional engineer or licensed architect. The material and labor cost estimate shall include a detailed accounting of the proposed improvements, additions, reconstruction or rehabilitation work, repairs or associated construction and development; or
  - c. In the case of substantial damage, an estimate of structure damage provided or reviewed by a local official from FEMA's *Substantial Damage Estimator* software.

### **Erosion: River Corridor Overlay (RCO) District**

Protection of the river corridor provides rivers and streams with the lateral space necessary to maintain or reestablish floodplain access and minimize erosion hazards through natural, physical processes. It is the intent of this Bylaw to allow for use of property within river corridors that minimizes potential damage to existing structures and development from flood-related erosion, to discourage encroachments in undeveloped river corridors.

#### **RCO District General Provisions**

The RCO is an overlay district. All other requirements of the underlying district shall apply in addition to the provisions herein. If there is a conflict with another such district, the more restrictive provision shall apply.

#### **RCO District Boundaries:**

- This bylaw shall apply to the Statewide River Corridors in the Town of Sunderland, Vermont, as published by the Agency of Natural Resources (ANR) including refinements to that data based on field-based assessments which are hereby adopted by reference.
- On perennial streams with a watershed size greater than half a square mile for which River Corridors are not mapped, the standards in the Development Standards Section shall apply to the area measured as 50 feet from the top of the stream bank or slope.

Requests to update a river corridor map shall be in accordance with the procedure laid out in the ANR *Flood Hazard Area and River Corridor Protection Procedure*.

#### **Jurisdictional Determination and Interpretation:**

The information presented on any maps, or contained in any studies, adopted by reference, is presumed accurate. If uncertainty exists with respect to the boundaries of the RCO District, the location of the boundary on the property shall be determined by the ZA. If the applicant disagrees with the determination made by the ZA or the river corridor as mapped, the applicant has the option to either:

1. Hire a licensed land surveyor or registered professional engineer to stake out the RCO boundary on the property; or
2. Request a letter of determination from ANR which shall constitute proof of the location of the river corridor boundary. When ANR receives a request for a letter of determination, ANR evaluates the site and existing data to see if a change to the river corridor delineation is justified, necessitating a river corridor map update. An ANR letter of determination will either confirm the existing river corridor delineation or will result in an update to the river corridor delineation for the area in question. If a map update is justified, an updated map will be provided with the letter of determination.

#### **Development Review in RCO District**

##### **Permits**

Except as provided in *Exempted Activities*, a permit is required from the ZA for all development that is located within the River Corridor. Development that requires conditional use approval or a variance from the ZBA under this bylaw must have such approvals prior to the issuance of a permit by the ZA. Any development that is also subject to municipal jurisdiction in the designated flood hazard area shall meet the criteria in the Inundation Overlay District (IHO). All permits shall require that a permittee have all other necessary permits from state and federal agencies before work may begin.

Permits for public water accesses and unimproved paths that provide access to the water for the general public and promote the public trust uses of the water shall include a condition prohibiting the permittee from actively managing the section of river to solely protect the public water access from lateral river channel adjustment.

##### **Exempted Activities**

The following activities do not require a permit under this section of the Bylaw; however, underlying zoning district standards may apply:

- Any changes, maintenance, repairs, or renovations to a structure that will not result in a change to the footprint of the structure or a change in use.
- Maintenance of existing sidewalks, roads, parking areas, or stormwater drainage; this does not include expansions.
- Maintenance of existing bridges, culverts, and channel stabilization activities; this does not include expansions.
- Construction or repair of stream crossing structures (bridges and culverts), associated transportation and utility networks, dams, dry hydrants, and other functionally dependent uses that must be placed in or over rivers and streams that are not located in a flood hazard area and that have coverage

under a Stream Alteration Permit, if required, under 10 V.S.A. Chapter 41 and the rules adopted thereunder.

- Activities exempt from municipal regulation and requiring a permit under the State’s “Vermont Flood Hazard Area and River Corridor Rule” (Environmental Protection Rule, Chapter 29):
  - i. State-owned and operated institutions and facilities.
  - ii. Forestry operations or silvicultural (forestry) activities conducted in accordance with the Vermont Department of Forests and Parks Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont or other accepted silvicultural practices, as defined by the Commissioner of Forests, Parks and Recreation.
  - iii. Agricultural activities conducted in accordance with the Vermont Agency of Agriculture, Food and Market’s Required Agricultural Practices (RAPs). Prior to the construction of farm structures, the farmer shall notify the AO in writing of the proposed activity. The notice shall contain a sketch of the proposed structure including setbacks.
  - iv. Public utility power generating plants and transmission facilities regulated under 30 V.S.A. § 248.
  - v. Telecommunications facilities regulated under 30 V.S.A. § 248a.
- Planting projects which do not include any construction or grading activities.
- Subdivision of land that does not involve or authorize development.

#### **Prohibited Development in the RCO District**

The following are prohibited in the RCO District:

- New structures, fill, development, and accessory dwellings.
- Any other development that is not exempt, permitted, or listed as a conditional use which would cause or contribute to fluvial erosion hazards.

#### **Administrative Review**

The following development activities in the RCO District meeting the Development Standards of this section require administrative review from the ZA and may receive a permit from the ZA without review by the PC:

- Small accessory structures not larger than 500 square feet.
- Improvements to existing utilities that are along an existing right of way and serve a building.
- Replacement on-site septic systems.
- An attached deck or patio to an existing structure (not including three-season porches) that is 200 square feet or less and is located no less than 100 feet from the top of bank.
- River or floodplain restoration projects that do not involve fill, structures, utilities, or other improvements, and which have written confirmation from the ANR Regional Floodplain Manager that the project is designed to meet or exceed the applicable standards in this bylaw.

Conditional use review and approval by the PC is required prior to the issuance of a permit by the ZA for any activity in the RCO District that is not exempt or eligible for administrative review.

### Development Standards of the RCO

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

Development within designated centers shall be allowed within the river corridor if the applicant can demonstrate that the proposed development will not be any closer to the river than pre-existing adjacent development.

Development outside of designated centers shall meet the following criteria:

1. **In-Fill Between Existing Development:** Development must be located no closer to the channel than the adjacent existing primary structures, within a gap that is no more than 300 feet (see Figure 1), or
2. **Down River Shadow:** An addition to an existing habitable structure, or an accessory structure that is adjacent to an existing structure, shall be located in the shadow area directly behind and further from the channel than the existing structure, or within 50 feet to the downstream side and no closer to the top of bank. Below-ground utilities may also be placed within the same shadow dimensions of an existing below-ground system (see Figure 2).

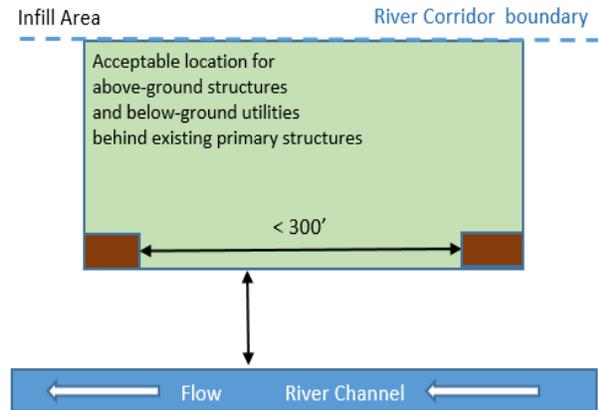


Figure 1: In-fill Development Standard

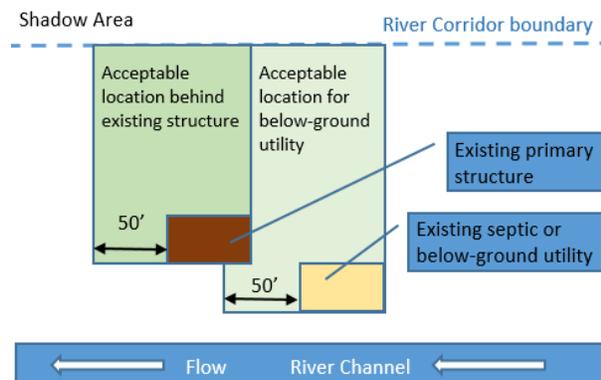


Figure 2: Shadow Area Development Standard

### River Corridor Performance Standard

Proposals that do not meet the infill or shadowing criteria in the Development Standards section must demonstrate and the PC must find that the proposed development will:

1. Not be placed on land with a history of fluvial erosion damage or be imminently threatened by fluvial erosion.
2. Not cause the river reach to depart from or further depart from the channel width, depth, meander pattern, and slope associated with natural stream processes and equilibrium conditions.
3. Not result in an immediate need or anticipated future need for stream channelization solely as a result of the proposed development, that would increase flood elevations and velocities or alter the sediment regime triggering channel adjustments and erosion in adjacent and downstream locations.

Proposals that meet the infill or shadowing criteria in the Development Standards section, are presumed to meet the River Corridor Performance Standard. However, The PC has the option to require an applicant to demonstrate that a proposal meets the River Corridor Performance Standard if there is a concern that the

proposed development is at particular risk from fluvial erosion or may increase fluvial erosion, based on location or past flood damage.

The PC may request or consider additional information to determine if the proposal meets the River Corridor Performance Standard, including:

- A description of why the shadowing and infill criteria above cannot be met.
- Data and analysis from a consultant qualified in the evaluation of river dynamics and erosion hazards.
- Comments provided by the DEC Regional Floodplain Manager on whether the proposal meets the River Corridor Performance Standard.

### **Inundation: Inundation Hazard Overlay (IHO) District**

The purpose of the IHO standards of this Bylaw are:

- To allow for the wise use of floodplain lands in a way that minimizes potential damage to existing structures and development located within this hazard zone.
- Provide an adequate means of protecting the beneficial functions of undeveloped floodplains and development that is already located within floodplains.
- Avoid encroachments in flood hazard areas that may result in cumulative degradation of natural floodplain function leading to increased flood elevations, velocities, and river instability.
- To protect infill and redevelopment from inundation hazards.
- To discourage new encroachments on undeveloped property within the (FHO/Flood Hazard Area) that provide for floodwater and sediment storage.

#### **IHO General Provisions**

Inundation hazard areas are identified in and on the most current flood insurance studies and maps published by the Dept. of Homeland Security, Federal Emergency Management Agency (FEMA), National Flood Insurance Program (NFIP), as provided by the Secretary of the Agency of Natural Resources (ANR) pursuant to 10 V.S.A. § 753, which are hereby adopted by reference and declared to be part of this Bylaw.

The IHO is an overlay district. All other requirements of the underlying district or another overlay district such as the River Corridor Overlay District (RCO), shall apply in addition to the provisions herein. If there is a conflict with another such district, the more restrictive provision shall apply.

The Inundation hazard area, as delineated by FEMA, may contain two parts; the floodway where limited development may be permitted and the remaining part of the inundation hazard area (outside of the floodway) called the flood fringe. Within the inundation hazard area, the inundation risk and type of damages may differ according to the type of flooding that occurs. Therefore, the identified IHO district is separated into different sub-districts to provide protection based upon flooding type:

1. The floodway - The floodway is depicted on the Flood Insurance Rate Maps/Flood Boundary and Floodway Maps for this community.
2. The flood fringe - identified as the area of the FEMA Special Flood Hazard Area (labeled as Zone A, AE, A1-30, AH, AO) outside of the floodway on the most current NFIP maps.

Unless one of these sub-districts is specifically named, reference to the IHO District includes both.

### **Base Flood Elevations and Floodway Limits**

- Where available, base flood elevations and floodway limits provided by the NFIP and in the Flood Insurance Study and accompanying maps shall be used to administer and enforce this bylaw.
- The floodway, as adopted by this community, shall consist of the channel of a river or other watercourse and the adjacent land areas that shall be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point.
- In the IHO District where base flood elevations and/or floodway limits have not been provided by the NFIP in the Flood Insurance Study and accompanying maps, it is the applicant's responsibility to develop the necessary data, as specified in these Bylaws. Where available, the applicant shall use data provided by FEMA, or state or federal agencies to administer this Bylaw.

### **Jurisdictional Determination and Interpretation**

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

### **Permits**

Except as provided in the Exempted Activities section above, a permit is required from the ZA for all development that is located within the IHO District. Development that requires conditional use approval or a variance from the ZBA or PC under this bylaw must have such approvals prior to the issuance of a permit by the ZA. Any development that is also subject to municipal jurisdiction in the designated flood hazard area shall meet the criteria in the River Corridor Overlay District (RCO). All permits shall require that a permittee have all other necessary permits from state and federal agencies before work may begin.

### **Development Classifications and Permit Requirements in the IHO District**

#### **Exempted Activities**

The following activities do not require a permit under this section of this Bylaw; however, underlying zoning district standards may apply:

- The removal of a building or other improvement less than 150 sq. ft. in whole or in part, so long as the ground elevations under and adjacent to the removed structure remain unchanged. Please be aware that for damaged structures where FEMA mitigation funds may be used, the damaged structure may be required to remain in place until funds are granted.

- Routine maintenance of existing buildings in the usual course of business required or undertaken to conserve the original condition, while compensating for normal wear and tear. Routine maintenance includes actions necessary for retaining or restoring a piece of equipment, machine, or system to the specified operable condition to achieve its maximum useful life and does not include expansions or improvements to development.
- Maintenance of existing sidewalks, roads, parking areas, or stormwater drainage; this does not include expansions.
- Maintenance of existing bridges, culverts, and channel stabilization activities; this does not include expansions.
- Streambank armoring and stabilization, retaining walls, and abutment work that do not reduce the cross-sectional flow area of the river or stream channel and have coverage under a Stream Alteration Permit, if required, under 10 V.S.A. Chapter 41 and the rules adopted thereunder.
- The following activities are exempt from municipal regulation, but may require a permit under the State's "Vermont Flood Hazard Area and River Corridor Rule" (Environmental Protection Rule, Chapter 29):
  - i. State-owned and -operated institutions and facilities.
  - ii. Forestry operations and silvicultural (forestry) activities conducted in accordance with the Vermont Department of Forests and Parks Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont or other accepted silvicultural practices, as defined by the Commissioner of Forests, Parks and Recreation.
  - iii. Agricultural activities conducted in accordance with the Vermont Agency of Agriculture Food and Market's Required Agricultural Practices (RAPs). Prior to the construction of farm structures, the farmer shall notify the ZA in writing of the proposed activity. The notice shall contain a sketch of the proposed structure including setbacks.
  - iv. Public utility power generating plants and transmission facilities regulated under 30 V.S.A. § 248.
  - v. Telecommunications facilities regulated under 30 V.S.A. § 248a.
- Planting projects which do not include any construction or grading activities.
- Subdivision of land that does not involve or authorize development.

### **Prohibited Development**

Except as provided in the Exempted Activity Section, the following is prohibited:

1. Within the entire IHO District:
  - a. Fully enclosed areas below grade on all sides, including below grade crawlspaces and basements.
  - b. New critical facilities.
2. Within the Floodway Sub-district:
  - a. New accessory structures.
  - b. New encroachments, except for minor improvements (Minor improvements are those that would not affect base flood elevations, consistent with the provisions of FEMA P-480; Desk Reference for Local Officials) to existing structures or relating to bridges, culverts, roads, stabilization projects, public utilities, river and/or floodplain restoration projects, or health and safety measures.

- c. Changes to existing structures where the footprint of the structure is proposed to expand laterally into the floodway greater than 500 square feet.
- d. Storage of materials or junk yards.

### **Administrative Review; Permitted Development**

The following development activities in the IHO District meeting the Development Standards Section on page 37, require an administrative review from the ZA and may receive a permit from the ZA without review by the PC:

1. Within the entire IHO District:
  - a. Above grade development located on ground, which has not been elevated by the placement of fill, that is one foot above base flood elevation and documented with field-surveyed topographic information certified by a registered professional engineer or licensed land surveyor.
  - b. Open fencing and signs elevated on poles or posts that create minimal resistance to the movement of floodwater.
  - c. At-grade parking or other at-grade/below grade development that will not create an obstruction to flood flows.
  - d. Municipal transportation infrastructure improvements designed and constructed by the Vermont Agency of Transportation that have written confirmation from the ANR Regional Floodplain Manager that the project is designed to meet or exceed the applicable standards in this bylaw.
  - e. River and floodplain restoration projects, including dam removal, that restore natural and beneficial floodplain functions and include written confirmation from the ANR Regional Floodplain Manager that the project is designed to meet or exceed the applicable standards in this bylaw.
2. Within the Flood Fringe Sub-district:
  - a. Improvements or repairs from damage to structures that do not expand the existing footprint and do not meet the definition of “substantial improvement” or “substantial damage”.
  - b. Accessory structures not greater than 500 square feet.
  - c. Development related to on-site septic or water supply systems.
  - d. Building utilities.
  - e. Recreational vehicles or travel trailers.
  - f. New fill for existing associated transportation and utility networks or to accommodate a replacement on-site septic system, if it can be demonstrated that no other practicable alternative is available.

Conditional use review and approval by the PC is required prior to the issuance of a permit by the ZA for any activity in the IHO District that is not exempt or eligible for administrative review.

### **Non-Conforming Structures and Uses**

1. A nonconforming structure in the IHO District that has been substantially damaged or destroyed may be reconstructed in its original location only if it is rebuilt to comply with all requirements of the National Flood Insurance Program and this Bylaw (page 18);
2. Nonconforming structures and uses shall be considered abandoned where the structures or uses are discontinued for more than 12 months. An abandoned structure in the IHO shall not be permitted for re-occupancy unless brought into compliance with this Bylaw. An abandoned use in the IHO shall not be permitted unless brought into compliance with this Bylaw.

## Development Standards

The criteria below are the minimum standards for development in the IHO District. If the floodway or flood fringe is not specified, the standard applies to the entire IHO District. Where more than one district is involved, the most restrictive standard shall take precedence.

**Floodway Sub-district** - Within the floodway sub-district, the following standards apply:

1. New encroachments are prohibited within the floodway, except for the following, which also shall comply with #2 below:
  - a. Changes to existing structures where the footprint is proposed to expand horizontally into the floodway less than 500 square feet.
  - b. New encroachments relating to bridges, culverts, roads, stabilization projects, public utilities, functionally dependent uses, and river or floodplain restoration projects.
  - c. New encroachments relating to health and safety measures, such as replacement of pre-existing on-site septic and water supply systems, if no other practicable alternative is available.
2. For all proposed new encroachments and above-grade development, a hydraulic analysis is required to be provided for review. The analysis should be performed in accordance with standard engineering practice, by a registered professional engineer, certifying that the proposed development will:
  - a. Not result in any increase in flood levels during the occurrence of the base flood.
  - b. Not increase base flood velocities.
  - c. Not increase any risk to surrounding properties, facilities, or structures from erosion or flooding.
3. For development that is either below grade or will not result in any change in grade, the hydrologic & hydraulic analyses may be waived, where the applicant will provide pre- and post-development elevations demonstrating that there will be no change in grade, and that the development will be adequately protected from scour.
4. For any new encroachment that is proposed within the floodway sub-district where a hydraulic analysis is required, the applicant may provide a FEMA Conditional Letter of Map Revision (CLOMR), in lieu of a hydraulic analysis, to demonstrate that the proposed activity will not have an adverse impact.

### No Adverse Impact (NAI) Standard within the Flood Fringe

Within the flood fringe, the following standards apply:

1. Compensatory Flood Storage - New development or redevelopment shall not decrease flood storage capacity. Therefore, except as noted in the Compensatory Flood Storage Requirement Exceptions below, development that displaces floodwater storage in the flood fringe shall provide compensatory storage to offset the impacts of the proposal. This is required when the development will cause an increase or will contribute incrementally to an increase in the horizontal extent and level of flood waters during peak flows up to and including the base flood discharge.
  - a. Volumetric analyses and supporting data, demonstrating compensatory storage to offset the impacts of the proposal, shall be provided by the applicant and certified by a registered professional engineer.

- i. An applicant may submit a hydraulic analysis that demonstrates that a project will not increase flood elevations and velocities on floodwaters in lieu of a NAI volumetric analysis.
  - b. Compensatory flood storage designs shall not materially impact adjacent landowners or structures.
    - i. If the design may create an undue adverse impact to adjacent landowners or structures, a hydraulic analysis shall be required to verify that a proposed development will not increase base flood elevations and velocities. Hydraulic analyses and supporting data shall be provided by the applicant and certified by a registered professional engineer.
2. Compensatory Flood Storage Requirement Exceptions:
- a. The NAI compensatory storage requirement may be waived for proposed designs that have no more than a minimal effect on floodwater storage and will not result in diverting floodwaters onto an adjacent property or structure. Examples of designs that have a minimal effect on floodwater storage include an open foundation design; utility work that is largely or completely located below grade; minor above ground improvements such as fences or poles that minimally displace or divert floodwaters; and development that will not result in any change to the pre-development ground elevations. A determination to waive the NAI compensatory storage requirement shall include written concurrence from the ANR regional floodplain manager, that the project will have only a minimal effect on floodwater storage.
  - b. For remediation of properties with contaminated soils, such as Brownfields sites, the NAI compensatory storage requirement may be waived, if hydraulic analysis demonstrates that the remediation will not increase flood elevations and velocities. Hydraulic analyses and supporting data shall be provided by the applicant and certified by a registered professional engineer.
  - c. The NAI compensatory storage requirement may be waived for a replacement structure if:
    - i. There is no increase in the structure's footprint, or
    - ii. An open foundation design is used. Examples include using compliant flood vents or openings, or elevating the structure on post, piers, or pilings with no structural foundation walls below the design flood elevation.
  - d. The NAI compensatory storage requirement may be waived for associated transportation and utility networks and replacement on-site septic system proposals, if the applicant demonstrates that the placement of fill cannot be mitigated.

### **The IHO District (Zones A1-30, AE, AH, AO)**

Within the IHO District, the following standards apply:

1. *All development*, except development that is exempt, shall be:
  - a. Reasonably safe from flooding.
  - b. Designed (or modified) and adequately anchored to prevent flotation, collapse, release, or lateral movement of the structure.
  - c. Constructed with materials resistant to flood damage.
  - d. Constructed by methods and practices that minimize flood damage.
  - e. Constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed 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. Required to elevate or floodproof any fuel storage tanks to at least two feet above the base flood elevation. This can be achieved by:
    - i. Elevating the fuel storage tank a minimum of two feet above the BFE and securely anchoring the tank to prevent flotation. The tank shall be located on the land-ward or downstream side of the building and all inlets, fill openings, line connections, and vents shall be elevated to two feet above the BFE. Any structure or platform used to elevate the tank shall be designed to withstand anticipated flood loads and forces;
    - ii. In places where elevation of the fuel storage tank is not possible due to the location of existing fuel hookup/fuel lines into an existing building:
      - A. The tank shall be securely anchored to prevent floatation while protecting it from flood forces and debris. Any structure or platform used to anchor and protect the tank shall be designed to withstand anticipated flood forces and debris. The tank vent pipe/valve shall be located at a minimum two feet above the BFE; or
      - B. Storage tanks may be placed underground, if securely anchored and certified by a qualified professional and are protected from flood forces such as scour, erosion, velocity flow, and buoyancy (uplift) force.
2. For any new structure, replacement structure, substantially improved structure, or structure that has experienced substantial damage, outdoor utilities (electrical, heating, ventilation, plumbing, and air conditioning equipment) and other service facilities (such as sewer, gas, and water systems), shall be located on the landward or downstream side of the building and/or behind structural elements, and located and constructed to minimize or eliminate flood damage.
  3. In Zones AE and A1 – A30 *where floodway limits have not been determined*, development shall not be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated encroachment, will not increase the base flood elevation more than one foot at any point within the community. The demonstration shall be supported by technical data that conforms to standard hydraulic engineering principles and certified by a registered professional engineer (see Administration Section) for more information about application submittal requirements).
  4. For new, replacement or substantially improved structures, or for structures that have incurred substantial damage, fully enclosed areas below grade on all sides (including below grade crawlspaces and basements) are prohibited.
  5. Recreational vehicles, equipment and boat trailers, portable toilets, construction trailers, and other travel trailers shall:
    - a. Be currently registered, licensed and ready for highway use; or
    - b. Be on site for fewer than 180 consecutive days; or
    - c. Meet the requirements for structures, as appropriate.
  6. Water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
  7. 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.

8. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
9. The flood carrying capacity within any altered or relocated portion of any watercourse shall be maintained, any alteration or relocation shall not result in any decrease of stream stability.
10. Bridges, culverts and channel management activities, which by their nature shall be placed in or over the watercourse, shall have a Stream Alteration permit from the Agency of Natural Resources, if required.
11. Subdivisions and Planned Residential Developments shall be accessible by dry land access outside of any IHO District.
12. Structural Standards
  - a. New structures, existing structures to be substantially improved or replaced, or that have incurred substantial damage shall be located such that the lowest floor is at least two feet above base flood elevation. This shall be documented in the proposed and as-built condition with a FEMA Elevation Certificate.
  - b. New non-residential structures, and non-residential structures to be substantially improved, replaced, or that have incurred substantial damage shall:
    - i. Meet the standards of 12.a., above; or
    - ii. Have the lowest floor, including basement, together with attendant utility and sanitary facilities, designed so that two (2) feet above the base flood elevation the structure is dry floodproofed, meaning watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
    - iii. A permit for dry floodproofing 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;
    - iv. Dry floodproofing measures used to meet the above floodproofing standard shall work without the use of human intervention at the time of flooding. Exceptions to this standard are when the facility is adequately staffed at all hours with people trained and able to deploy the facility's floodproofing measures, or if the structure is located in a floodplain that has a National Weather Service flood forecast stream gauge that provides adequate advanced warning of potential flooding for the deployment of the floodproofing system.
  - c. New structures, or existing structures to be substantially improved or replaced, or that have incurred substantial damage in Zone AO shall have the lowest floor, including basement, elevated above the highest adjacent grade, at least two feet above the depth number specified on the community's FIRM, or at least three (3) feet if no depth number is specified.
  - d. Critical facilities that are to be replaced, substantially improved, or meet the definition of substantial damage shall be constructed so that the lowest floor, including basement, shall be elevated or dry-floodproofed at least one (1) foot above the elevation of the 0.2% annual flood height (500-year floodplain), or three (3) feet above base flood elevation, whichever is higher. A critical facility shall have at least one access road connected to land outside the 0.2% annual chance floodplain that is capable of accommodating emergency services vehicles. The top of

the access road shall be no lower than six inches below the elevation of the 0.2% annual chance flood event.

- e. For historic structures that would meet the definition of substantial improvement or substantial damage if not for their historic structure designation, the improved or repaired building shall meet the following mitigation performance standards for areas below the base flood elevation:
  - i. Any future damage to enclosures below the lowest floor shall not result in damage to the foundation, utility connections, or elevated portions of the building or nearby structures.
  - ii. Utility connections (e.g., electricity, water, sewer, natural gas) shall be protected from inundation and scour or be easily repaired.
  - iii. The building foundation shall be structurally sound and reinforced to withstand a base flood event.
  - iv. The structure's historic designation shall not be precluded.
  - v. The likelihood of flood waters entering the structure during the base flood is reduced.
  - vi. There shall be no expansion of uses below base flood elevation except for parking, storage, building access, or, in the case of non-residential buildings, where the space is dry floodproofed.
  
- f. Fully enclosed areas that are above grade, below the lowest floor, below BFE, and subject to flooding, shall:
  - i. Be solely used for parking of vehicles, storage, or building access, and such a condition shall clearly be stated on any permits.
  - ii. 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 registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings on two walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above adjacent 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.
  - iii. Include a signed non-conversion agreement from the owner of the structure with the permit application stating that the enclosed area below the BFE will not be converted to another use not listed above in 12.f.i above, and that the community would have the ability to inspect the exterior and interior of the enclosed area in compliance with the standards laid out in the non-conversion agreement.
  
- g. A small accessory structure of 500 square feet or less need not be elevated to the base flood elevation, provided the structure is placed on the building site so as to offer the minimum resistance to the flow of floodwaters and shall meet the criteria in Section 12.f above.

## SUBDIVISION REVIEW

The purpose of subdivision review is to provide for the orderly growth and coordinated development in the Town of Sunderland; and to further the purposes of Town of Sunderland Municipal Plan and the Act. In accordance with these Bylaws and the Act, whenever any subdivision of land is proposed that is not specifically exempted from these provisions, subdivision approval by the Planning Commission (PC) is required.

An approved application for subdivision of land is required prior to:

- A subdivision of land not considered a Boundary Line adjustment.
- Any construction, building development, grading, road or driveway construction, land clearing or installation of site improvements.
- Any sale, conveyance or lease of any subdivided portion of a property.
- Applying for a zoning permit for the development of any parcel to be subdivided.
- Filing a subdivision plat in the land records of the town.

Nothing in these standards shall absolve the applicant's responsibility to obtain all required local, state and federal permits before commencing any development. Density, lot size and layout shall conform to the underlying zoning district standards. No nonconforming lots shall be created by a subdivision. All subdivision permits will be conditioned to not become effective until all other required local and state permits have been issued.

### Exemptions

The following are specifically exempted from subdivision review:

- **Boundary or lot line adjustments** between adjacent parcels legally in existence as of the effective date of this Bylaw that do not create new lots, create or increase the degree of nonconformance of an existing lot, do not alter an approved subdivision plat or conditions of previous subdivision approval, do not result in a transfer of more than 2 acres of land, and do not result in the creation of a major subdivision, are permitted administratively. Boundary and lot line adjustments are for the purpose of straightening property lines and bringing nonconforming lots into compliance with these Bylaws.

Boundary line or lot line adjustments shall be surveyed by a VT licensed surveyor, issued an administrative permit approval by the ZA, and such permit shall be recorded in the town land records along with the deeds of conveyance. The ZA may refer complicated applications to the PC for site plan review.

- Parcels leased for agricultural or forestry purposes as defined by the State of Vermont Agency of Agriculture – Required Agricultural Practices (RAP), where no permanent roads or structures are proposed.
- The conveyance of rights-of-way or easements that do not result in the subdivision of land.

### Major and Minor Subdivision

For the purposes of these regulations, subdivisions of land shall be classified by the PC as "major" or "minor".

**Major subdivisions** shall include any subdivision of land resulting in the creation of three (3) or more lots, creation of any new (public or private) roads or shared utilities, amendments to an approved major subdivision, a PRD, consists or will create two or more parcels in two towns, or which is not a minor subdivision.

**Minor subdivisions** shall include the subdivision of land resulting in the creation of one (1) or two (2) lots from a lot that has not been part of a subdivision within the previous three years, amendments to an approved minor subdivision, subdivisions that do not require the installation of a road or shared utilities, boundary or lot line adjustments that involve the transfer of more than 2 acres of land, and subdivisions that do not qualify as a major subdivision.

## **APPLICATION AND APPROVAL PROCEDURE**

### **Pre-Hearing Sketch Plan Review**

The purpose of a pre-hearing sketch plan review is to acquaint the PC with a proposed subdivision at a conceptual stage in the design process, prior to the submission of a subdivision application. The review is **optional**, but recommended, and is intended to help identify the type of subdivision and subdivision design that best meets the needs of the subdivider and Town of Sunderland, and all supporting information that will be required by the PC prior to the subdivider incurring significant expense. A complete application is not required at this time. Applicants should contact the ZA to be placed on a PC Meeting Agenda for the purposes of a pre-hearing sketch plan review.

A sketch plan may be submitted for all proposed subdivisions and boundary line adjustments, for the purposes of:

- Classification as a minor or major subdivision.
- Initial consideration of a proposed subdivision's compliance with the Town Plan, these Bylaws, and any other municipal regulations currently in effect.
- Receiving guidance on the Density and Net Developable Area calculations, General Standards and Design Requirements.
- Consideration of any application relief requested.
- Answering any questions regarding the proposed application and schedule.
- Clarifying any issues regarding PRDs.
- Determining recommendations for modifications or changes in subsequent submissions, or requests for additional studies or supporting documentation that may be required.

The applicant may present any information that he or she deems appropriate at the pre-hearing sketch plan review, including site information, proposed subdivision design, and/or a sketch plan. The PC will not take formal action of any kind at the pre-hearing sketch plan review meeting.

### **Subdivision Application**

**Applicability** - All applicants for subdivision approval shall complete a Town of Sunderland Application located at [www.sunderlandvt.org](http://www.sunderlandvt.org).

**Subdivision Application Requirements** - The applicant shall submit to the ZA a subdivision application, associated fee and materials in accordance with the Submission Requirements. The applicant shall submit any request for application relief for consideration by the PC at this time.

**Zoning Administrator Review** - The ZA shall document the date the completed application is received in the Town Office. The ZA will not take action on an application deemed incomplete and will notify the applicant of what materials are necessary for a complete application.

**Zoning Administrator Action** - Within 30 days of documenting the receipt of a complete subdivision application, the ZA shall submit the application to the PC for public hearing.

**Right of Appeal** - The applicant has the right to appeal the action or non-action of the ZA, in accordance with the Act.

### Hearing for Subdivision and Final Plat Approval

**Application Requirements** - The complete application for subdivision and final plat approval shall include associated fees and, unless otherwise specified or waived by the PC, one original application with full size plat (24"x36") and five copies of the proposed plat re-sized to 11"x17" of the information specified under the Submission Requirements.

**Public Hearing** - Within 30 days of receipt of a complete application for subdivision and final plat approval, the PC shall schedule a public hearing on the subdivision and final plat, warned in accordance with the Act. **The applicant shall bear the cost of the public warning and notification of adjoining landowners.**

A noticed Public Hearing is required for both Minor and Major Subdivisions. **For a Major Subdivision, the public hearing shall include at least two (2) separate meetings.** The second meeting does not need to be re-warned if the hearing is recessed by the PC at the first meeting. After the second meeting, the PC may close the hearing for a major subdivision.

**Site Visit** - The PC may schedule a site visit. Any site visit attended by a quorum of the PC shall be warned in accordance with the act.

**Final Approval** - Within 45 days of the date of adjournment of the public hearing, the PC shall approve, approve with conditions, or disapprove the subdivision and final plat, based on a determination of whether or not the subdivision and final plat conforms to applicable standards. Approval, conditions of approval, or grounds for disapproval, shall be set forth in a written decision.

**Performance Bonding** - For any subdivision which requires the construction of roads or other public improvements, the PC may require that the subdivider post a performance bond or comparable surety to cover the cost and to ensure completion of specified improvements, in accordance with the conditions of approval. Such bond or surety must be approved by the Town of Sunderland Selectboard prior to final plat approval. The term of the bond or surety may be fixed for a maximum of three (3) years, within which time all improvements must be completed. The term of such bond or surety, by mutual consent of the Selectboard, Planning Commission and subdivider, may be extended for an additional period up to three (3) years. The Selectboard may also require a Maintenance Bond for two (2) years after completion of specified improvements. The Selectboard shall establish an inspection fee to cover the costs of inspection, to be paid for by the applicant.

The Selectboard shall release the bond or surety once all specified improvements have been completed in accordance with the project plans, permit conditions and performance bond conditions. In no event, will a performance bond be released unless and until any required Certificate of Subdivision Compliance is issued, and any required maintenance bonds are in place, or the subdivider provides written notice to the Town of Sunderland that the subdivider is not proceeding with the project and that all application actions are being ceased.

**Certificate of Subdivision Compliance** - The PC shall require, as a condition of subdivision approval, that a Certificate of Subdivision Compliance be obtained to ensure that required improvements have been installed in accordance with the conditions of subdivision approval. The satisfactory completion of any improvements shall be determined by the ZA. A Certificate of Subdivision Compliance shall not be issued for any subdivision that is not in compliance with the conditions of subdivision approval, including all other required local and state permits. The ZA shall not issue a zoning permit for the development of a subdivided lot within the subdivision until the certificate has been issued.

An application for a certificate of subdivision compliance shall be submitted to the ZA with as-built plans drawn to scale or certifying completion of approved plans indicating any monuments, utilities, structures, roadways, easements, and other improvements as constructed. Within 15 days of receipt of the request for a Certificate of Subdivision Compliance, the ZA shall inspect the subdivision to ensure that all work has been completed as approved.

**Effect of Subdivision and Final Plat Approval** - The approval by the PC of a subdivision and final plat shall not be construed as acceptance for ownership and maintenance by the municipality of any street, easement, utility, park, recreation area, or other open space shown on the final plat. Such acceptance may be accomplished only by a formal resolution and acceptance by the Selectboard.

**Subdivision Application Relief Authority**

In accordance with the Act, the PC may waive or vary one or more application requirements, if the PC determines that the requirement:

- Is not in the interest of public health, safety and general welfare.
- Is inappropriate due to the inadequacy or lack of connecting facilities adjacent to or in proximity to the subdivision.
- Will not have the effect of nullifying the intent and purpose of applicable provisions of these Bylaws, the Sunderland Town Plan and/or other ordinances in effect.

The applicant shall identify the specific requirements for which the waiver is requested and the basis for the requested waiver. The request for a waiver shall be submitted in writing by the applicant with the application, and it shall be the responsibility of the applicant to provide sufficient information to justify the waiver and to enable the PC to make a decision.

**Post Hearing Plat Recording Requirements**

In accordance with the Act, the subdivider shall file a mylar plat in the Sunderland land records and provide 2 paper copies and one electronic copy of the recorded plat to the ZA. The approved plat shall:

- Be a minimum of 18" X 24", or a multiple thereof.
- Be signed by an authorized representative of the Planning Commission.
- Carry the following endorsement on the original to be filed with the Town Clerk:

**Approved by Resolution of the Planning Commission for the Town of Sunderland, Vermont,**  
on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

**Subject to the requirements and conditions of said resolution.**

Signed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_

By \_\_\_\_\_, Chairperson.

**Plat Recording** - The approval of the PC shall expire 180 days from subdivision approval unless, within that 180-day period, the plat has been filed or recorded in the office of the clerk of the municipality. After an approved plat or certification by the clerk is filed, no expiration of that approval or certification shall be applicable. The ZA may extend the date for filing the plat by an additional 90 days, if approved by the PC.

The municipality shall meet all recording requirements for subdivision approvals as specified for municipal land use permits under V.S.A. T27 - Chapter 17 §1403. **A digital copy of any recorded survey or plat shall be filed with the Vermont Center for Geographic Information – Vermont Land Survey Library at [landsurvey.vermont.gov](http://landsurvey.vermont.gov).**

### **Revisions to an Approved Subdivision and Plat**

No changes, modifications, or other revisions that alter the plat or conditions attached to an approved subdivision shall be made unless the proposed revisions are first resubmitted as a new subdivision application, and are approved by the PC. In the event that subdivision or plat revisions are recorded without PC approval, the revisions shall be considered null and void, and subject to enforcement.

Any subdivision previously approved by the PC, that is modified or makes any material or other significant change to any of its plans during the overall permit process, or, any proposed subdivision that is unable to obtain all necessary permits within two (2) years of original application, shall be subject to a new re-review in full accordance with these Bylaws, and subject to any additional fee requirements.

### **SUBDIVISION AND PLAT SUBMISSION REQUIREMENTS**

The following information shall be submitted to the ZA along with the Application Form and associated fee. All subdivision and final plat submission requirements are necessary to be considered a complete application. The ZA will not take action until the application is considered complete.

The applicant shall provide one original full size plat (18" x 24") and five copies of the proposed plat resized to 11" x 17" of all subdivision and final plat submission requirements, prepared by a licensed professional engineer. All dimensions shall be represented in feet or decimals of a foot, drawn to a reasonable scale which will allow readability of the details and information required.

### **Required Application Information**

- Completed Town of Sunderland Application Form.
- Application fee.
- Written description of proposed development plans, including number and size of lots and the anticipated schedule of development.
- Waiver request in writing [optional].
- Copies of all necessary municipal and state permits and permit applications.
- Letters of approval from applicable municipal service providers.

### **Plat Requirements for All Subdivisions**

- Proposed subdivision name or identifying title.
- Date, north arrow, legend and scale.
- Names and addresses of adjoining property owners [from Sunderland Grand List].
- Name and address of record owner, applicant and designer of plat.
- Number of acres within the proposed subdivision and for each new lot.

- Project boundaries and property lines.
- Approximate building locations.
- Adjoining property line buffers.
- Monument locations.
- Existing and proposed lot lines, dimensions and proposed lot numbers.
- Zoning district designations and boundaries.
- Adjoining land uses, roads and drainage.
- Existing easements, buildings, water courses and other notable physical features.
- Existing and proposed utilities: power, water, gas, wastewater, stormwater systems and associated rights of way or easements.
- Deed description and map of survey of tract boundary made and certified by a State of Vermont licensed land surveyor tied into established reference points, and any existing deed restrictions.
- Location of natural and physical site features, including watercourses, wetlands and associated buffers; flood hazard areas; areas of steep slope (15% to 25%) and very steep slopes (>25%); critical wildlife habitat areas; and historic sites and structures.
- Vicinity map drawn to a scale of not over four hundred (400) feet to the inch to show the relation of the proposed subdivision to the adjacent properties and to the general surrounding area. The vicinity map shall show all the area within two thousand (2,000) feet of any property line of the proposed subdivision.
- Certification block and associated plat recording requirements (see page 45).
- License number and seal of the Vermont licensed surveyor or licensed Vermont engineer.

#### **Plat Requirements for Major Subdivisions**

- Location, names and present widths of existing and proposed streets, highways, intersections, easements, building lines, walkways, parks, or other public open spaces.
- Width, location, grades and street profiles of all streets or other public ways proposed.
- Contour lines at intervals of five feet of existing grades and of proposed finished grades.
- Connections with water supplies or proposed alternative means of providing water.
- Connections with sewerage systems or proposed alternative means of septic treatment/disposal.
- If private septic disposal is proposed, location and results of tests to ascertain subsurface soil, rock and groundwater conditions and depth to groundwater.
- Preliminary design of any bridges or culverts.
- A general indication of land cover, including forested areas and forest type, tree lines, natural features, stormwater management areas and historic features.
- Designated natural buffer strips.
- Prime Agricultural Soils or areas enrolled in the VT Use Value Appraisal Program "Current Use".
- All land proposed to be dedicated for public use, conservation, buffer and/or open space.
- Location of trees and all other natural features or site elements to be preserved.
- Letters from municipal and school district officials and emergency service providers regarding adequacy/capacity of existing facilities.
- Proposed landscaping and screening.
- Proposed park, playground or other recreation areas, or areas to be dedicated for public use.
- All proposed exterior lighting.
- All project signage.

#### **Supporting Information and Documentation [unless waived by the PC]**

- Road profiles; road, intersection and parking area geometry and construction schematics.
- Existing and proposed traffic generation rates, volumes.
- Off-site easements (e.g., for water, wastewater, access).
- Proposed phasing schedule and subsequent development plans.

- Proposed cost of site improvements (to determine bond or surety amount).
- Proposed covenants and/or deed restrictions.
- Proposed homeowner or tenant association agreements.
- Private roadway language and maintenance agreement, if applicable, to be inserted into all deeds.
- Proposed performance bond or surety.

#### **Additional items that may be required by the PC**

- Stormwater Management Plan.
- Erosion Control and Sedimentation Plan.
- Open space management plan.
- Natural Resource Protection Plan.
- Temporary field markers, located on the site, to enable the PC to determine the proposed location of parcel boundaries, building envelopes and associated improvements.
- Outdoor lighting plan.
- Traffic impact analysis.
- Fiscal impact analysis.
- Historic or archeological assessment.
- Environmental impact assessment.
- Visual impact assessment.

### **SUBDIVISION DENSITY**

**Density Guidelines** - Sunderland has a predominantly rural character and limited amount of land available for future use and growth. The town lacks public wastewater or water supply systems, and has does not have plans to provide these services. The density of new subdivisions is intended to preserve the town's rural character and town plan goals, while recognizing infrastructure constraints.

**Net Developable Area (NDA)** - The maximum number of building lots allowed in a subdivision is based on the size (acreage) of the area that is determined to be suitable for development. The developer/applicant shall first identify all areas within the entire subdivision parcel that are considered unsuitable for development, according to the list below. The total number of acres that are unsuitable shall be subtracted from the gross size of the entire parcel to be subdivided. This calculation determines the size of the remaining Net Developable Area.

#### **Land Areas Unsuitable for Development:**

- Surface waters, rivers, streams and ponds.
- Wetlands, vernal pools and Flood Hazard Areas.
- Areas of land with slopes in excess of 20%.
- Land in the Forest District.
- Land encumbered by private and public roads, easements and rights-of-ways.
- Areas identified on the VT ANR Natural Resource Atlas as being a Critical Wildlife Habitat or having Rare or Endangered species.
- Any other significant or important areas, as determined by the PC.

The proposed building envelope of any lot shall not contain any areas of undevelopable land; however, portions of building lots may consist of land defined as unsuitable. No structure or related infrastructure shall be located within any land area unsuitable for development, as provided above.

**Building Lots – Quantity and Sizes**

Having determined the size of the Net Developable Area, refer to the Density Guideline Chart below and determine the number of building lots that are permitted in each of the three Lot Size Categories.

**Density Requirements**

Net Developable Area (NDA)	Maximum number of permitted building lots per lot size			
		<u>2 up to 3 acre lots</u>	<u>3 up to 5 acre lots</u>	<u>More than 5 acre lots</u>
Up to 20 acres	=	3 lots permitted	4 lots permitted	# based on remaining NDA
20 up to 40 acres	=	4 lots permitted	6 lots permitted	# based on remaining NDA
40 up to 80 acres	=	5 lots permitted	8 lots permitted	# based on remaining NDA
More than 80 acres	=	6 lots permitted	10 lots permitted	# based on remaining NDA

\* Minimum lot size is determined by the underlying zoning district, unless the proposed subdivision is a Planned Residential Development.

**SUBDIVISION GENERAL STANDARDS AND DESIGN REQUIREMENTS**

The PC shall evaluate any application for subdivision approval in accordance with the standards set forth below. The PC may require the subdivider to submit data addressing impacts related to the standards, and may require modifications to the proposed subdivision to avoid or mitigate impacts. Should the PC deem it necessary to employ an engineer, attorney or other consultant to review any subdivision plans or portions thereof, and/or any associated legal documentation, the costs of review shall be paid by the applicant.

**Character of the Land** - All land to be subdivided shall be, in the judgment of the PC, of such a character that it can be used for the intended purpose(s), as stated in the application, without danger to public health or safety, the environment, neighboring properties, or the rural character and natural beauty of the community.

**Conformance with Sunderland Town Plan and Other Regulations** - Subdivisions of land shall be in conformance with all applicable requirements of this Bylaw, the Sunderland Town Plan, capital budget and program and all other municipal bylaws and ordinances currently in effect.

**Density and Lot Layout** - Density, lot size and layout shall conform to the underlying zoning district standards, and general standards pertaining to frontage, lot and yard requirements, unless the project is a Planned Residential Development (PRD).

**Landscaping and Screening** - The preservation, planting and maintenance of trees, ground cover or other vegetation, of a size and type deemed appropriate by the PC, shall be required to:

- Preserve existing specimen trees, tree lines, contiguous blocks of forest habitat, wooded areas of particular natural or aesthetic value and critical wildlife habitat.

- Provide an undisturbed vegetated buffer between developed and undeveloped portions of the site to protect water quality and/or other natural features.
- Provide screening of development to increase privacy, reduce noise and glare, or to establish a visual or physical buffer.
- Establish a tree canopy along roads or pedestrian walkways, including areas where a substantial loss of existing trees will result from road construction and related site improvements.

**Preservation of Existing Features** - The subdivider shall preserve and protect existing site features, trees, rock walls, scenic points, brooks, streams, rock outcroppings, water bodies, wetlands, other natural resources, and historic resources, where possible. Existing features shall be represented on all site plans. Lots shall be configured to maintain contiguous tracts of undeveloped land on adjoining parcels.

**Energy Conservation** - Energy efficient site design and layout should be provided such as:

- Clustering structures and infrastructure.
- Building locations maximizing solar access.
- Landscaping providing wind barriers and to reduce heat loss or gain.
- Siting lots and buildings to minimize the length of road and utility corridors required.
- Providing infrastructure for bicycle, pedestrian and public transit.

**Outdoor Lighting** - In order to help maintain the Town's rural character, and to preserve the night sky, street lights are not encouraged. However, where it is demonstrated that street lights are necessary, only downcast, cutoff types of fixtures shall be used.

### **Protection of Natural and Cultural Resources**

All subdivision applications shall identify and provide for the protection natural and cultural resources. The PC may consult with state officials, and/or other qualified professionals to determine the likely impact of a subdivision on one or more of these resources, and appropriate mitigation measures.

**Surface Waters, Wetlands and Flood Hazard Areas** - Subdivision boundaries, lot lines and layout, and building sites shall be located and configured to avoid any adverse impact to surface waters, wetlands, flood hazard areas and designated water supply source protection areas. Methods for avoiding such adverse impacts may include:

- Configuring lot boundaries to prevent fragmentation of these features.
- Locating and sizing building sites to exclude these features, and any associated buffer areas.
- Establishing setback and buffer areas of at least 75 feet from the mean water level of any surface water and/or the delineated boundary of identified Class 1 and 2 wetlands.
- Locating roads, driveways and utility lines or corridors to avoid the fragmentation of or encroachment on these features.
- Including surface waters, wetlands and associated buffers as designated open space.

**Rock Outcrops, Steep Slopes, Hilltops and Ridgelines** - Subdivision boundaries, lot lines and layout, and building sites shall be located and configured to minimize adverse impacts to slopes greater than 15%, to avoid disturbance to slopes in excess of 20%, and to avoid the placement of structures on rock outcrops, prominent hilltops and ridgelines. Methods for avoiding such adverse impacts may include:

- Locating building sites to exclude these areas.
- Minimizing visibility of building sites and associated development, as viewed from public roads, vantage points and adjacent sites, on prominent ridgelines and hilltops.

- Configuring building sites so that the height of any structure will not exceed the height of the adjacent tree canopy serving as the visual backdrop to the structure, or the height of land on exposed ridgelines or hilltops.
- Maintaining existing forest cover to provide a forested backdrop to structures, and/or soften the visual impact of development as viewed from public roads and adjacent sites. A forest management, tree cutting, and/or landscaping plan may be required.
- Driveways, access roads (including the conversion of logging roads to private roads or driveways) and utility corridors, should use or share existing access and rights-of-way where feasible; follow existing contours, and avoid areas of steep slope.
- Include land characterized by steep slopes, rock outcrops, prominent hilltops and ridgelines as designated open space.

The PC may require additional plantings at specific locations within the subdivision or on individual lots to provide screening. The PC may require the preparation and implementation of an Erosion Control Plan for subdivision improvements, as a condition of approval.

**Critical Wildlife Habitat** - Subdivision boundaries, lot lines and layout, and building sites shall be located and configured to avoid the fragmentation of and adverse impacts to critical wildlife habitat identified in the municipal plan, the VT Agency of Natural Resources, or through site investigation. Methods for avoiding such adverse impacts may include:

- Locating building sites to exclude identified critical wildlife habitat areas, including but not limited to wildlife travel corridors, deer wintering areas, critical bear habitat areas, bird and bat nesting sites, and rare, endangered or threatened natural communities.
- Creating buffer areas of adequate size, as determined in consultation with state officials or other qualified professionals to protect critical wildlife habitat areas, riparian areas and natural communities.
- Design roads, driveways and utilities to avoid the fragmentation of identified natural areas, forests and wildlife habitat.
- Include identified critical wildlife habitat and associated buffer areas as designated open space.

The PC may require the submission of a Natural Resource Management Plan, prepared by a wildlife biologist or comparable professional, to identify the function and relative value of impacted habitat, and associated management strategies.

**Historic and Cultural Resources** - Subdivision boundaries, lot lines and layout, and building sites shall be located and configured to minimize adverse impacts to historic and archaeological sites and resources identified in the municipal plan, by the Vermont Division for Historic Preservation, or through site investigation. Methods for avoiding such adverse impacts may include:

- Preserving and integrating historic features, including historic structures, stone walls and cellar holes, into the subdivision design.
- Locating building sites to avoid known archaeological sites.

Prior to development on sites that have been identified as being archaeologically sensitive in the municipal plan or through site investigation, the PC may require a historic assessment to identify the presence and relative value of archaeological resources on the site, and to document the archaeological resource and/or recommend strategies for its protection.

**Farmland** - Subdivision boundaries, lot lines and layout, and building sites should be located and configured to avoid the fragmentation of and adverse impacts to primary and statewide agricultural soils and open fields. Methods for avoiding such adverse impacts may include:

- Locating building sites at field or orchard edges or, in the event that no other land is practical for development, on the least fertile soils in order to minimize the use of productive agricultural land, impacts on existing farm operations and disruption to scenic qualities of the site.
- Using shared space for access roads, driveways and utility corridors; and following existing linear features such as roads, tree lines, stone walls, fence lines or field edges to minimize the fragmentation of open agricultural land and associated visual impacts.
- Retaining farm parcels or open land and including these lands as designated open space or under conservation easements.

Vegetated buffer areas may be required by the PC to separate building lots and subsequent development from agricultural operations and minimize land use conflicts.

**Forestland** - Subdivision boundaries, lot lines and layout, and building sites should be located and configured to avoid fragmentation of, or undue adverse impacts to productive forest soils, especially large (50+ acres) tracts of forest, land contiguous to other large, undeveloped tracts that have either been protected through public or private land conservation initiatives or are subject to use value appraisal (Current Use) contracts, and forestland that possesses unique or fragile features, including natural areas, critical wildlife habitat, wildlife travel corridors, and/or exceptional recreational resources. Methods for avoiding such adverse impacts may include:

- The subdivision of forest land should be configured to allow for ongoing forest management of the parcel after subdivision. Lot lines, building envelopes, access driveways or roads, utility corridors should be laid out to avoid unnecessary fragmentation of distinct timber stands and to allow access for long-term forest management.
- Building sites should be sized to minimize the extent of forest clearing required for development. Where applicable, the PC may require that development be set back, clustered, and buffered from adjacent forest parcels as needed to protect public recreation areas, conserved open space, and critical wildlife habitat; and to avoid conflicts between new development and existing forest management activities on land that is protected or enrolled in the Current Use program. Setback and buffer areas may be included as designated open space.
- Lots specifically intended for long-term forest management should be of sufficient size to qualify for enrollment and state and/or municipal tax stabilization programs.

### **Stormwater Management**

Temporary and permanent stormwater management and erosion control measures shall be incorporated into subdivision design and layout to control surface runoff, sedimentation and water pollution on-site and downstream from the proposed subdivision. Factors to be considered in determining the types of controls necessary shall include pre-development site and runoff conditions, vegetation and ground cover, slope and drainage patterns, soil types, the percentage of land covered in impervious surfaces, distances to streams and other surface waters, and impact on adjoining properties.

The PC may require the preparation and implementation of Stormwater Management and/or Erosion Prevention and Sedimentation Control Plans and associated analyses to ensure that site improvements, including excavation, road and driveway construction and site clearing and grading shall not unduly impact surface waters or neighboring properties. Such plans, if required, shall be prepared by a licensed Vermont engineer, in accordance with the Vermont Stormwater Management Manual and the Vermont Handbook for Erosion Prevention and Sedimentation Control, as most recently amended, and include provisions for the inspection and long-term maintenance of stormwater management and erosion control facilities.

For effective stormwater management, subdivision and/or site design the layout shall:

- Minimize Land Disturbance in reasonable conformity to existing topography in order to minimize grading, cut and fill, and to retain natural contours, ground cover, and soils.
- Identify specific areas that provide significant hydrologic functions, such as existing surface storage areas, forested areas, riparian corridors, and areas with high groundwater recharge capabilities.
- Require the least amount of vegetation clearing, soil disturbance and duration of exposure, soil compaction and topography changes as possible.
- Maintain natural vegetative cover and use native landscape materials in subdivision design.
- Maintain a 75-foot buffer from all designated wetland, riparian and shoreland areas.
- Avoid subdivision design where structures, infrastructure or site disturbance takes place on areas with steep slopes.
- Forested lands located on stream and wetland buffers and steep slopes are priority areas and clearing them shall be avoided in order to protect wildlife habitats and prevent erosion and sedimentation resulting from stormwater runoff.
- Retain environmental resource areas and open spaces, preferably in contiguous blocks or linear corridors.
- Retain the soils best suited for infiltration as undeveloped land.
- Minimize the length, width, and paved area of roads, driveways and parking areas.
- Cluster development to minimize site disturbance and preserve large areas of undisturbed open space to infiltrate stormwater runoff (See PRD, page 19).
- Minimize the impervious area connected directly to stormwater conveyance systems.
- Incorporate landscaped areas to absorb stormwater runoff from adjoining impervious surfaces.
- Incorporate shared driveways and parking areas.
- Avoid or minimize the use of curbing and road gutters.
- Incorporate naturally occurring ponding and drainage areas.
- Incorporate best management and treatment practices as defined by the VT Agency of Natural Resources in the Vermont Handbook for Erosion Prevention and Sedimentation Control and the Vermont Stormwater Management Manual.
- Size culverts or other drainage facilities large enough to accommodate potential runoff from the entire upstream drainage area, whether inside or outside the development. The applicant's engineer shall provide information deemed necessary by the PC to make the determination of the adequacy of facilities.

The PC may request determination from the applicant's engineer of the effect of the subdivision on existing downstream drainage capacity and facilities outside of the area of the subdivision. Where the Planning Commission anticipates that increased runoff incident to the development may overload the capacity of the downstream system or facility, it may require modifications to the proposed subdivision design or condition final approval upon improvement of the downstream facilities.

The PC may condition final subdivision approval on the issuance of a State of Vermont Stormwater Permit.

**Erosion and sediment control during construction** - Slopes and soils exposed during construction shall be managed to prevent erosion by using accepted erosion control measures. Plans meeting the guidelines of the latest edition of the Vermont Handbook for Soil Erosion and Sediment Control on Construction Sites shall be submitted for all major subdivisions. Methods to manage water, prevent erosion and control sediment during construction should include:

- Within the construction site, water shall be controlled and allowed to infiltrate. Rock check dams shall be installed before excavation or fill activities begin. Hay bales shall not be used as check dams due to their high failure rates.
- The amount of sediment produced from areas of disturbed soils shall be minimized by using control measures such as vegetated strips, diversion dikes and swales, sediment traps and basins, check dams, stabilized construction entrances, dust control and silt fences.
- Immediate seeding and mulching or the application of sod shall be completed at the conclusion of each phase of construction and at the conclusion of construction. The PC may require project phasing to minimize the extent of soil disturbance and erosion during each phase of site development.
- The applicant shall follow the erosion prevention and sediment control practices for construction that occurs from October 15<sup>th</sup> to May 15<sup>th</sup> found in the most recent ANR standards for winter construction.

### **Transportation Facilities and Infrastructure**

All roads serving proposed subdivisions shall be designed in accordance with the Town of Sunderland Highway Department standards and administered by the Sunderland Selectboard.

**Applicability of Road Standards** - The standards contained herein shall apply to all roads serving 3 or more lots. In addition, these standards may be applied to private roads serving 2 or fewer lots when the PC determines such standards are necessary to provide suitable access to, or accommodate, anticipated future subdivision. **A road shall be considered private unless accepted by the Sunderland Selectboard as a public road.**

**Layout** - The arrangement of roads in the subdivision shall facilitate a logical system of inter-parcel circulation. Roads shall be designed and laid out to:

- Follow existing linear features, such as utility corridors, tree lines, hedgerows, existing roads and fence lines.
- Maximize connectivity within the subdivision to adjoining parcels and road networks.
- Avoid adverse impacts to natural, historic, cultural and scenic resources.
- Avoid fragmentation of agricultural and forest resources.
- Be only as wide as necessary to provide traffic calming, reduce stormwater runoff from the development and provide as little disruption to the site as possible.
- Discourage dead end roads, cul-de-sacs and turn-arounds unless deemed necessary by the PC due to physical site limitations or safety considerations.

**Topography** - Streets shall be logically designed to fit the topography so as to produce useable lots, minimize the amount of cut and fill required, produce reasonable grades and safe intersections in appropriate relation to the proposed use of the land to be served by such roads.

**Pedestrian and Bicycle Access** - To facilitate pedestrian and bicycle access from the subdivision to adjoining parcels and roads, or to nearby public schools, playgrounds, or public lands, the PC may require one or more of the following:

- Sidewalks or bike paths to connect existing sidewalks and bike paths to adjoining properties.
- Sidewalks along internal subdivision roads.
- Installation of pedestrian or bicycle crosswalks at designated intersections.
- Easements for pedestrian or recreation paths.

**Access** - To better manage traffic flow and safety, avoid congestion and frequent turning movements and avoid strip development, the following access management standards may apply to all subdivisions:

- Limit the number of access points onto public highways.
- Require shared access, driveways, and/or roads to serve multiple lots.
- Require rights-of-way for future road extensions to connect to adjoining existing or future road networks.

**Drainage and Stormwater** - Stormwater management shall be provided to control and accommodate stormwater collected on all proposed roads and/or parking areas. Roadbeds, shoulders, ditches and culverts shall be designed and maintained in conformance with the State of Vermont Municipal Roads General Permit (MRGP).

**Road Names and Signs** - Road names shall be approved by the Sunderland Selectboard, in accordance with road naming ordinances and policies currently in effect. Approved road names shall be clearly depicted on the final plat. Road name signs shall be installed by the subdivider.

**Maintenance** - Roads within the subdivision shall be maintained by the subdivider and subsequent property owners in adequate condition for safe year-round use and access. For major subdivisions, the PC may require documentation of maintenance requirements in the form of association agreements, covenants, or deed restrictions.

**Transit Facilities** - The PC may require that major subdivisions incorporate transit facilities, such as a sheltered transit stop or a park and ride lot.

The PC may impose other road design standards in order to ensure that slopes, embankments, site distances, aesthetics and soil erosion precautions are adequate to meet the needs of the subdivision. The PC may seek the advice of a qualified engineer, in making a determination.

## **Water Supply and Wastewater Systems**

The subdivider shall demonstrate that adequate potable water supply and wastewater disposal systems exist on or off-site to serve the proposed subdivision. Water supply and wastewater systems, including the location of water sources, water lines, sewer lines and any connections to municipal systems shall be shown on the final plat.

For all proposed subdivisions, the applicant shall provide evidence of the State of Vermont Potable Water and Wastewater Disposal permit, or Permit Application, to the PC prior to the public hearing for subdivision approval. The PC shall condition subdivision approval contingent on receipt of the State of Vermont Potable Water and Wastewater Disposal permit. A Certificate of Subdivision Compliance will not be issued by the Zoning Administrator until the applicant has certified that required improvements have been installed in accordance with the conditions of subdivision approval.

**Water Supply** - Individual or community water supply systems shall be designed and installed in accordance with applicable state regulations. In addition, the PC may require that:

- All water sources, and required isolation distances are identified on the Final Plat.
- A community water supply system unconnected to municipal systems be designed in such a way that it may eventually be connected to a public municipal water supply system.

The following standards shall be met for those subdivisions which will have community water systems or individual water supplies:

- Building sites and new roadways are to be located away from underground water concentrations, or surface areas which take in water, to prevent runoff from roads or leachate from septic systems from contaminating water supplies.
- Buildings and wastewater systems are to be located sufficiently above flood water levels and high ground water areas to prevent the pollution of surface water.

Subdivisions that will connect to a municipal water supply system must meet applicable municipal and state regulations in effect at the time of application. The applicant shall provide documentation from the municipality, certifying that adequate reserve capacity exists to serve new development resulting from the proposed subdivision. For subdivisions which will connect to the Town of Arlington water system, applications for extensions shall be subject to approval by the Town of Arlington. Documentation of approval shall be provided by the applicant prior to the Public Hearing.

**Wastewater Systems** - Individual or community wastewater disposal systems shall be designed in accordance with applicable state regulations. In addition, the PC may require that:

- A community sewage disposal system unconnected to municipal systems be designed in such a way that it may be connected eventually to a municipal sewage disposal system.
- New and replacement wastewater disposal systems shall be located out of Flood Hazard Areas.

## Utilities

**Utility Corridors** - Utility corridors should be shared with other utility and/or transportation corridors where feasible, and located to minimize site disturbance, fragmentation of natural resources, and any adverse impacts to natural, cultural or scenic resources. The Final Plat shall include all proposed utilities.

**Easements** - The PC may require that utility systems, including but not limited to electric, gas, cable TV and telecommunications utilities be located underground. Where inclusion of utilities in the street right-of-way is impractical, unobstructed easements shall be provided with satisfactory access to the street and shown on the Final Plat.

## Community Services and Facilities

The proposed subdivision shall not create an undue burden on existing and planned municipal facilities or create an unreasonable demand for public services. The PC shall require the applicant document that sufficient infrastructure capacity exists by providing letters addressing the below groups or an analysis of available capacity needed to serve the subdivision.

**Fire Protection** - Adequate fire suppression infrastructure (water storage tanks or ponds, water mains, fire hydrants, etc.) within the proposed subdivision shall be required, to the satisfaction of the PC, and shall meet the requirements of the State of Vermont Division of Fire Safety. Fire suppression infrastructure shall be installed by the subdivider.

The subdivider shall submit documentation to the PC from the Fire Department certifying that all fire suppression infrastructure has been installed to the specified plans and is operational, before a Certificate of Subdivision Compliance will be issued. Continued maintenance of fire suppression infrastructure shall be a condition of the permit.

**Emergency Access** - The proposed subdivision shall not unduly burden the capacity of emergency responders such as police, ambulance, fire and other services. The applicant shall obtain documentation

from emergency responders that there is capacity to serve new development created by the proposed subdivision.

**Schools** - The proposed subdivision shall not unduly burden the school system. The applicant shall obtain a letter from the Supervisory Union District documenting that the school has sufficient existing or planned capacity to accommodate new students resulting from new development created by the proposed subdivision.

### **Open Space and Common Land**

Provision shall be made for the preservation of open space. The location, size and shape of lands set aside to be preserved for open space shall be approved by the PC, in accordance with the following:

- Open space land will provide for the protection of natural and cultural features.
- Open space areas are configured to be contiguous with existing and potential open space lands on adjacent parcels.
- Designated open space may include a portion of a single lot, or extend over several contiguous lots. The PC may require lot configurations that minimize the subdivision and fragmentation of contiguous open space areas.
- The location, shape, size and character of the open space is suitable for its intended use.
- Provisions are made to enable open space designated for agriculture and forestry to be used for these purposes. Management plans for forests, wildlife habitat, and farmland may be required by the PC as appropriate.
- Utility and road rights-of-way or easements and access and parking areas should not be counted as open space areas, except where the applicant can prove to the satisfaction of the PC that they will add to open space resources.
- The PC may require that protected open space be dedicated, either in fee or through a conservation easement approved by the PC, to the municipality, a community association comprising of all the present and future owners of lots in the subdivision and/or a non-profit land conservation organization.
- Designated open spaces or common land shall be indicated on the Final Plat.
- Land held in common shall be subject to appropriate deed restrictions stipulating the permitted and restricted use of such lot, and establishing the person or entity responsible for maintenance and long-term stewardship. All costs associated with administering and maintaining open space and/or common land shall be the responsibility of the applicant and subsequent land owners.

**Common Land** - Land held in common for the preservation and maintenance of open space or the maintenance and protection of shared facilities (e.g., community wastewater systems, community water supplies, recreation or community facilities, road and trail-rights-of-way) may be held under separate ownership from other subdivision parcels.

**Parks and Playgrounds** - The PC may require the dedication of a portion of the proposed subdivision to be used for a park, playground, trail or pathway or other recreation purposes. All such land shall be of a reasonable character for park or other recreational uses without adversely affecting resources identified in this Bylaw and the Sunderland Town Plan.

## DEFINITIONS

**ACT:** Title, 24 V.S.A. Chapter 117, the Vermont Municipal and Regional Planning and Development Act.

**ACCESS:** A way or means of approach to provide vehicular or pedestrian physical entrance to a property.

**ACCESSORY DWELLING UNIT:** 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. See 24 V.S.A. § 4412(1)(E) for more information.

**ACCESSORY STRUCTURE/USE:** Any separate structure, building appendage that is not part of the main living space or footprint of a home, or use that is subordinate to and serves a primary structure or use; and is subordinate in living area, extent, and purpose to the primary structure or use served; and is located on the same lot as the primary structure or use served; and is customarily incidental to the primary use or structure. A building used for dwelling purposes shall not be considered an accessory structure but shall be considered an accessory dwelling unit.

**AREA OF SPECIAL FLOOD HAZARD:** Synonymous in meaning with the term “special flood hazard area” for the purposes of this bylaw.

**ASSOCIATED TRANSPORTATION AND UTILITY NETWORKS:** Those transportation and utility networks connected to a bridge, culvert, or utility for the purpose of crossing a river or stream and do not include transportation or utility networks within the river corridor that merely run parallel to a river or stream.

**ACCESSORY ON-FARM BUSINESS:** The storage, preparation, processing and sale of qualifying products, provided that more than 50 percent of the total annual sales are from qualifying products that are principally produced on the farm at which the business is located; and educational, recreational, or social events that feature agricultural practices or qualifying products, or both (such as tours, tastings, meals featuring qualifying products, classes). Restaurants, inns, bed and breakfast, private schools, function halls, concert halls are not considered accessory on-farm businesses.

**ADJACENT:** A land parcel, area, or district that shares a boundary with, or that is directly across a public road or right-of-way from another parcel, area, or district.

**ADMINISTRATIVE OFFICER:** An individual appointed by the Planning Commission with the approval of the Selectboard, as provided for in the Act, who is responsible for the administration of municipal bylaws and ordinances. In Sunderland, the Zoning Administrator (ZA) is the Administrative Officer.

**APPLICANT:** An individual, corporation, or firm, or representative thereof, seeking approval for a development proposal. The applicant and land owner need not be the same. See also Subdivider.

**AREA OF SPECIAL FLOOD HAZARD:** Synonymous in meaning with the phrase “special flood hazard area” for the purposes of these regulations.

**AUTHORIZED AGENT OR REPRESENTATIVE:** A person or group of persons who have been duly authorized in writing by the applicant to act in his or her behalf. Any representation made by the authorized agent binds the principal.

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

**BASE FLOOD ELEVATION (BFE)** The elevation of the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year. On the Flood Insurance Rate Map the elevation is usually in feet, in relation to the National Geodetic Vertical Datum of 1929, the North American Vertical Datum of 1988, or other datum referenced in the Flood Insurance Study report, or the average depth of the base flood, usually in feet, above the ground surface.

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

**BFE:** see “Base Flood Elevation.”

**BUFFER:** Any space between adjoining land uses or between a land use and a natural feature, which is intended and designed to reduce the impact of one use on the other use or feature. Buffers may include open space, woodland, landscaped areas, undisturbed vegetated areas, or other types of physical, visual or sound barriers.

**BUILDING:** Any structure having a roof and intended for the shelter, housing or enclosure of persons, animals, or materials. Any structure more than eight feet high shall be considered as a building, including a solid fence or wall.

**BUILDING AREA:** The ground area enclosed by the walls of a building, together with the area of all covered porches and other roofed portions.

**BUILDING COVERAGE:** The percentage which the aggregate area of all buildings on the lot bears to the area of the lot.

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

**BUILDING ENVELOPE:** The area of the lot where all development shall occur, and any improvements shall be located.

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

**CHANGE OF USE:** Any change of use from one category of use to another (e.g. residential to commercial, etc.) or within a category of use (e.g. one retail use to another, one manufacturing use to another, or from single-family use to two-family or multi-family use). A change of use shall also include any change of character of the business activity (e.g. retail to wholesale).

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

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

**COMMON PLAN OF DEVELOPMENT:** Where a structure will be refurbished or constructed under one approved plan or permit, but in separate stages, phases, or in combination with other construction activities. Such work may be planned unit by unit and may take place at different times, on different schedules.

**COMMUNITY WATER SUPPLY SYSTEM:** Any water system owned by the same person or entity that supplies water for domestic, commercial, industrial or institutional uses to two (2) or more users.

**COMMUNITY WASTEWATER SYSTEM:** Any sewage disposal system, other than a municipal sewage disposal system, owned by the same person or entity that disposes of sewage for domestic, commercial, industrial or institutional uses to two (2) or more customers.

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

**CONDOMINIUM:** A Building, or group of buildings, in which dwelling units, offices, or floor area are owned individually, and the structure, common areas, and facilities are owned and managed by all the owners (a condominium association) on a proportional, undivided basis.

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

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

**CRITICAL WILDLIFE HABITAT:** Those natural features that are essential for the survival and/or reproduction of the native wildlife of the Town of Sunderland.

**CURB CUT:** The access or opening along the curb line of a traveled way at which point vehicles, bicycles and pedestrians may enter or leave the traveled way.

**DESIGNATED CENTER:** A downtown, village center, new town center, growth center, or neighborhood development area designated pursuant to 24 V.S.A. Chapter 76A.

**DRIVEWAY:** A privately owned access road serving up to three lots.

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

**DOG KENNEL:** The keeping of more than five dogs greater than six (6) months old.

**DWELLING, MULTI-FAMILY:** A building containing separate dwelling units for up to three families, having separate or joint entrances, services or facilities.

**DWELLING, SINGLE-FAMILY:** A building designated for or occupied solely as a dwelling by one family.

**DWELLING, TWO-FAMILY:** A building designated for or occupied solely as a dwelling by two families living independently of each other.

**DWELLING UNIT:** A dwelling or part of a dwelling occupied or intended to be occupied by one family for residential purposes, containing full housekeeping facilities for the exclusive use of the occupants.

**EASEMENT:** The authorization of a property owner for the use by another, and for a specified purpose, of any designated part of his, her, or its property.

**ENCROACHMENT:** Activities or construction including fill, substantial improvements, and other development that may cause an increase in flood levels.

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

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

**EXISTING EARTH PRODUCTS REMOVAL:** An earth products removal business operating at the adoption date of this Bylaw.

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

**FARM:** A parcel devoted primarily to farming and subject to the Required Agricultural Practices (RAPs) rules addressing water quality.

**FAMILY CHILD CARE HOME OR FACILITY:** A home or facility where the owner or operator is to be licensed or registered by the state for child care, and which provides for care on a regular basis for not more than ten (10) children at any one

time. Of this number, up to six children may be provided with care on a full-time basis and the remainder on a part-time basis. Care of a child on a part-time basis shall mean care of a school-age child for not more than four hours a day. These limits shall not include children who reside in the residence of the caregiver.

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

**FINAL PLAT:** The final drawings on which the applicant’s plan of subdivision is presented to the Planning Commission for approval and which, if approved, shall be filed for record with the Sunderland Town Clerk.

**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 FRINGE:** The portion of the flood hazard area that is outside of the floodway but still inundated by the base flood (the flood having a one percent chance of being equaled or exceeded in any given year).

**FLOOD HAZARD:** Those hazards related to damage from flood-related inundation or erosion.

**FLOOD HAZARD AREA:** Shall have the same meaning as “area of special flood hazard” under 44 C.F.R. § 59.1. “Area of special flood hazard” is synonymous with the term “special flood hazard area.”

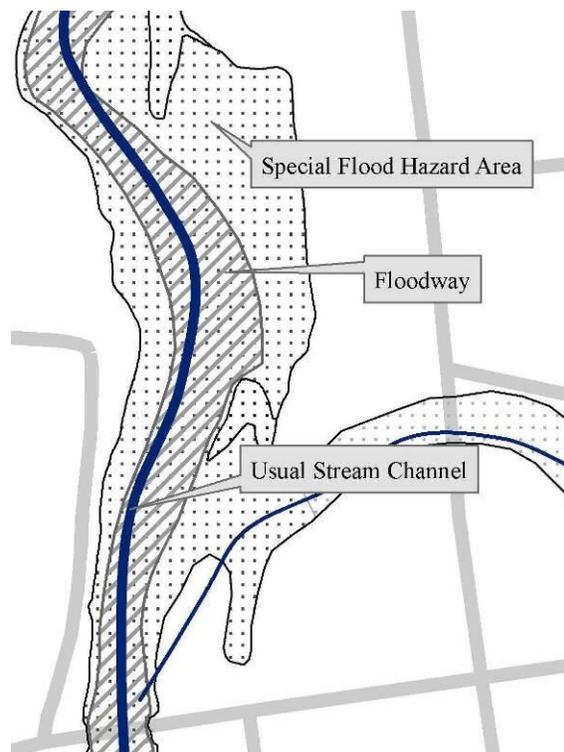
**FLOOD INSURANCE RATE MAP (FIRM):** An official map of a community, on which the Federal Insurance Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community. In some communities the hazard boundaries are available in paper, pdf, or Geographic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

**FLOODPROOFING:** Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, 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 flood hazard areas and floodways may be shown on a separate map panels.

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

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

**FOREST BLOCK:** A contiguous area of forest in any stage of succession and not currently developed for nonforest use. A forest block may include recreational trails, wetlands, or other natural features that do not themselves possess tree cover.

**FOREST FRAGMENTATION:** The division or conversion of a forest block by development other than a recreational trail.

**FOREST PRODUCTS PROCESSING:** A facility or permanent equipment for the processing and/or storage of forestry products that is **located off-site from harvesting operations**. This may include, but not limited to sawmills, lumberyards, procurement yards, commercial firewood producers, wood pellet producers, wood kilns, and similar facilities.

**FORESTRY OPERATIONS:** Activities related to the management of forests, including a timber harvest; pruning; planting; reforestation; pest, disease, and invasive species control; wildlife habitat management; and fertilization. Forestry operation includes the primary processing of forest products of commercial value **on a parcel where the timber harvest occurs**.

**FRAGMENTATION:** A process of dividing continuous forests into isolated patches of forest.

**FRONTAGE:** The portion of a lot adjacent and parallel to a state highway, town road, town right-of-way, or public waters. In the case of corner lots, it shall be that portion that has or is proposed to have access.

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

**GROUP HOME:** Any residential facility operating under a license or registration granted or recognized by a state agency, that serves not more than eight unrelated persons, who have a handicap or disability as defined in 9 VSA §4501, and who live together as a single housekeeping unit. In addition to room, board and supervision, residents of a group home may receive other services at the group home meeting their health, developmental or educational needs.

**HABITAT CONNECTOR:** Land or water, or both, that links patches of wildlife habitat within a landscape, allowing movement, migration, and dispersal of animals and plants and the functioning of ecological processes. A habitat connector may include recreational trails.

**HISTORIC RESOURCES:** Any site, structure, district, or archeological landmark which has been officially included in the National Register of Historic Places and/or the State Register of Historic Places or which is established by testimony by an approved state program as determined by the Secretary of the Interior as being historically significant.

**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.

**HOME OCCUPATION:** An accessory use conducted within a minor portion of a dwelling by the residents thereof, such that the floor area dedicated to the business use is less than 25% of the total floor area of the dwelling unit.

**HOTEL:** A building providing lodging for persons with or without meals, and intended for the accommodation of transients. A hotel is not a dwelling unit. **A residential dwelling unit that rents lodging space more than twice in any two week period per month is considered a hotel.**

**IMPERVIOUS SURFACE:** A constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development. Examples include roads, rooftops, out buildings, decks, paths, patios, parking areas, and concrete, asphalt or gravel driveways.

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

**LEGISLATIVE BODY:** The Selectboard of the Town of Sunderland.

**LETTER OF MAP CHANGE (LOMC):** A letter issued by FEMA officially removing a structure or lot from the flood hazard area based on information provided by a certified engineer or surveyor. This is used where structures or lots are located above the base flood elevation and have been inadvertently included in the mapped special flood hazard area. A LOMC can include a Letter of Map Amendment (LOMA), Letter of Map Revision (LOMR), Letter of Map Revision based on Fill (LOMR-F), or a Letter of Map Revision for a Floodway (LOMR-FW).

**LOT:** A plot or parcel of land under single ownership, and not divided by a State or Town road, with defined boundaries. A lot is capable of being occupied by one principal structure and one accessory structure, or uses customarily incidental to it.

**LOT COVERAGE:** The part or percentage of a lot or property covered by all buildings, structures, driveways, pools, sports courts, foundations, parking lots and any impervious improvements.

**LOT LINE:** The established division line between lots or between a lot and a street.

**LOT LINE, FRONT:** All dividing lines between a street and the lot shall be considered front lines.

**LOT LINE, REAR:** The line or lines bounding a lot at the rear and approximately parallel to and at the maximum distance from the front lot line.

**LOT LINE, SIDE:** The line or lines bounding a lot which extends from the street towards the rear in a direction approximately perpendicular to the street. In the case of corner lots, or through lots, all lines extending from streets shall be considered side lot lines.

**LOT, MINIMUM WIDTH OF:** The distance between the side lot lines measured in a straight line at right angles to the mean direction of such side lot lines, which line of measurement shall touch, but not be in front of the building line. In the case of a corner lot, the minimum width shall be similarly measured and, for the purpose of this measurement only, the front lot line which has the least dimension shall be considered the front lot line, and the lot lines adjacent thereto shall be considered as side lot lines.

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

**MAY:** Means that an activity is encouraged but not mandated.

**MEAN WATER LEVEL:** The normal summer (June 1 to September 15) water level in lakes, measured in feet above sea level, as determined by an average of water level readings available over time as established by the State of Vermont.

**MOBILE HOME:** 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 when connected to the required utilities, including plumbing, heating, cooling, and electrical systems contained in the structure and is: (A) transportable in one or more sections; and (B) at least 8 feet wide and 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 8 feet wide or 32 feet long; or (C) and structure that meets all the requirements of this definition except for the size requirements and for which the manufacturer voluntarily files a certification required by the U.S. Department of Housing and Urban Development and complies with the construction and standards established under Title 42 of the U.S. Code 10 V.S.A 6201(1).

**MOBILE HOME PARK:** Any parcel or contiguous lots of land under common ownership or control on which are sited, or which is designed, laid out or adapted to accommodate, more than two mobile homes. A parcel or contiguous lots owned by agricultural employers providing up to four mobile homes for use by full-time workers or employees, and a parcel or contiguous lots used solely on a seasonal basis for vacation or recreational mobile homes shall not be considered a mobile home park.

**MUNICIPAL PLAN:** The Town of Sunderland Municipal Plan as most recently adopted, pursuant to the Act.

**MUNICIPAL SEWAGE DISPOSAL SYSTEM:** Any sewage disposal system owned and operated by the municipality that disposes of sewage for domestic, commercial, industrial or institutional uses.

**MUNICIPALITY:** The Town of Sunderland, Vermont.

**MUST:** Means that an activity is mandated.

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

**NATURAL AND BENEFICIAL FLOODPLAIN FUNCTIONS:** The functions associated with the natural or relatively undisturbed floodplain that includes moderating flooding, retaining flood waters, and reducing erosion, sedimentation and flood related damage. Ancillary beneficial functions include support of ecosystem services such as wildlife habitat, water quality, and recharge of ground water.

**NATURAL RESOURCE AREA:** Any natural area that must be mapped or documented prior to permit approval such as floodplains, river corridors, wetlands, streams, lakes, riparian buffers, forested areas, critical wildlife habitat, greenway corridors, fields, well-drained soils and natural drainage ways, steep slopes, ridgelines, scenic views, etc.

**NEW CONSTRUCTION:** Structures for which the start of construction commenced on or after the effective date of this bylaw and includes any subsequent improvements to such structures.

**NEW MANUFACTURED HOME PARK:** A manufactured home park 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 bylaws and ordinances adopted by the municipality.

**NON-RESIDENTIAL:** Includes, but is not limited to: small businesses, churches, schools, nursing homes, farm buildings (including grain bins and silos), pool houses, clubhouses, recreational buildings, government buildings, mercantile structures, agricultural and industrial structures, electric generation facilities over 150kW and warehouses.

**NONCONFORMING LOT OR PARCEL:** Lots or parcels that do not conform to the present bylaws covering dimensional requirements but were in conformance with all applicable laws, ordinances and regulations prior to the enactment of the present bylaws, including a lot or parcel improperly authorize as a result of error by the administrative officer.

**NONCONFORMING STRUCTURE:** A structure or part of a structure that does not conform to the present bylaws but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws,

including a structure improperly authorized as a result of error by the administrative officer. Structures that were in violation of the regulations in effect at the time of their creation, and remain so, remain violations and are not nonconforming structures.

**NONCONFORMING USE:** 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:** A nonconforming use, structure, lot, or parcel.

**OPEN SPACE:** The undeveloped portion of any development parcel(s) which is not occupied by buildings, streets, rights-of-way, driveways, parking spaces, commercial recreation facilities, or yard (setback) areas, and which is set aside, dedicated, or designated for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space, or for the preservation and continued use of agricultural and forest land, or for the protection of natural areas.

**PARCEL:** A plot or parcel of land under single ownership, and not divided by a State or Town road, with defined boundaries. A parcel is capable of being occupied by one principal structure and one accessory structure, or uses customarily incidental to it. (also see "lot" definition).

**PARKING AREA:** Any public or private land area designed and used for storing motor vehicles, including parking lots, garages, private driveways, and legally designated areas of public streets.

**PERFORMANCE BOND OR SURETY:** A security, such as a performance bond or letter of credit, acceptable to the Town, that assures that required improvements will be satisfactorily completed.

**PERSON:** An individual, a corporation, a partnership, an association, and any other incorporated or unincorporated organization or group.

**PLANNING COMMISSION (PC):** The Sunderland Planning Commission, as created pursuant to the Act.

**PRE-DEVELOPMENT SITE PREPARATION:** Activities including, but not limited to, road and driveway construction, clearing and /or grading for house sites and septic systems, and related work.

**PRIMARY AGRICULTURAL SOILS:** soil map units with the best combination of physical and chemical characteristics that have a potential for growing food, feed, and forage crops, have sufficient moisture and drainage, plant nutrients or responsiveness to fertilizers, few limitations for cultivation or limitations which may be easily overcome, and an average slope that does not exceed 15 percent. Present uses may be cropland, pasture, regenerating forests, forestland, or other agricultural or silvicultural uses.

**PRIVATE ROAD:** Any road or street, and associated right-of-way, which is not publicly owned and maintained. The word "road" shall mean the entire right-of-way (see also Driveway).

**PRODUCTIVE FOREST SOILS:** Those soils which have a reasonable potential for commercial forestry and which have not been developed. In order to qualify as productive forest soils, the land containing such soils shall be of a size and location, relative to adjoining land uses, natural condition, and ownership patterns so that those soils will be capable of supporting or contributing to a commercial forestry operation. Land use on those soils may include commercial timber harvesting and specialized forest uses, such as maple sugar or Christmas tree production.

**PRINCIPAL DWELLING UNIT:** The structure on the lot containing the principal or primary residence, as opposed to a structure containing an accessory dwelling unit.

**PRINCIPAL STRUCTURE:** A structure or building in which is conducted, or in which is intended to be conducted, the main or primary use of the lot on which it is located.

**PRINCIPAL USE:** The main purpose for which a parcel of land or building is used.

**PUBLIC SEWER:** A system of sanitary sewers owned and operated by a municipality or other governmental unit.

**PUBLIC WATER ACCESS:** A public access to a water of the State and, except for toilet facilities, shall not include structures as defined in this bylaw.

**PUBLIC WATER SUPPLY:** A system of water supply owned and operated by a municipality or other governmental unit, or by a corporation authorized and regulated by the State of Vermont for purposes of public water supply.

**PLAT:** A map or representation on paper or mylar of a piece of land subdivided into lots and streets, drawn to scale.

**PRELIMINARY PLAT:** The preliminary drawings indicating the proposed layout of a subdivision.

**PROFESSIONAL ENGINEER:** An engineer, registered in the State of Vermont, who has been trained in, and engages primarily in, civil or sanitary engineering.

**PUBLIC HIGHWAY:** Any Class 1, 2, or 3 Town road or State highway maintained by the Town of Sunderland on the effective date of this ordinance.

**RE-SUBDIVISION:** A change to a recorded subdivision plat if such change affects any street layout on such plat, or area reserved thereon for public use, or any change of a lot line, or any such change if it affects any map or plan legally recorded. See boundary/lot line adjustment.

**RECREATIONAL TRAIL:** A corridor that is not paved and that is used for hiking, walking, bicycling, cross-country skiing, snowmobiling, all-terrain vehicle riding, horseback riding, and other similar recreational activity.

**RECREATIONAL VEHICLE:** A vehicle which is: (a) built on a single chassis; (b) 450 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.

**RECREATIONAL VEHICLE PARK:** A parcel upon which sites are located and maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreation and/or vacation purposes.

**REDEVELOPMENT:** Construction, installation, modification, renovation, or rehabilitation of land, interests in land, buildings, structures, facilities, or other development in a previously developed area. The term includes substantial improvements and repairs to substantially damaged buildings.

**REGISTERD SURVEYOR:** A land surveyor, licensed and registered in the State of Vermont.

**REQUIRED AGRICULTURAL PRACTICES (RAPs):** See [www.Agriculture.Vermont.gov/RAP](http://www.Agriculture.Vermont.gov/RAP).

**REPLACEMENT STRUCTURE:** A new building placed in the same footprint as the pre-existing building and does not include a change in use.

**RESIDENTIAL CARE HOME:** A place, however named, excluding a licensed foster home, which provides, for profit or otherwise, room, board and personal care to three or more residents unrelated to the home operator.

**RIDGELINE:** The uppermost point of a ridge, hill, cliff, slope or face. It may coincide with the top (highest elevation) of a rock cliff or, where the bedrock is not exposed, the most obvious break in slope associated with the underlying bedrock. The term does not include intermediate terraces, steps, or elevations along the face of a slope.

**RIPARIAN AREA:** The width of adjacent land along a stream or river that supports a distinct ecosystem with abundant and diverse plant and animal communities as compared with upland communities

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

**RIVER CORRIDOR:** The land area adjacent to a river that is required to accommodate the dimensions, slope, planform, and buffer of the naturally stable channel and that is necessary for the natural maintenance or natural restoration of a

dynamic equilibrium condition and for minimization of fluvial erosion hazards, as delineated by the Vermont Agency of Natural Resources in accordance with river corridor protection procedures. (10 V.S.A. § 1422).

**SHALL:** Means that an activity is mandated.

**SHOULD:** Means that an activity is encouraged but not mandated.

**SKETCH PLAN:** A sketch of a proposed subdivision as per the requirements of section 5.02 of these Regulations.

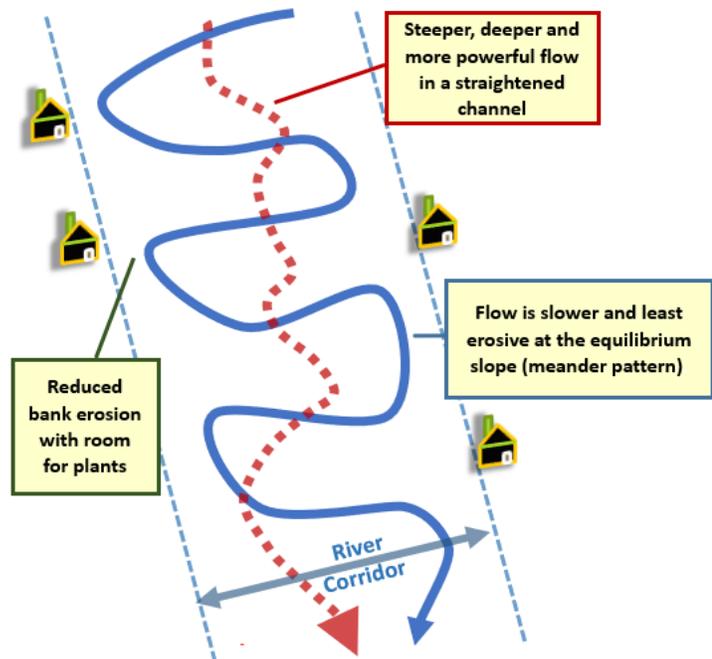
**SLOPE:** An inclined earth surface, the inclination of which is expressed as the ratio of horizontal distance to vertical distance. In these regulations, slopes are generally expressed as a percentage; percentage of slope refers to a given rise in elevation over a given run in distance. A fifty (50) percent slope, for example, refers to a 100-foot rise in elevation over a distance of 200 feet. A fifty (50) percent slope is expressed in engineering terms as a 2:1 slope.

**SPECIAL FLOOD HAZARD AREA:** Is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. For purposes of this bylaw, the term “area of special flood hazard” is synonymous in meaning with the phrase “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 FEMA. Maps of this area are available for viewing in the municipal office or online from the FEMA Map Service Center: [msc.fema.gov](http://msc.fema.gov). Base flood elevations have not been determined in Zone A where the flood risk has been mapped by approximate methods. Base flood elevations are shown at selected intervals on maps of special flood hazard areas that are determined by detailed methods. Please note, where floodways have been determined they may be shown on separate map panels from the Flood Insurance Rate Maps.

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

**STEEP SLOPE:** Land characterized by a gradient in excess of 20%.

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



**STREAM:** The full length and width, including the bed and banks, of any watercourse, including rivers, creeks, brooks, and branches and intermittent watercourses that have a defined channel and evidence of water and sediment transport, even if such watercourses do not have surface water flow throughout the year or throughout the channel.

**STREET:** Any road, highway, avenue, land or other way between right-of-way lines, commonly used by the public for all modes of transportation.

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

**SUBDIVIDER:** An individual, corporation, or firm, or representative thereof, seeking approval for a subdivision or development proposal. The applicant and land owner need not be the same. See also "Applicant".

**SUBDIVISION:** The division of any lot or parcel of land into two or more parcels or lots for the purpose of offer, transfer, sale, conveyance, lease, improvement or development. The term subdivision includes re-subdivision, amended subdivisions and the division of land held in common among several owners. For the purposes of these Bylaws, the word "lots" shall also mean units for any project involving condominiums, cooperatives and/or the designation of Planned Residential Subdivision.

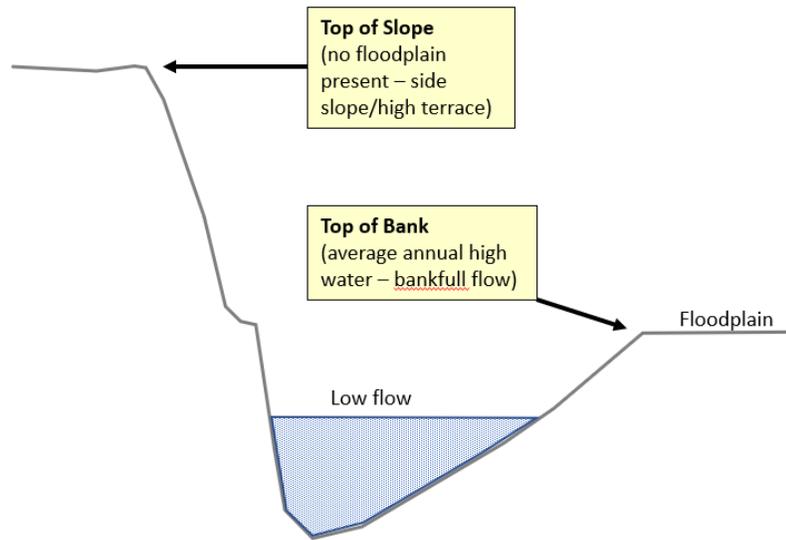
**SUBSTANTIAL DAMAGE:** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged conditions would equal or exceed 50 percent of the market value of the structure before the damage occurred.

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

**TOP OF BANK:** The point along a streambank where an abrupt change in slope is evident, and where the stream is generally able to overflow the banks and enter the adjacent floodplain during flows at or exceeding the average annual high water stage.

**TOP OF SLOPE:** A break in slopes adjacent to steep-banked streams that have little or no floodplain; or a break in slope where the side slopes adjacent to an incised, or deeply cut, channel meet floodplains that have been abandoned or are undergoing abandonment.

**TRAVEL TRAILER:** A vehicle similar to a mobile home, but not exceeding 45 feet in length, and designed and used solely for recreational travel purposes, not for permanent occupancy. To be considered a travel trailer, such vehicle must rest on its own wheels. The provisions hereof applicable to travel trailers shall also be applied to any motor vehicle not exceeding 45 feet in length, whose body has been equipped for occupancy for recreational purpose.



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**UNDUE ADVERSE IMPACT:** An unnecessary or excessive effect or impact that (1) violates a clearly stated community standard, to include applicable provisions of these regulations, other municipal bylaws and ordinances in effect, or clearly defined standards and policies of the Sunderland Town Plan and (2) which cannot be avoided through site or design modifications, on- or off-site mitigation, or other conditions of approval.

**VARIANCE:** A grant of relief from the requirements of these regulations which permits construction in a manner that would otherwise be prohibited. Variances may be granted only in accordance with all the criteria in the Act and 44 CFR Section 60.6, after a noticed public hearing.

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

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

**WASTEWATER DISPOSAL SYSTEM:** A system designed to treat and dispose of domestic, commercial, or industrial wastewater, in accordance with State of Vermont regulations.

**WET-FLOODPROOFING:** Permanent or contingent measures applied to a structure that prevent or provide resistance to damage from flooding by allowing water to enter the structure in accordance with Technical Bulletin 7 published by FEMA. <https://www.fema.gov/media-library/assets/documents/3503>

**WETLANDS:** Areas that are inundated by surface or groundwater with a frequency sufficient to support vegetation or aquatic life that depend on saturated or seasonally saturated soil conditions for growth and reproductions. Such areas include marshes, swamps, sloughs, potholes, fens, river and lake overflows, mud flats, bogs, and ponds, but excluding such areas that grow food or crops in connection with farming activities.

**WILDLIFE CORRIDOR:** See Habitat Connector.

**ZONING ADMINISTRATOR (ZA):** The Administrative Official administering this Bylaw, as created pursuant to the Act.

**ZONING BOARD OF ADJUSTMENT (ZBA):** The Sunderland Zoning Board of Adjustment, as created pursuant to the Act.